

IN THE MATTER OF
THE SECURITIES ACT, 1988, S. S. 1988, c. S-42.2

AND

SASKATCHEWAN LOCAL INSTRUMENT 31-502
SELF-REGULATORY ORGANIZATION MEMBERSHIP FOR MUTUAL FUND DEALERS

AND

IN THE MATTER OF
FIDELITY INVESTMENTS CANADA LIMITED

ORDER
(Section 160)

WHEREAS an application has been received by the Saskatchewan Securities Commission (the "Commission") from Fidelity Investments Canada Limited (the "Registrant") for an order pursuant to section 160 of *The Securities Act 1988, S. S., c. S-42.2* (the "Act") that the Registrant be exempt from the requirements of section 2 and subsections 3(1) and 3(3) of Saskatchewan Local Instrument 31-502 *Self-Regulatory Organization Membership For Mutual Fund Dealers* ("SK 31-502") which would otherwise require that the Registrant to become a member of the Mutual Fund Dealers Association of Canada ("MFDA") on and after July 2, 2002, and file with the MFDA, no later than May 31, 2001, an application and corresponding fees for membership;

AND WHEREAS the Commission has assigned to the Director the power to make exemption orders and rulings under the provisions of the Act;

AND WHEREAS the Registrant represented to the Director that:

1. The Registrant is registered under the Act as a dealer in the category of "mutual fund dealer" and as an adviser in the categories of "investment counsel" and "portfolio manager";
2. The Registrant is the manager of a number of mutual funds that it has established and will be the manager of other mutual funds it expects to establish in the future;
3. The securities of the mutual funds managed by the Registrant are generally sold to the public through other registered dealers;
4. Currently, the Registrant sells securities of mutual funds to certain participants ("Group Retirement Clients") in employer sponsored plans, which include, registered pension plans, deferred profit sharing plans, registered retirement savings plans, registered

retirement income funds, registered education savings plans, other deferred income plans registered under the Income Tax Act (Canada) and other savings plans;

5. Fidelity Retirement Services Company of Canada Limited (“FRSCo”), a wholly-owned subsidiary of the Registrant, has applied for registration as a mutual fund dealer in each Canadian jurisdiction and has applied for membership in the MFDA but has now withdrawn these applications as a result of the change in approach discussed below;
6. In a letter dated May 11, 2001, the Registrant made an application to the Commission requesting an exemption from the requirements of section 2 and subsections 3(1) and 3(3) of SK 31-502 and requesting transitional relief to allow the Registrant to continue trading with the Group Retirement Clients for a limited period of time (the “Transitional Relief”);
7. At the time when the Registrant made the application for Transitional Relief, the Registrant intended to transfer the Group Retirement Clients to FRSCo, once FRSCo was registered as a mutual fund dealer in each jurisdiction and was accepted as a member of the MFDA;
8. In order to service its Group Retirement Clients, the Registrant has determined that the Group Retirement Business requires greater flexibility in terms of the product offering than that which would be permitted under a mutual fund dealer registration;
9. A significant proportion of the Registrant’s registerable activity with the Group Retirement Clients involves the sale of non-mutual fund securities of an employer (or an affiliate of an employer) to the participants in plans sponsored by the employer, pursuant to exemptions from the dealer registration requirements obtained from the Commission under the Act;
10. The Registrant has determined that the Group Retirement Clients will be more appropriately serviced by an investment dealer which is a member of the Investment Dealers Association of Canada (the “IDA”) and by letter dated January 4, 2002 amended the above mentioned exemption application in reflect this;
11. The Registrant has incorporated another wholly-owned subsidiary under the *Business Corporations Act* (Ontario), Fidelity Intermediary Securities Company Limited (the “Registrant’s Affiliate”), which has recently been registered under the Act as a dealer in the category of “investment dealer” and has been admitted to membership in the IDA;
12. The Registrant’s Affiliate is registered as an investment dealer (or the equivalent) in British Columbia, Manitoba, Ontario, New Brunswick, Prince Edward Island, Northwest Territories and the Yukon Territories and has applied for similar registration in Alberta, Newfoundland and Labrador, Nova Scotia, Nunavut and Quebec;
13. The Registrant proposes to transfer the Group Retirement Clients to the Registrant’s Affiliate and to run this business as a division of the Registrant’s Affiliate once the Registrant’s Affiliate has become registered in each Canadian jurisdiction and once

certain systems and other changes have to be made to ensure that the business can be conducted in a manner which is compliant with the by-laws and rules of the IDA;

