

**IN THE MATTER OF  
THE SECURITIES LEGISLATION OF  
BRITISH COLUMBIA, ALBERTA, SASKATCHEWAN, ONTARIO,  
NOVA SCOTIA AND NEWFOUNDLAND**

**AND**

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

**AND**

**IN THE MATTER OF  
BMO INVESTMENTS INC.,  
BMO RSP GLOBAL BALANCED FUND,  
BMO RSP GLOBAL OPPORTUNITIES FUND,  
BMO RSP GLOBAL FINANCIAL SERVICES FUND,  
BMO RSP GLOBAL HEALTH SCIENCES FUND and  
BMO RSP GLOBAL TECHNOLOGY FUND**

**MRRS DECISION DOCUMENT**

WHEREAS the Canadian securities regulatory authority or regulator (the "Decision Maker") in each of the provinces of British Columbia, Alberta, Saskatchewan, Ontario, Nova Scotia and Newfoundland (the "Jurisdictions") has received an application (the "Application") from BMO Investments Inc. ("BMO") in its own capacity and on behalf of BMO RSP Global Balanced Fund, BMO RSP Global Opportunities Fund, BMO RSP Global Financial Services Fund, BMO RSP Global Health Sciences Fund and BMO RSP Global Technology Fund (together with Future RSP Funds as defined below referred to collectively as the "RSP Funds"), and on behalf of BMO Global Balanced Class, BMO Global Opportunities Class, BMO Global Financial Services Class, BMO Global Health Sciences Class and BMO Global Technology Class (together with Future Underlying Funds as defined below referred to collectively as the "Underlying Funds") for a decision pursuant to the securities legislation of the Jurisdictions (the "Legislation") that:

1. the restriction in the Legislation prohibiting a mutual fund knowingly making an investment in a person or company who is a substantial security holder of the mutual fund, its management company or distribution company shall not apply in respect of investments by the RSP Funds in forward contracts (the "Forward Contracts") of the Bank of Montreal (the "Bank"), or an affiliate of the Bank, as counterparty;

2. the restriction in the Legislation prohibiting a mutual fund knowingly making an investment in a person or company in which the mutual fund, alone or together with one or more related mutual funds, is a substantial securityholder shall not apply in respect to investments by the RSP Funds in their corresponding Underlying Fund;
3. the restriction in the Legislation prohibiting a mutual fund from knowingly making an investment in an issuer in which any officer or director of the mutual fund, its management company or distribution company or an associate of any of them, or any person or company who is a substantial securityholder of the mutual fund, its management company or its distribution company, has a significant interest shall not apply in respect of investments by the RSP Funds in the Forward Contracts;
4. the restriction in the Legislation that no mutual fund or its management company or its distribution company shall knowingly hold an investment in a person or company in which the mutual fund, alone or together with one or more related mutual funds, is a substantial securityholder shall not apply in respect to investments by the RSP Funds in their corresponding Underlying Fund or in respect of investments by the RSP Funds in the Forward Contracts;
5. the requirement that a management company file a report relating to a purchase or sale of securities between the mutual fund and any related person or company, or any transaction in which, by arrangement other than an arrangement relating to insider trading in portfolio securities, the mutual fund is a joint participant with one or more of its related persons or companies shall not apply in respect to investments by the RSP Funds in their corresponding Underlying Fund or in respect of investments by the RSP Funds in the Forward Contracts; and
6. the requirements contained in the Legislation in British Columbia prohibiting the mutual fund from knowingly causing an investment portfolio managed by it to invest in the securities of an issuer in which a “responsible person” (as that term is defined in the Legislation) is an officer or director unless the specific fact is disclosed to the client if applicable and the written consent of the client to the investment is obtained before the purchase shall not apply in respect to investments by the RSP Funds in their corresponding Underlying Fund or in respect of investments by the RSP Funds in the Forward Contracts.

The Legislation outlined above in paragraphs 1 through 6 will be referred to in this Decision Document as the “Applicable Legislation”.

