

**IN THE MATTER OF  
THE SECURITIES LEGISLATION OF  
BRITISH COLUMBIA, ALBERTA, SASKATCHEWAN, MANITOBA,  
ONTARIO, QUEBEC, NOVA SCOTIA, PRINCE EDWARD ISLAND,  
NEW BRUNSWICK, NEWFOUNDLAND, THE YUKON,  
THE NORTHWEST TERRITORIES AND NUNAVUT**

**AND**

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

**AND**

**IN THE MATTER OF THE  
iUNITS S&P/TSE 60 CAPPED INDEX FUND  
iUNITS S&P/TSE CANADIAN MIDCAP INDEX FUND  
iUNITS S&P/TSE CANADIAN ENERGY INDEX FUND  
iUNITS S&P/TSE CANADIAN INFORMATION TECHNOLOGY INDEX FUND  
iUNITS S&P/TSE CANADIAN GOLD INDEX FUND  
iUNITS S&P/TSE CANADIAN FINANCIALS INDEX FUND**

**AND**

**IN THE MATTER OF  
BARCLAYS GLOBAL INVESTORS CANADA LIMITED**

**DECISION DOCUMENT**

**WHEREAS** the local securities regulatory authority or regulator (the **ADecision Maker@**) in each of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Quebec, Nova Scotia, Prince Edward Island, New Brunswick, Newfoundland, Yukon, Northwest Territories and Nunavut (the **AJurisdictions@**) has received an application from the iUnits S&P/TSE 60 Capped Index Fund, the iUnits S&P/TSE Canadian MidCap Index Fund, the iUnits S&P/TSE Canadian Energy Index Fund, the iUnits S&P/TSE Canadian Information Technology Index Fund, the iUnits S&P/TSE Canadian Gold Index Fund, the iUnits S&P/TSE Canadian Financials Index Fund (together, the **AFunds@**) and Barclays Global Investors Canada Limited (**ABarclays@**) (all collectively, the **AApplicants@**) for a decision under the securities legislation of the Jurisdictions (the **ALegislation@**) that

- (a) the registration requirement of the Legislation does not apply to Barclays and the Funds, in connection with their proposed dissemination of sales communications relating to the distribution

of securities of the Funds;

- (b) the registration requirement of the Legislation does not apply to trades in units of the Funds by members of a futures exchange, or by the members= partners, directors or officers trading on behalf of such members; and
- (c) in connection with the proposed distribution of securities of the Funds pursuant to a prospectus, the Funds be exempt from the requirement that the prospectus contain a certificate of the underwriter or underwriters who is/are in a contractual relationship with the issuer whose securities are being offered;

**AND WHEREAS** under the Mutual Reliance Review System for Exemptive Relief Applications (the **ASystem@**), the Ontario Securities Commission is the principal regulator for this application;

**AND WHEREAS** the Applicants have represented to the Decision Makers as follows:

1. Each Fund is a trust established under the laws of Ontario, with Barclays as the trustee of each Fund. Barclays= head office is located in Toronto, Ontario.
2. Barclays is registered in all provinces and territories, other than the Yukon, as a portfolio manager and investment counsel (or the equivalent categories of registration) under the Legislation of such Jurisdictions.
3. The investment objective of each Fund is to track the performance of the applicable S&P/TSE Index (the **AApplicable Index@**). The Applicable Index for each Fund is reflected in the name of the Fund.
4. In order to achieve its investment objective, each Fund will invest in and hold baskets of shares (the **AIndex Shares@**) of the companies (the **AConstituent Companies@**) that make up the Applicable Index, in approximately the same proportion as they are represented in the Applicable Index (all the baskets of Index Shares collectively, the **ACore Asset Shares@**).
5. Each Fund will issue units of beneficial interest (**AUnits@**) which will confer on investors a proportionate share of economic benefits similar to those which an investor could obtain through individual investments in the securities comprising the Applicable Index.
6. It is intended that the value of the Core Asset Shares underlying a Unit of a Fund (the **ACore Asset Share Value per Unit@**) will equal, as closely as possible, 1/10th of the level of the Applicable Index.
7. The Funds have filed a preliminary prospectus with each Jurisdiction for the purpose of the public and continuous distribution of their Units in the Jurisdictions. Upon issuance of a receipt for the

Funds= (final) prospectus (the **AProspectus@**), each Fund will become a **Areporting issuer@** under the Legislation of each Jurisdiction where such term is applicable.

8. The Units of each Fund will be listed and posted for trading on The Toronto Stock Exchange (the **ATSE@**), and will trade at a market price that may not necessarily reflect the Core Asset Share Value per Unit of the Fund.
9. From time to time, there may be a deviation in tracking such that the Core Asset Share Value per Unit will be greater or less than 1/10th of the Applicable Index level. If a significant tracking deviation develops over time, the Funds may acquire or sell Index Shares, may redeem or issue Units, or may cause the number of Units outstanding to be consolidated or split, as necessary, in order to move the Core Asset Share Value per Unit closer to 1/10th of the level of the Applicable Index.
10. Units of the Funds may only be subscribed for or purchased directly from the Funds by
  - a. one or more members of the TSE who are registered dealers or brokers and who have entered into an underwriting agreement with the Funds (the **AUnderwriters@**), or
  - b. one or more members of the TSE who are registered dealers or brokers and who have entered into a designated broker agreement with the Funds (the **ADesignated Brokers@**).

