

Headnote

Mutual Reliance Review System for Exemptive Relief Applications - exemption from the requirement to be a member of the Mutual Fund Dealers Association of Canada;

Applicable Alberta Statutory Provisions

Securities Act, R.S.A., 2000, c. S-4 section 213

IN THE MATTER OF
THE SECURITIES LEGISLATION
OF ALBERTA AND SASKATCHEWAN

AND

IN THE MATTER OF
THE MUTUAL RELIANCE REVIEW SYSTEM
FOR EXEMPTIVE RELIEF APPLICATIONS

AND

IN THE MATTER OF MAWER INVESTMENT MANAGEMENT

MRRS DECISION DOCUMENT

1. WHEREAS the local securities regulatory authority or regulator (the **ADecision Maker@**) in each of the Provinces of Alberta and Saskatchewan (the **AJurisdictions@**) has received an application (the **AApplication@**) from Mawer Investment Management (**AMawer@**) for a decision by each Decision Maker pursuant to the securities legislation of the Jurisdiction (the **ALegislation@**) exempting Mawer from the requirement imposed on mutual fund dealers to apply for membership in the Mutual Fund Dealer's Association (the "MFDA");
2. AND WHEREAS pursuant to the Mutual Reliance Review System for Exemptive Relief Applications (the **ASystem@**) the Alberta Securities Commission is the principal regulator for this application;
3. AND WHEREAS Mawer has represented to the Decision Makers that:
 - 3.1 Mawer is a partnership that is registered in Alberta and Saskatchewan as a mutual fund dealer and registered in each province of Canada other than Québec, Newfoundland and Labrador and Prince Edward Island as an investment counsel/portfolio manger;
 - 3.2 Mawer's primary business is the provision of discretionary investment management services;
 - 3.3 Mawer is the principal distributor in Alberta and Saskatchewan, the manager (within the meaning of National Instrument 81-102 Mutual Funds) and the portfolio advisor, of the

Mawer Investments Funds, (the AFunds@), which are offered in each of the Provinces of Canada under a simplified prospectus and annual information form dated July 17, 2001.

The Funds currently consist of the Canadian Money Market Fund, Canadian Bond Fund, Canadian Income Fund, High Yield Bond Fund, Canadian Balanced Retirement Savings Fund, Canadian Diversified Investment Fund, Canadian Equity Fund, New Canada Fund, U.S. Equity Fund and World Investment Fund. Units of the Funds are distributed in Provinces of Canada other than Alberta and Saskatchewan through registered mutual fund dealers;

- 3.4 the Funds were established in 1987 to permit Mawer to provide cost efficient investment services to its existing clients and potential discretionary clients. The Funds were designed to enable Mawer to provide investment management services to portfolios of a size where an individually managed approach would be impractical and too expensive for a client. When Mawer established the Funds it was required to be registered as a mutual fund dealer in Alberta and Saskatchewan in order to act as principal distributor in those provinces and to meet the underwriter's certification requirement;
- 3.5 Mawer's activities as a mutual fund dealer are a secondary and incidental part of its primary business of discretionary investment management;
- 3.6 Mawer needs to maintain its mutual fund dealer registration in Alberta and Saskatchewan in order to be able to continue to take purchase and redemption orders, including switch orders, directly from clients with units in the Funds in Aclient names@, less than 1% of Mawer's assets under management are contained in this type of account. Mawer also wishes to continue to service house accounts of employees and family members of employees;
- 3.7 Mawer does not advertise or market its mutual funds to the public and the overwhelming source of new business for Mawer comes from referrals from existing clients;
- 3.8 Mawer has agreed to the imposition of the terms and conditions on Mawer's registration as a mutual fund dealer set out in the attached Schedule AA@, which outlines the activities Mawer has agreed to adhere to in connection with its application for this Decision;
- 3.9 any person or company that is not currently an investment-counselling client of Mawer on the effective date of this Decision, will receive prominent written notice from Mawer that:

Mawer is not currently a member, and does not intend to become a member of the Mutual Fund Dealers Association; consequently, clients of Mawer will not have available to them investor protection benefits that would otherwise derive from membership of Mawer in the MFDA, including coverage under any investor protection plan for clients of

members of the MFDA;

