



Ontario
Securities
Commission

Commission Des
valeurs mobilières
de l'Ontario

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VIA FACSIMILE

October 28, 2002

McCarthy Tétrault LLP

Attention: Andrew Parker

Dear Sirs/Mesdames:

**Re: Brandes RSP International Equity Fund, Brandes RSP Global Equity Fund and Brandes RSP U.S. Equity Fund (collectively, the “New RSP Funds”)
– Application Under Mutual Reliance Review System for Exemptive Relief pursuant to section 19.1 of National Instrument 81-102 Mutual Funds (“NI 81-102”)
- App. #846/02; SEDAR Project #481119**

By letters dated September 17, 2002 (the “Application”), you have applied to the local securities regulatory authority or regulator (collectively, the “Decision Makers”) in each of the provinces and territories of Canada, on behalf of Brandes Investment Partners & Co. (“Brandes”), for exemptive relief pursuant to section 19.1 from certain provisions of NI 81-102 to permit the New RSP Funds and any other mutual funds managed by Brandes with similar investment objectives (collectively, with the New RSP Funds, the “RSP Funds”) to implement an RSP clone fund structure using both a forward contract or a deposit note-linked structure as described in the Application.

From our review of the Application, we understand the relevant facts and representations to be as follows:

1. Each of the RSP Funds is, or will be, an open ended mutual fund trust established under the laws of Ontario and each of the Brandes International Equity Fund, Brandes Global Equity Fund and Brandes U.S. Equity Fund (together with other mutual funds managed by the Manager in which the RSP Funds will invest their assets, the “Corresponding Funds”) is, or will be, an open ended mutual fund trust established under the laws of a province of Canada.
2. The securities of the RSP Funds and the securities of the Corresponding Funds will be qualified for distribution in each of the provinces and territories of Canada pursuant to a prospectus.
3. The Manager is a corporation incorporated under the laws of the province of Nova Scotia. The

Manager's head office is located in Toronto, Ontario. The Manager will be the manager, trustee and promoter of each RSP Fund and of each Corresponding Fund.

4. Each RSP Fund and each Corresponding Fund will be a reporting issuer under the securities laws of each of the provinces and territories of Canada. None of the RSP Funds or the Corresponding Funds will be in default of any requirements of the *Securities Act* (Ontario) (the "Act") or the securities legislation applicable in each of the provinces and territories of Canada.
5. Each of the RSP Funds intends to become a registered investment under the *Income Tax Act* (Canada) (the "Tax Act") such that its securities will be "qualified investments" for tax-deferred retirement savings plans ("Registered Plans") and will not constitute foreign property in a Registered Plan. The investment objective of an RSP Fund is to closely track the performance of its Corresponding Fund. The primary investment strategy to achieve such objective will involve the RSP Funds entering into derivative arrangements. The RSP Funds also intend to invest a portion of their assets directly in securities of the Corresponding Funds. In order to ensure that securities of each RSP Fund are not foreign property to a Registered Plan or, if the RSP Fund is a registered investment under the Tax Act, so that the RSP Fund is not liable to tax under Part XI of such Act, the portion invested in foreign securities will not exceed the maximum foreign property limit for Registered Plans (the "Permitted Limit").
6. The investment objectives, investment practices and restrictions of each RSP Fund and each Corresponding Fund will be set out in its prospectus.
7. In order to achieve their fundamental investment objective, the RSP Funds may enter into forward contracts ("Forward Contracts") with Counterparties. Each of the Forward Contracts will be marked-to-market daily and may be terminated by either party on prior written notice. The RSP Funds will also invest in money market instruments and cash, which will constitute cash cover under the Forward Contracts, and are available to pay the Counterparties' fees.
8. As an alternative to using Forward Contracts, the RSP Funds may enter into deposits ("Deposits") with one or more Counterparties. A Deposit generally will mature one month after issue for a maturity amount equal to the principal amount of the Deposit plus or minus the return on a notional investment in an equivalent dollar amount of Class I securities of the Corresponding Fund. The RSP Fund will pay a fee to the Counterparty under the Deposit, which will accrue daily and will be paid monthly. The RSP Fund will have the right to terminate a Deposit at any time on one business day's prior notice to the Counterparty for any reason.
9. Immediately upon the advance of assets under a Deposit, the Counterparty will advance the amount of the Deposit to a special purpose trust (the "SPT") and the SPT will issue a note (the "Note") to, and will enter into a total return swap (the "Swap") with, the Counterparty. The SPT's activities will be limited solely to those necessary for the transactions described herein and it will not be permitted to incur any other liabilities. Both the Note and the Swap will mature on the maturity date of the Deposit.