14. The Registrant is unable to transfer the Group Retirement Clients to the Registrant's Affiliate until December 31, 2002 due to a number of operational and systems reasons;
15. The Registrant has attempted to ensure that the transfer of the Group Retirement Clients will be completed as soon as possible;
16. The Registrant has requested that its registration as a mutual fund dealer permit it to continue to carry on the trading activities referred to in paragraph 4 above, until December 31, 2002, without becoming a member of the MFDA, so as to ensure that the Group Retirement Clients are appropriately serviced pending the proposed transfer of this trading activity to the Registrant's Affiliate;
17. The Registrant's trading activities as a mutual fund dealer currently represent and will continue to represent activities that are incidental to its principal business activities;
18. The Registrant has agreed to the imposition of the terms and conditions on the Registrant's registration as a mutual fund dealer set out in the attached Schedule "A", which outlines the activities the Registrant has agreed to adhere to in connection with its application for this Order;
19. Any person or company that is not currently a client of the Registrant on the effective date of this Order, will, before they are accepted as a client of the Registrant, receive written notice from the Registrant that:

The Registrant is not currently a member, and does not intend to become a member of the Mutual Fund Dealers Association; consequently, clients of the Registrant will not have available to them investor protection benefits that would otherwise derive from membership of the Registrant in the Mutual Fund Dealers Association; and
20. The Registrant has provided to every client that was a client of the Registrant on the effective date of this Order, the written notice referred to in paragraph 19 above;

AND WHEREAS the Director is satisfied that it would not be prejudicial to the public interest to make the Order;

IT IS HEREBY ORDERED pursuant to section 160 of the Act that, effective May 31, 2001, the Registrant is exempt from the requirements in section 2 and subsection 3(1) and 3(3) of SK 31-502 provided that the Registrant complies with the terms and conditions on its registration as a mutual fund dealer set out in the attached Schedule "A".

DATED June 18, 2002.

"Barbara Shourounis"

Barbara Shourounis
Director

Schedule "A"

TERMS AND CONDITIONS OF REGISTRATION
OF
FIDELITY INVESTMENTS CANADA LIMITED
AS A MUTUAL FUND DEALER

Definitions

1. For the purposes hereof, unless the context otherwise requires:
 - (a) "Act" means *The Securities Act, 1988*, S.S. 1988, c.S-42.2;
 - (b) "Adviser" means an adviser as defined in clause 2(1)(a) of the Act;
 - (c) "Client Name Trade" means, for the Registrant, a trade to, or on behalf of, a person or company, in securities of a mutual fund, that is managed by the Registrant or an affiliated entity of the Registrant, where, immediately before the trade, the person or company is shown on the records of the mutual fund or of another mutual fund managed by the Registrant or an affiliated entity of the Registrant as the holder of securities of such mutual fund, and the trade consists of:
 - (i) a purchase, by the person or company, through the Registrant, of securities of the mutual fund; or
 - (ii) a redemption, by the person or company, through the Registrant, of securities of the mutual fund;and where, the person or company is either a client of the Registrant that was not solicited by the Registrant or was an existing client of the Registrant on the Effective Date;
 - (d) "Commission" means the Saskatchewan Securities Commission;
 - (e) "Effective Date" means May 31, 2001;
 - (f) "Employee", for the Registrant, means:
 - (i) an employee of the Registrant;
 - (ii) an employee of an affiliated entity of the Registrant; or