AND WHEREAS pursuant to the Mutual Reliance Review System for Exemptive Relief Applications (the "System"), the Ontario Securities Commission is the principal regulator for this application.

AND WHEREAS it has been represented by BMO to the Decision Makers that:

1. The RSP Funds will be open-end mutual fund trusts established under the laws of the Province of Ontario.
2. The Underlying Funds will be classes of shares of BMO Global Tax Advantage Funds Inc. (the "Corporation"), a corporation incorporated under the laws of Canada, or open-end mutual fund trusts established under the laws of the Province of Ontario.
3. BMO is a corporation established under the laws of Canada. BMO will be the manager and promoter of each of the RSP Funds and each of the Underlying Funds. The registered office of BMO is located in the Province of Ontario.
4. BMO may in the future manage other mutual funds ("Future RSP Funds") having an investment objective or strategy that is linked to the returns or portfolio of another specified mutual fund managed by BMO (collectively, "Future Underlying Funds") while remaining 100% eligible for registered plans.
5. The Bank owns 100% of the issued voting securities of BMO and will at the time of creation of the RSP Funds indirectly or directly hold 100% of the issued voting securities of the RSP Funds.
6. The RSP Funds and the Underlying Funds (collectively, the "Funds") will be reporting issuers in each of the provinces and territories of Canada.
7. The securities of the Funds will be qualified in the Jurisdictions pursuant to a prospectus, which prospectus will contain disclosure with respect to the respective investment objectives, investment practices and restrictions of the Funds.
8. To achieve their investment objective, the RSP Funds invest their assets in securities such that their securities will, in the opinion of tax counsel to the RSP Funds, be "qualified investments" for registered retirement savings plans, registered retirement income funds, and deferred profit sharing plans (collectively, "Registered Plans") and will not constitute foreign property in Registered Plans. This will primarily be achieved by the RSP Funds entering into derivative contracts with one or more financial institutions that link the returns to the Underlying Funds.
9. It is intended that the Bank of Montreal (the "Bank"), or one of its affiliates, will be the initial counterparty to the forward contracts, although this arrangement may change as the market capitalization of the RSP Funds increase in size and other suitable counterparties are identified.
10. A counterparty may hedge its obligations under a derivative contract by investing in securities of

the applicable Underlying Fund.

11. BMO will conduct a periodic review of the pricing terms offered by the related parties (i.e. the Bank or one of its affiliates) to the RSP Funds to ensure that such pricing and terms are at least as favourable as the pricing and terms committed by the related party to other third party fund groups offering funds which are of similar nature and size as the RSP Funds and shall report the results of such review to the independent board of trustees of the RSP Funds (the "Trustees") on a quarterly basis for their review. In the event that the Forward Contracts are no longer offered on such favourable terms, the Trustees will instruct BMO to renegotiate the Forward Contracts, or to deal with other suitable counterparties who will offer acceptable terms and pricing. The prospectus will disclose the Trustees' role and review of the Forward Contracts, as well as the involvement of the Bank, or an affiliate of the Bank, in acting as counterparty.
12. The investment objectives of the Underlying Funds are achieved through investment primarily in foreign securities.
13. The RSP Funds also intend to invest a portion of their assets in securities of their corresponding Underlying Fund. These investments by the RSP Funds will at all times be below the maximum foreign property limit (the "Permitted Limit") prescribed for Registered Plans (the "Permitted RSP Fund Investments"). The amount of direct investment by each RSP Fund in its corresponding Underlying Fund will be adjusted from time to time so that, except for the transitional cash, the aggregate of the derivative exposure to, and direct investment in, the Underlying Fund will equal 100% of the assets of that RSP Fund.
14. To prevent the duplication of management fees charged with respect to the investment of RSP Funds directly in securities of their corresponding Underlying Fund, BMO will either waive its right to charge management fees directly to the RSP Funds or adjust the price of the forward contract to compensate the RSP Funds for any management fees which are implicit in the forward contract. Alternatively, the RSP Funds may invest in, and the forward contracts may be based on, series O units of their Underlying Fund which will have no management fees.
15. Except to the extent evidenced by this Decision and specific approvals granted by the Canadian securities administrators pursuant to National Instrument 81-102, the investments by each RSP Fund in its corresponding Underlying Fund and in the Forward Contracts have been structured to comply with the investment restrictions of the Legislation and National Instrument 81-102.
16. In the absence of this Decision, pursuant to the Legislation, each of the RSP Funds is prohibited from investing in Forward Contracts.
17. In the absence of this Decision, pursuant to the Legislation, each of the RSP Funds is prohibited from (a) knowingly making an investment in a person or company in which the mutual fund,