10. In order to hedge its obligation under the Swap, the SPT may, but is not required to, acquire Class I securities of the Corresponding Fund in an amount equal to the principal amount of the Deposit.
11. The Deposit provides that if, during the term of the Deposit, either (i) a market disruption event, which includes the suspension of sales or redemption of securities of the Corresponding Fund, the failure of the Corresponding Fund to provide a calculation of unit value or any other condition that precludes an investor from redeeming securities of the Corresponding Fund for settlement on the next business day, has occurred and continues for at least ten business days or (ii) the SPT defaults, which includes the failure of the SPT to pay any amount due to the Counterparty in respect of the Note or the Swap, the Counterparty may elect to assign the Note and the Swap to the RSP Fund in full satisfaction of the Counterparty's obligations under the Deposit.
12. In order to ensure the repayment to an RSP Fund under the Deposit, the SPT will enter into an indemnity agreement (the "Indemnity") under which the SPT indemnifies the RSP Fund for any losses that may arise by virtue of the failure of the Counterparty to make future payments when due under the Deposit. Any payment made under the Indemnity will reduce the amount owing by the SPT to the Counterparty under the Note and/or the Swap. As there will only be one SPT, each Indemnity to which an RSP Fund is a party will contain provisions limiting the recourse of the RSP Fund to the proceeds of the property and assets held by the SPT in connection with the SPT's obligations under the Note and the Swap relating to the Deposit of that RSP Fund or acquired by the SPT in substitution therefor.
13. The result of this investment strategy is that the RSP Funds' investors will receive approximately the same investment return as investors in the Corresponding Funds less the amount payable to the Counterparties as the fee for the issue of the Deposit.
14. There will be no charges levied on the purchase or redemption of securities of the Corresponding Funds by the RSP Funds and no trailing commissions or similar payments will be paid or received in respect of the securities of the Corresponding Funds held by the RSP Funds.

Decision

This letter confirms that, based on the information and representations contained in the Application (including the facts and representations described above), and for the purposes described in the Application, the Decision Makers hereby exempt the RSP Funds from the following regulatory requirements of NI 81-102:

- (a) subsection 2.1(1) - to permit each RSP Fund to obtain exposure, through the use of Forward Contracts or Deposits, to a Corresponding Fund beyond the prescribed limits, as determined under subsections 2.1(3) and (4);

- (b) subsection 2.1(1) - to enable each RSP Fund to invest more than 10 percent of its net assets in the Deposit;
- (c) subsections 2.1(1) and 2.2 (1) and clause 2.5(1) - to permit each RSP Fund to invest directly in units of a Corresponding Fund up to the Permitted Limit;
- (d) section 2.3(g) - to permit each RSP Fund to purchase the Deposit, a debt-like security that is a specified derivative, on condition that the Deposit is in compliance with sections 2.7 to 2.11 except to the extent that relief has been granted from sections 2.7(4) and 2.8(1)(f) by this decision;
- (e) section 2.4 - to permit each RSP Fund to:
 - (i) invest more than 10 percent of its net assets in the Deposit, an illiquid asset, and to hold such investment throughout the term of the Deposit even if the Deposit represents more than 15 percent of the RSP Fund's net assets; and
 - (ii) hold its investment in the Swap and the Note,
 - A) if the Swap and the Note are put to the RSP Fund by the Counterparty because the RSP Fund's Corresponding Fund has suspended the rights of securityholders to redeem securities of the Corresponding Fund, for the period of time of such suspension; or
 - B) if the Swap and the Note are put to the RSP Fund by the Counterparty for any other reason, for the period of time that the RSP Fund requires to take reasonable steps to close out its position in the Swap and the Note in an orderly and timely fashion;
- (f) subsection 2.7(2) - to enable each RSP Fund to maintain its investment in the Swap,
 - (i) if the Swap is put to the RSP Fund by the Counterparty because the RSP Fund's Corresponding Fund has suspended the rights of securityholders to redeem securities of the Corresponding Fund, for the period of time of such suspension; or
 - (ii) if the Swap is put to the RSP Fund by the Counterparty for any other reason, the RSP Fund shall take reasonable steps to close out its position in the Swap in an orderly and timely fashion;
- (g) subsection 2.7(4) - to permit the mark-to-market value of each RSP Fund's exposure to the Counterparty through the investment in the Deposit to exceed 10 percent of the net assets of the RSP Fund;
- (h) clause 2.8(1)(d) - to permit each RSP Fund, in respect of its exposure under the

Forward Contracts, to have a shortfall in its cash cover position for a period not to exceed one business day;

- (i) clause 2.8(1)(f) - to enable each RSP Fund to maintain the investment in the Swap for the period of time permitted under paragraphs (e) and (f) above on the condition that the RSP Fund retains the Note issued by the SPT as cover for the Swap; and
- (j) clause 5.5(1)(d) - to permit the RSP Funds to suspend a securityholder's right to tender for redemption securities of a RSP Fund and to receive payment for securities redeemed in a manner not contemplated by section 10.6 of NI 81-102 whenever the right to tender for redemption securities of the Corresponding Fund is suspended in accordance with section 10.6 of NI 81-102.