- (iii) an individual that is engaged to provide, on a *bona fide* basis, consulting, technical, management or other services to the Registrant or to an affiliated entity of the Registrant, under a written contract between the Registrant or the affiliated entity and the individual or a consultant company or consultant partnership of the individual, and, in the reasonable opinion of the Registrant, the individual spends or will spend a significant amount of time and attention on the affairs and business of the Registrant or an affiliated entity of the Registrant;
- (g) “Employee”, for a Service Provider, means an employee of the Service Provider or an affiliated entity of the Service Provider, provided that, at the relevant time, in the reasonable opinion of the Registrant, the employee spends or will spend, a significant amount of time and attention on the affairs and business of:
 - (i) the Registrant or an affiliated entity of the Registrant; or
 - (ii) a mutual fund managed by the Registrant or an affiliated entity of the Registrant;
- (h) “Executive”, for the Registrant, means a director, officer or partner of the Registrant or of an affiliated entity of the Registrant;
- (i) “Executive”, for a Service Provider, means a director, officer or partner of the Service Provider or of an affiliated entity of the Service Provider;
- (j) “Exempt Trade”, for the Registrant, means:
 - (i) a trade in securities of a mutual fund that is made between a person or company and an underwriter acting as purchaser or between or among underwriters; or
 - (ii) any other trade in securities for which the Registrant would have available to it an exemption from the registration requirements of clause 27(1)(a) of the Act;
- (k) “Fund-on-Fund Trade”, for the Registrant, means a trade that consists of:
 - (i) a purchase, through the Registrant, of securities of a mutual fund that is made by another mutual fund;
 - (ii) a purchase, through the Registrant, of securities of a mutual fund that is made by a counterparty, an affiliated entity of the counterparty or another person or company, pursuant to an agreement to purchase the securities to effect a hedge of a liability relating to a contract for a specified derivative or swap made between the counterparty and another mutual fund; or
 - (iii) a sale, through the Registrant, of securities of a mutual fund that is made by another mutual fund where the party purchasing the securities is:

- (A) a mutual fund managed by the Registrant or an affiliated entity of the Registrant; or
- (B) a counterparty, affiliated entity or other person or company that acquired the securities pursuant to an agreement to purchase the securities to effect a hedge of a liability relating to a contract for a specified derivative or swap made between the counterparty and another mutual fund; and

where, in each case, at least one of the referenced mutual funds is a mutual fund that is managed by either the Registrant or an affiliated entity of the Registrant;

- (l) “In Furtherance Trade” means, for the Registrant, a trade by the Registrant that consists of any act, advertisement, or solicitation, directly or indirectly in furtherance of another trade in securities of a mutual fund, where the other trade consists of:
 - (i) a purchase or sale of securities of a mutual fund that is managed by the Registrant or an affiliated entity of the Registrant; or
 - (ii) a purchase or sale of securities of a mutual fund where the Registrant acts as the principal distributor of the mutual fund; and

where, in each case, the purchase or sale is made by or through another registered dealer if the Registrant is not otherwise permitted to make the purchase or sale pursuant to these terms and conditions;

- (m) “Mutual Fund Instrument” means National Instrument 81-102 *Mutual Funds*, as amended;
- (n) “Permitted Client”, for the Registrant, means a person or company that is a client of the Registrant, and that is, or was at the time the person or company became a client of the Registrant:
 - (i) an Executive or Employee of the Registrant;
 - (ii) a Related Party of an Executive or Employee of the Registrant;
 - (iii) a Service Provider of the Registrant or an affiliated entity of a Service Provider of the Registrant;
 - (iv) an Executive or Employee of a Service Provider of the Registrant; or
 - (v) a Related Party of an Executive or Employee of a Service Provider of the Registrant;