Subscription or purchase orders may be placed by an Underwriter or Designated Broker only for Units in the prescribed number (the **APrescribed Number@**) or an integral multiple thereof on any day on which there is a trading session on the TSE.

11. Each Underwriter or Designated Broker who subscribes for Units of the Funds on the first day on which the Funds accept subscriptions must deliver to the Funds, in respect of each Prescribed Number of units to be issued, a basket of Index Shares together with an amount in cash equal to a specified percentage, as set out in the Funds= Prospectus, of the value of the basket of Index Shares delivered.
12. Every subscription for the Prescribed Number of units of a Fund, subsequent to the first day on which such Fund accepts subscriptions, must be paid for by delivery of a basket of Index Shares and cash in an amount sufficient so that the value of the basket of Index Shares and the cash delivered is equal to the net asset value of the Fund Units next determined following the receipt of the subscription order.
13. Upon notice given by Barclays from time to time and, in any event, not more than once quarterly, a Designated Broker will subscribe for Units in an amount not to exceed 0.15% of the net asset value of the applicable Fund next determined following delivery of the notice of subscription to that Designated Broker.

14. Neither the Underwriters nor the Designated Brokers will receive any fees or commissions in connection with each Fund's issuance of Units to them. Barclays, as trustee of the Funds may, at its discretion, charge an administration fee on the issuance of Units to the Underwriters.
15. Except as described in paragraphs 10 and 13 above, Units of each Fund may not be purchased directly from the Funds. Investors are generally expected to purchase Units of each Fund through the facilities of the TSE. However, Units of each Fund may be issued directly to Unitholders upon the reinvestment of the Fund's distributions of income or capital gains.
16. While unitholders who wish to dispose of their Units may generally do so by selling their Units on the TSE, a unitholder who holds a Prescribed Number of Units or an integral multiple thereof may exchange such Units for a basket of Index Shares and cash; unitholders may also redeem their Units for cash at a redemption price equal to 95% of the closing price of the units on the TSE on the date of redemption.
17. Members of a futures exchange (or their partners, directors and officers), who are registered only under the commodity futures legislation or requirements (if any) of the Jurisdiction where such members carry on the business of dealing in futures contracts, may have to trade units of the Funds in order to hedge their futures and other derivatives holdings based on the Applicable Index. Their registration under the applicable commodity futures legislation does not permit them to trade in Units of the Funds.
18. As trustee, Barclays will be entitled to receive a fixed annual fee from each Fund. Such annual fee will be calculated as a fixed percentage of the net asset value of each Fund. Barclays will be responsible for the payment of all expenses of the Funds, except for the trustee fee, any issuance fee payable by Underwriters, any redemption fees payable by Unitholders upon the redemption of a Prescribed Number of Units, any expenses incurred by the Funds' securities lending agent, any withholding taxes and any income taxes.
19. Unitholders holding at least the Prescribed Number of Units will be entitled to vote a proportion of the Index Shares of a Constituent Company held by a Fund equal to that Unitholder's proportion of outstanding Units. Unitholders holding less than a Prescribed Number of Units will have no right to vote the Index Shares of a Constituent Company held by a Fund.

**AND WHEREAS** under the System, this MRRS Decision Document evidences the decisions of each Decision Maker (collectively, the **ADecision@**);

**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 under the Legislation is that

- (a) the registration requirement of the Legislation does not apply to Barclays and the Funds, in connection with any dissemination of sales communications relating to the distribution of Units of the Funds, provided that they comply with Part 15 of National Instrument 81-102 Mutual Funds;
- (b) the registration requirement of the Legislation does not apply to trades in Units of the Funds by members of a futures exchange, or the members= partners, directors or officers trading on behalf of such members, provided that
  - (i) the members or their partners, directors or officers are registered for trading purposes under the commodity futures legislation or requirements (if any) of the Jurisdiction where such members carry on the business of dealing in futures contracts,
  - (ii) the trades in Units of the Funds are made only for such members= own account, and
  - (iii) neither the members nor their partners, directors or officers will trade in Units of the Funds on behalf of their clients.
- (c) in connection with the proposed distribution of Units of the Funds pursuant to the Prospectus or any renewal prospectus, the Funds are exempt from the requirement of the Legislation that the Prospectus or renewal prospectus contain a certificate of the Underwriters as defined in paragraph 10 above.

**DATED** at Toronto this 8th day of December, 2000

Robert W. Korthals

Robert W. Davis

### Headnote

Relief granted from certain provisions of securities legislation for initial and continuous distribution of units of exchange-traded fund - relief from registration requirement granted to permit the fund and its promoter to disseminate sales communication promoting the fund, subject to compliance with Part 15 of NI 81-102 - relief granted for the fund's prospectus not to contain an underwriter's certificate - relief from the registration requirement granted to permit members of futures exchanges and their partners, directors or officers to trade in units of the fund, subject to specified conditions.

### Statutes Cited

Securities Act, R.S.O. 1990, c. S.5, as amended - ss. 25(1), 59(1), 74(1) & 147.

### Rules Cited

National Instrument 81-102 Mutual Funds - Part 15.