The Decision Makers grant the exemptions to permit the RSP Funds to gain exposure to their Corresponding Funds through the use of Forward Contracts or Deposits (collectively, the "Derivatives"), subject to the following conditions:

1. there is no duplication of fees or sales charges to the RSP Funds' securityholders as a result of gaining exposure to the Corresponding Funds through the Derivatives;
2. where the RSP Funds and the Corresponding Funds are qualified for sale under different disclosure documents, the securityholders of the RSP Funds receive the prospectus and annual information form and financial statements of the Corresponding Funds if they ask for these documents in connection with their acquisition of securities of the RSP Funds; the availability of these documents must be disclosed in the Prospectus of the RSP Funds;
3. securityholders of the RSP Funds will receive all other continuous disclosure relating to the Corresponding Funds, including notice of securityholder meetings; and
4. the Prospectus of the RSP Funds contains full disclosure of:
 - (a) the investment objectives and strategies of the Corresponding Funds, and
 - (b) the fact that, other than with respect to any securities of the Corresponding Funds held directly by the RSP Funds, securityholders of the RSP Funds have no voting rights in respect of any changes, whether fundamental or otherwise, that may be proposed to the Corresponding Funds.

The Decision Makers grant the exemptions to permit each RSP Fund to invest directly in securities of the applicable Corresponding Fund, subject to the following conditions:

1. The Decision, as it relates to the jurisdiction of a Decision Maker, will terminate one year after the publication in final form of any legislation or rule of that Decision Maker dealing with matters in subsection 2.5 of NI 81-102.

2. The Decision shall only apply if, at the time a RSP Fund makes or holds an investment in an Corresponding Fund, the following conditions are satisfied:
- (a) the securities of both the RSP Fund and the Corresponding Fund are being offered for sale in the jurisdiction of the Decision Maker pursuant to a simplified prospectus and annual information form which has been filed with and accepted by the Decision Maker;
 - (b) the investment by the RSP Fund in the Corresponding Fund is compatible with the fundamental investment objectives of the RSP Fund;
 - (c) the investment objective of the RSP Fund discloses that the RSP Fund invests directly and indirectly (through derivative exposure) in the Corresponding Fund, the name of the Corresponding Fund and that the RSP Fund is fully eligible for registered plans;
 - (d) the Corresponding Fund is not a mutual fund whose investment objective includes investing directly or indirectly in other mutual funds;
 - (e) the RSP Fund restricts its direct investment in the Corresponding Fund to a percentage of its assets that is within the Permitted Limit;
 - (f) there are compatible dates for the calculation of the net asset value of the RSP Fund and the Corresponding Fund for the purpose of the issue and redemption of the securities of such mutual funds;
 - (g) no sales charges are payable by the RSP Fund in relation to its purchases of securities of the Corresponding Fund;
 - (h) no redemption fees or other charges are charged by the Corresponding Fund in respect of the redemption by the RSP Fund of securities of the Corresponding Fund owned by the RSP Fund;
 - (i) no fees and charges of any sort are paid by the RSP Fund and the Corresponding Fund, by their respective managers or principal distributors, or by any affiliate or associate of any of the foregoing entities to anyone in respect of the RSP Fund's purchase, holding or redemption of the securities of the Corresponding Fund;
 - (j) the arrangements between or in respect of the RSP Fund and the Corresponding Fund are such as to avoid the duplication of management fees;
 - (k) any notice provided to securityholders of the Corresponding Fund, as required by applicable laws or the constating documents of the Corresponding Fund, has been delivered by the RSP Fund to its securityholders;
 - (l) all of the disclosure and notice material prepared in connection with a meeting of securityholders of the Corresponding Fund and received by the RSP Fund has been provided to its securityholders, the securityholders have been permitted to direct a

representative of the RSP Fund to vote its holdings in the Corresponding Fund in accordance with their direction, and the representative of the RSP Fund has not voted its holdings in the Corresponding Fund except to the extent the securityholders of the RSP Fund have directed;

- (m) in addition to receiving the annual and, upon request, the semi-annual financial statements of the RSP Fund, securityholders of the RSP Fund have received the annual and, upon request, the semi-annual financial statements of the Corresponding Fund in either a combined report, containing financial statements of the RSP Fund and Corresponding Fund, or in a separate report containing the financial statements of the Corresponding Fund; and
- (n) to the extent that the RSP Fund and the Corresponding Fund do not use a combined simplified prospectus and annual information form containing disclosure about the RSP Fund and the Corresponding Fund, copies of the simplified prospectus and annual information form of the Corresponding Fund have been provided upon request to securityholders of the RSP Fund and the right to receive these documents is disclosed in the simplified prospectus of the RSP Fund.

Yours truly,

“Paul A. Dempsey”

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