- (o) “Permitted Client Trade” means, for the Registrant, a trade to a person or company that is a Permitted Client or that represents to the Registrant that they are a person or company included in the definition of Permitted Client, in securities of a mutual fund that is managed by the Registrant or an affiliated entity of the Registrant, and the trade consists of:
 - (i) a purchase, by the person or company, through the Registrant, of securities of the mutual fund; or
 - (ii) a redemption, by the person or company, through the Registrant, of securities of the mutual fund;
- (p) “Registered Plan” means a registered pension plan, deferred profit sharing plan, registered retirement savings plan, registered retirement income fund, registered education savings plan or other deferred income plan registered under the Income Tax Act (Canada);
- (q) “Registrant” means Fidelity Investments Canada Limited;
- (r) “Regulation” means *The Securities Regulations*, R.R.S., c. S-42.2 Reg. 1
- (s) “Related Party”, for a person, means another person who is:
 - (i) the spouse of the person;
 - (ii) the issue of:
 - (A) the person,
 - (B) the spouse of the person, or
 - (C) the spouse of any person that is the issue of a person referred to in subparagraphs (A) or (B) above;
 - (iii) the parent, grandparent or sibling of the person, or the spouse of any of them;
 - (iv) the issue of any person referred to in paragraph (iii) above;
 - (v) a Registered Plan established by, or for the exclusive benefit of, one, some or all of the foregoing;
 - (vi) a trust where one or more of the trustees is a person referred to above and the beneficiaries of the trust are restricted to one, some, or all of the foregoing; or
 - (vii) a corporation where all the issued and outstanding shares of the corporation are owned by one, some, or all of the foregoing;

- (t) “securities”, for a mutual fund, means shares or units of the mutual fund;
 - (u) “Seed Capital Trade” means a trade in securities of a mutual fund made to a person or company referred to in any of subclauses 3.1(1)(a)(i) to 3.1(1)(a)(iii) of the Mutual Fund Instrument;
 - (v) “Service Provider”, for the Registrant, means:
 - (i) a person or company that provides or has provided professional, consulting, technical, management or other services to the Registrant or an affiliated entity of the Registrant;
 - (ii) an Adviser to a mutual fund that is managed by the Registrant or an affiliated entity of the Registrant; or
 - (iii) a person or company that provides or has provided professional, consulting, technical, management or other services to a mutual fund that is managed by the Registrant or an affiliated entity of the Registrant.
2. For the purposes hereof, a person or company is considered to be an “affiliated entity” of another person or company if the person or company would be an affiliated entity of that other person or company for the purposes of the Employee Rule.
3. For the purposes hereof:
- (a) “issue”, “niece”, “nephew” and “sibling” includes any person having such relationship through adoption, whether legally or in fact;
 - (b) “parent” and “grandparent” includes a parent or grandparent through adoption, whether legally or in fact;
 - (c) “registered dealer” means a person or company that is registered under the Act as a dealer in a category that permits the person or company to act as dealer for the subject trade; and
 - (d) “spouse”, for an Employee or Executive, means a person who, at the relevant time, is the spouse of the Employee or Executive.
4. Any terms that are not specifically defined above shall, unless the context otherwise requires, have the meaning:
- (a) specifically ascribed to such term in the Mutual Fund Instrument; or
 - (b) if no meaning is specifically ascribed to such term in the Mutual Fund Instrument, the same meaning the term would have for the purposes of the Act.

Restricted Registration

Permitted Activities

5. Subject to paragraph 6, the registration of the Registrant as a mutual fund dealer under the Act shall be for the purposes only of trading by the Registrant in securities of a mutual fund where the trade consists of:
- (a) a Client Name Trade;
 - (b) an Exempt Trade;
 - (c) a Fund-on-Fund Trade;
 - (d) an In Furtherance Trade;
 - (e) a Permitted Client Trade; or
 - (f) a Seed Capital Trade;

provided that, in the case of all trades that are only referred to in clauses (a) or (e), the trades are limited and incidental to the principal business of the Registrant.

Permitted Activities for Transitional Period

6. For the purposes hereof, the trades listed in paragraph 5 shall also include trades in securities of mutual funds where the trade is made to a participant in an employer-sponsored Registered Plan or other savings plan until the earlier of:
- (a) the assumption of such trading activity by Fidelity Intermediary Securities Company Limited, a wholly-owned subsidiary of the Registrant, and
 - (b) December 31, 2002.