



VIA SEDAR

February 1, 2002

Osler, Hoskin & Harcourt

Attention: Linda G. Currie

Dear Sirs/Mesdames:

**Re: Emerald Canadian Equity Index Fund (the “Emerald Fund”) and TD Canadian Index Fund (the “TD Fund”) (together, the “Index Funds”) - MRRS Application under National Instrument 81-102 Mutual Funds ("NI 81-102")
SEDAR Project Nos. 398202 & 398205, Application No. 1141/01**

By letter dated October 31, 2001, as supplemented by letters dated November 16, 2001, November 30, 2001 and December 10, 2001 (the “Application”), you applied to the securities regulatory authority or regulator in each of the provinces and territories of Canada (collectively, the “Decision Makers”), on behalf of TD Asset Management Inc. (“TDAM”), as manager of the Index Funds, for an exemption from subsection 4.1(1) of NI 81-102. This provision prohibits the dealer managed Index Funds from knowingly making an investment in a class of securities of an issuer, during the offering of such securities (the “Offering”), or for 60 days after the Offering, in order to meet the investment objectives of the Index Funds, if the Index Funds’ dealer manager or its associate or affiliate acts as underwriter of more than 5% of the Offering (the “Investment Restriction”).

Discretionary relief was initially requested to enable the Index Funds to invest in common shares of SunLife Financial Services of Canada Inc (“SunLife”) and the Toronto-Dominion Bank (“TD Bank”). Both issuers recently completed a public offering of additional common shares, and more than 5% of such offering was underwritten by Affiliated Underwriters (as such term is defined below) of TDAM. The Index Funds had sought to purchase SunLife and TD Bank common shares during the 60-day period after the respective offering of each issuer. The 60-day period has since ended.

The Index Funds also requested relief that would apply to circumstances similar to those of the SunLife and TD Bank offering. In other words, the Index Funds would also like to have the ability to invest in securities comprising the Toronto Stock Exchange 300 Composite Index (the “TSE 300 Index”) (the “Constituent Securities”), notwithstanding that more than 5% of the Offering of additional securities of the same class as a Constituent Security is underwritten by TD Securities Inc. (“TDSI”) or any other affiliate of TDAM (together with TDSI, the “Affiliated Underwriters”). In those circumstances, the Index Funds would like to invest in shares of the same class as the Constituent

Security both during the Offering itself and during the 60-day period after the Offering, if necessary to meet the investment objectives of the Index Funds.

By letter dated November 30, 2001, the application as it related to index mutual funds to be established or managed by TDAM or an affiliate of TDAM from time to time (the “Future Index Funds”), was withdrawn.

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

1. TDAM or an affiliate of TDAM is a “dealer manager”, so that each of the Index Funds is a “dealer managed mutual fund” as such term is defined in section 1.1 of NI 81-102. The head office of TDAM is situated in Toronto, Ontario.
2. Each of the Index Funds is an “index mutual fund” as such term is defined in section 1.1 of NI 81-102.
3. The investment objective of the Emerald Fund is to track the performance of the TSE 300 Index. The investment objective of the TD Fund is to track the performance of a generally recognized Canadian equity market index, currently being the TSE 300 Index. Each Index Fund tracks the performance of the TSE 300 Index (also referred to as the “Target Index”) principally by investing directly in its Constituent Securities in substantially the same proportion as the Constituent Securities are reflected in the Target Index.
4. The TSE 300 Index is a “permitted index”, as such term is defined in section 1.1 of NI 81-102. It was designed and established and is currently maintained and calculated by Standard & Poor’s Corporation (“S&P”).
5. A small percentage of each Index Fund’s net assets may be
 - (a) held in cash in order to fund redemptions of each Index Fund’s units, or
 - (b) invested from time to time in units of the TD TSE 300 Index Fund and/or the TD TSE 300 Capped Index Fund (the “TSE 300 IPU”), pending the purchase of Constituent Securities of the TSE 300 Index.
6. The investment objective of each issuer of the TSE 300 IPU is also to track the performance of the TSE 300 Index by investing in the Constituent Securities in substantially the same proportion as they are reflected on the index, subject to a 10% cap on the TD TSE 300 Capped Index Fund. The TSE 300 IPU are traded on the Toronto Stock Exchange (“TSE”). The Index Funds currently invest in the TSE 300 IPU pursuant to a Decision Document dated April 24, 2001 and an exemption letter dated April 20, 2001. The Index Funds may also purchase units of the S&P TSE 60 Index Participation Fund.