- 3.10 upon the next general mailing to its unitholders of the Fund and in any event before October 31, 2002, Mawer shall provide, to any client that was a unitholder of the Fund on the effective date of this decision, the prominent written notice referred to in paragraph 3.9, above;
4. AND WHEREAS under the System, this MRRS Decision Document evidences the decision of each Decision Maker (collectively, the **ADecision@**);
5. AND WHEREAS each of the Decision Makers is satisfied that the test contained in the Legislation that provides the Decision Maker with the jurisdiction to make the Decision has been met;
6. AND WHEREAS the Decision under the Legislation is that Mawer is exempt from the requirements in the Legislation to be a member of the Mutual Fund Dealers Association of Canada, and file an application and corresponding fees for membership provided that Mawer complies with the terms and conditions on its registration under the Act as a mutual fund dealer set out in the attached Schedule **AA@**.

DATED this 31st day of July, 2002.

“original signed by”

Glenda A. Campbell, Q.C., Vice-Chair

“original signed by”

John W. Cranston, Member

Schedule “A”
TERMS AND CONDITIONS OF REGISTRATION
OF

MAWER INVESTMENT MANAGEMENT
AS A MUTUAL FUND DEALER

Definitions

1. For the purposes hereof, unless the context otherwise requires:

- (a) “Act” means, in Alberta, the Securities Act, R.S.A. 2000, c. S-4; in Saskatchewan, the Securities Act, 1988, S.S. 1988, c. S.42.2, as amended
- (b) “Adviser” means an adviser as defined in subsection 1(a) of the Act;
- (c) “Client Name Trade” means, for the Registrant and its registered representatives (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 affiliate of the Registrant, where the person or company is shown on the records of the mutual fund or of an other mutual fund managed by the Registrant or an affiliate of the Registrant as the holder of securities of such mutual fund, and the trade consists of:
 - (A) a purchase, by the person or company, through the Registrant, of securities of the mutual fund; or
 - (B) 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 in respect of the purchase of the mutual funds or was an existing client of the Registrant on the Effective Date;

- (d) “Commission” means the Alberta Securities Commission and/or the Saskatchewan Securities Commission;
- (e) “Effective Date” means May 31, 2001;
- (f) “Employee”, for the Registrant, means:

- (A) an employee of the Registrant;
 - (B) an employee of an affiliated entity of the Registrant; or
 - (C) 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:
- (A) the Registrant or an affiliated entity of the Registrant; or
 - (B) 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) “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;

- (k) an “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 an other 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 an other registered dealer if the Registrant is not otherwise permitted to make the purchase or sale pursuant to these terms and conditions;

- (l) “Mutual Fund Instrument” means National Instrument 81-102 Mutual Funds, as amended;
- (m) “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;
- (n) “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);

- (o) “Registrant” means Mawer Investment Management;
- (p) “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; or
 - (v) a Registered Plan established by, or for the exclusive benefit of, one, some or all of the foregoing;
 - (vi) a trust if 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;
 - (vii) a corporation if all the issued and outstanding shares of the corporation are owned by one, some, or all of the foregoing;
- (q) “securities”, for a mutual fund, means shares or units of the mutual fund;
- (r) “Seed Capital Trade” means a trade in securities of a mutual fund made to a persons or company referred to in any of subparagraphs 3.1(1)(a)(i) to 3.1(1)(a)(iii) of the Mutual Fund Instrument;
- (s) “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 one is a subsidiary entity of the other or if both are subsidiary entities of the same person or company, or if each of them is controlled by the same person or company.
- 3. For the purposes hereof:
 - (t) “issue”, “niece”, “nephew” and “sibling” includes any person having such relationship through adoption, whether legally or in fact;
 - (u) “parent” and “grandparent” includes a parent or grandparent through adoption, whether legally or in fact;
 - (v) “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
 - (w) “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. The registration of the Registrant as a mutual fund dealer under the Act shall be for the purposes only of trading by the Registrant and its registered representatives in securities of a mutual fund where the trade consists of:
 - (a) a Client Name Trade;
 - (b) a Fund-on-Fund Trade;

- (c) an In Furtherance Trade;
- (d) a trade to a person who is a Permitted Client or who represents to the Registrant that he or she is a person included in the definition of Permitted Client; or
- (e) a Seed Capital Trade;

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