alone or together with one or more related mutual funds, is a substantial securityholder; and (b) knowingly holding an investment referred to in subsection (a) hereof. As a result, in the absence of this Decision, the RSP Funds would be required to divest itself of any investments referred to in subsection (a) herein.

18. In the absence of this Decision, the Legislation requires BMO to file a report on every investment of securities made by the RSP Funds in the Underlying Funds or in the Forward Contracts.
19. Certain of the directors or officers of BMO are also directors or officers of the Bank and the Corporation, and as such a “responsible person” pursuant to the Legislation in British Columbia.
20. In the absence of this Decision, the RSP Funds are prohibited from investing in those Underlying Funds which are classes of shares of the Corporation or in the Forward Contracts of the Bank unless the specific fact is disclosed to investors and the written consent of investors is obtained before the purchase.
21. The investments by the RSP Funds in their corresponding Underlying Fund and in the Forward Contracts represents the business judgment of responsible persons uninfluenced by considerations other than the best interests of the RSP Funds and the Underlying Funds.

AND WHEREAS pursuant to the System this MRRS Decision Document evidences the decision of each Decision Maker (collectively, the "Decision").

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.

**THE DECISION** of the Decision Makers pursuant to the Legislation is that the Applicable Legislation does not apply so as to prevent the RSP Funds from investing in, or redeeming the securities of, the Underlying Funds or from investing in the Forward Contracts.

**PROVIDED THAT IN RESPECT OF** the investment by the RSP Funds in the Underlying Funds:

1. This 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 section 2.5 of National Instrument 81-102.
2. The foregoing Decision shall only apply in respect of investments in, or transactions with, the Underlying Funds that are made by the RSP Funds in compliance with the following conditions:

- a) the RSP Funds and the Underlying Funds are under common management and the Underlying Funds' securities are offered for sale in the jurisdiction of each Decision Maker pursuant to a simplified prospectus and annual information form which has been filed with and accepted by the Decision Maker;
- b) the RSP Funds restrict their aggregate direct investment in the corresponding Underlying Fund to a percentage of its assets that is within the Permitted Limit;
- c) the investments by the RSP Funds in the Underlying Funds are compatible with the fundamental investment objectives of the RSP Funds;
- d) the RSP Funds will not invest in an Underlying Fund whose investment objective includes investing directly or indirectly in other mutual funds;
- e) the prospectus will describe the intent of the RSP Funds to invest in the specified Underlying Funds;
- f) the RSP Funds may change the Permitted RSP Fund Investments if they change their fundamental investment objectives in accordance with the Legislation;
- g) no sales charges are payable by the RSP Funds in relation to their purchases of securities of the Underlying Funds;
- h) there are compatible dates for the calculation of the net asset value of the RSP Funds and the Underlying Funds for the purpose of the issue and redemption of the securities of such mutual funds;
- i) no redemption fees or other charges are charged by the Underlying Funds in respect of the redemption by the RSP Funds of securities of the Underlying Funds owned by the RSP Funds;
- j) the arrangements between or in respect of the RSP Funds and the Underlying Funds are such as to avoid the duplication of management fees;
- k) no fees and charges of any sort are paid by the RSP Funds or by the Underlying Funds or by the manager or principal distributor of the RSP Funds or the Underlying Funds or by any affiliate or associate of any of the foregoing entities to anyone in respect of the RSP Funds' purchase, holding or redemption of the securities of the Underlying Funds, other than the management fees as addressed in (j) above;
- l) in the event of the provision of any notice to securityholders of the Underlying Funds as