7. For the purpose of tracking the performance of the TSE 300 Index, the use of the TSE 300 IPUs by the Index Funds is not as efficient as direct investments in the Constituent Securities because of the management fees and expenses associated with them.
8. As a result of the additional offering of Constituent Securities of the Target Index, the relative weight of such securities in the Target Index will generally change and the relative weight of other securities in the Target Index will also generally change. For example, S&P adjusted the weightings of SunLife and TD Bank in October, 2001, during the 60-day period after each issuer's offering. Further, four index changes have occurred that have indirectly affected the weighting of SunLife (an increase) since October 5, 2001 in the midst of the 60-day period. TDAM confirms that there were several adjustments to the TSE 300 Index during the SunLife and TD Bank 60-day period, the net effect of which was an increase in the weighting of SunLife and TD Bank on the TSE 300 Index.
9. Due to the Investment Restriction, and because of the upward adjustment of the weightings of SunLife and TD Bank common shares on the TSE 300 Index during the 60-day period following the completion of the secondary offering, the Index Funds were not able to invest in common shares of SunLife or TD Bank, and hence not able to track the performance of their Target Index as efficiently and as fully as possible during this period.
10. The Index Funds will be unable to track the performance of their Target Index as efficiently and as fully as possible if
 - (a) any future additional Offering of the same class of securities as a Constituent Security of the TSE 300 Index results in, or coincides with, an upward adjustment of the weighing of the Constituent Security in the index, or
 - (b) there are proceeds from sales of units of the Index Funds that are required to be invested as soon as it is reasonably opportune to do so,

and the Index Funds continue to be precluded from investing in the Constituent Security during the Offering or for 60 days thereafter because the Offering or more than 5% thereof is underwritten by Affiliated Underwriters of TDAM.

Decision

This letter confirms that, based on the information provided in the Application and the facts and representations above, and for the purposes described in the Application, the Decision Makers hereby grant exemption from subsection 4.1(1) of NI 81-102, to enable each Index Fund to invest in the same class of securities as a Constituent Security of the TSE 300 Index more than 5% of the Offering of which is underwritten by TDAM's Affiliated Underwriters, during the Offering period or during the 60-day period after the Offering,

provided that,

- A. at the time of each investment pursuant to this Decision, the following conditions are satisfied:
- i. the investment is necessary to meet each Index Fund's investment objective of tracking the performance of the TSE 300 Index by investing directly in the Constituent Securities of the index in substantially the same proportion as those securities are reflected in the index because
 - (a) there is an upward adjustment of the weighing of the Constituent Security in the index; or
 - (b) there are proceeds from sales of units of the Index Funds that are required to be invested;
 - ii. each Index Fund purchases no more than the number of shares of the same class as the Constituent Security that are necessary, in order for the Index Fund to hold them in substantially the same proportion as those securities are reflected in the TSE 300 Index;
 - iii. in the case of a purchase during the 60-day period after the Offering, the purchase is made on the TSE or any other stock exchange on which the shares of the same class as the Constituent Security are listed and traded;
 - iv. with respect to investments made in reliance on this Decision, each Index Fund does not place an order on a principal or agency basis with TDAM's Affiliated Underwriters or their associates or affiliates;
 - v. each Index Fund's simplified prospectus discloses that if necessary to meet its investment objective, the Index Fund may purchase shares of the same class as any Constituent Security of the TSE 300 Index more than 5% of the Offering of which is underwritten by TDAM's Affiliated Underwriters, during the Offering period or during the 60- day period after the Offering;
 - vi. each Index Fund's annual information form discloses and discusses the policies, practices or guidelines relating to transactions involving actual or potential conflicts of interests;
- B. the following particulars of each investment made by each Index Fund pursuant to this Decision are set out in a report certified by TDAM and filed on SEDAR within 30 days after the end of each month in which the investment was made:
- (i) the date of the Offering, the Offering Price, and the date that the investment was made;

- (ii) the issuer of the Constituent Security, the lead underwriter of the Offering and, if an Affiliated Underwriter of TDAM was not the lead underwriter, the portion of the Offering underwritten by one or more Affiliated Underwriters of TDAM;
 - (iii) the number of shares of the same class as the Constituent Security that were purchased by the Index Fund;
 - (iv) the purchase price;
 - (v) the dealer with whom the order to purchase shares of the same class as the Constituent Security was placed, and the fees (if any) paid by the Index Fund in respect of such purchase; and
 - (vi) that TDAM has determined that the purchase made for the Index Fund was necessary to meet the investment objective of the Index Fund and was in the best interest of the Index Fund; and
- C. this Decision, as it relates to the jurisdiction of a Decision Maker, will terminate after the coming into force of any legislation or rule of that Decision Maker dealing with matters regulated by section 4.1 of NI 81-102.

Yours truly,

Paul A. Dempsey
Paul A. Dempsey
Manager, Investment Funds
Capital Markets