required by the constating documents of the Underlying Funds or by the laws applicable to the Underlying Funds, such notice will also be delivered to the securityholders of the RSP Funds; all voting rights attached to the securities of the Underlying Funds which are owned by the RSP Funds will be passed through to the securityholders of the RSP Funds; in the event that a securityholders' meeting is called for the Underlying Funds, all of the disclosure and notice material prepared in connection with such meeting will be provided to the securityholders of the RSP Funds and such securityholders will be entitled to direct a representative of the RSP Funds to vote the RSP Funds' holding in the Underlying Funds in accordance with their direction; and the representative of the RSP Funds will not be permitted to vote the RSP Funds' holdings in the Underlying Funds except to the extent the securityholders of the RSP Funds so direct;

- m) in addition to receiving the annual and, upon request, the semi-annual financial statements, of the RSP Funds, securityholders of the RSP Funds will receive the annual and, upon request, the semi-annual financial statements, of the Underlying Funds in either a combined report, containing both the RSP Funds' and Underlying Funds' financial statements, or in a separate report containing the Underlying Funds' financial statements; and
- n) to the extent that the RSP Funds and the Underlying Funds do not use a combined simplified prospectus and annual information form and financial statements containing disclosure about the RSP Funds and the Underlying Funds, copies of the simplified prospectus, annual information form and annual and semi-annual financial statements relating to the Underlying Funds may be obtained upon request by a securityholder of the RSP Funds.

**PROVIDED THAT IN RESPECT OF** the investment by the RSP Funds in the Forward Contracts:

1. The foregoing Decision shall only apply in respect of investments in the Forward Contracts that are made by the RSP Funds in compliance with the following conditions:
  - a) pricing and terms offered by the Bank to the RSP Funds under the Forward Contracts are at least as favourable as the terms committed by the Bank to other third parties which are of similar size as the RSP Funds;
  - b) the independent board of Trustees of the RSP Funds, none of whom are themselves directors, officers or employees of BMO, any affiliate of BMO or of the Bank will review the pricing of the Forward Contracts against the pricing offered by the Bank to other fund groups offering RSP funds of similar size to ensure the pricing is as favourable;

- c) this review will be undertaken not less frequently than on a quarterly basis, and in addition on each pricing amendment to the Forward Contracts during the term of such contracts;
- d) disclosure of the Trustees' role and a review of Forward Contracts will be outlined in the simplified prospectus, as will the involvement of the Bank, in acting as counterparty; and
- e) the Trustees, on behalf of the RSP Funds, will consider the Forward Contracts to be entered into with the Bank and approve them only once such confirmation of favourable pricing is received from the independent committee of the Trustees.

DATED at Toronto, Ontario this 2nd day of November, 2000.

*Stephen N. Adams*

*Theresa McLeod*

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Stephen N. Adams

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Theresa McLeod

**Headnote:**

Investment by RSP fund in securities of another mutual fund that is under common management for specified purpose exempted from the reporting requirements and self-dealing prohibitions of subclauses 111(2)(a) and (b), subsection 111(3) and subclauses 117(1)(a) and (d).

Investment by the RSP Fund in forward contracts issued by related counterparties or its affiliates exempted from the requirements of subclauses 111(2)(a) and (b), subsection 111(3), subclauses 117(1)(a) and (d) - subject to specified conditions.

**Statutes Cited:**

*Securities Act* (Ontario), R.S.O. 1990 c.S. 5, as am., s. 111(2)(a), s. 111(2)(b), s. 111(3), s. 113, s. 117(1)(a), s. 117(1)(d), s.117(2), s. 118(2)(a), s. 121(2)(a)(ii).