

**GENERAL RULING/ORDER 35-901  
NON-RESIDENT REGISTRANTS**

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

AND

IN THE MATTER OF CERTAIN NON-RESIDENT REGISTRANTS

ORDER  
(Section 160)

WHEREAS an application has been received by the Saskatchewan Securities Commission (the "Commission") from the staff of the Commission pursuant to section 160 of the Act for an order exempting certain dealers and advisers from the business office requirement, and the books and records requirement;

AND WHEREAS it has been represented to the Commission by the staff of the Commission that:

- (a) Saskatchewan Local Policy Statement 3.1 Registration of Non-resident Trading Officers and Salespersons sets out the conditions on which individuals who do not reside in Saskatchewan will be registered;
- (b) Saskatchewan Local Policy Statement 3.9 Non-resident and International Advisers and General Ruling/Order 30 set out the conditions a domestic adviser and an international adviser must meet in order to be registered without meeting the business office requirement, the residency requirement or the books and records requirement;
- (c) Saskatchewan Local Policy Statement 3.10 Non-resident Mutual Fund Dealers and General Ruling/Order 34 set out the conditions a mutual fund dealer must meet in order to be registered without meeting the business office requirement, the residency requirement or the books and records requirement;
- (d) Saskatchewan Local Policy Statement 3.11 Non-resident Order Execution Brokers and General Ruling/Order 36 set out the conditions an investment dealer, broker or exchange contract dealer must meet in order to be registered without meeting the business office requirement, the residency requirement or the books and records requirement;
- (e) It is desirable and expedient to consolidate all of the local policy statements and general rulings/orders listed in clauses (a) to (d) above into this Order, and to repeal them;

AND WHEREAS the Commission is of the opinion that it would not be prejudicial to the public interest to make this Order;

IT IS HEREBY ORDERED that the following local policy statements and general rulings/orders are repealed:

- (a) Saskatchewan Local Policy Statement 3.1 Registration of Non-resident Trading Officers and Salespersons
- (b) Saskatchewan Local Policy Statement 3.9 Non-resident and International Advisers;
- (c) Saskatchewan Local Policy Statement 3.10 Non-resident Mutual Fund Dealers;
- (d) Saskatchewan Local Policy Statement 3.11 Non-resident Order Execution Brokers;
- (e) General Ruling/Order 35-801A;
- (f) General Ruling/Order 35-801B; and
- (g) General Ruling/Order 35-801C;

## **PART 1      DEFINITIONS**

### **IN THIS GENERAL RULING/ORDER:**

- (a) “Act” means *The Securities Act, 1988, S.S. 1988, c. S-42.2*;
- (b) "books and records requirement" means the requirement pursuant to subsection 25(6) of the Regulations that a registrant must maintain in Saskatchewan those books and records necessary to properly record its business transactions and financial affairs in Saskatchewan;
- (c) "business office requirement" means the requirement pursuant to section 18 of the Regulations that a registrant establish and maintain a business office in Saskatchewan, and the requirement pursuant to section 36 of the Regulations that the registrant must appoint a resident manager to be in charge of its business office;
- (d) “domestic adviser” means an adviser that has its principal place of business in Canada, but does not have a business office in Saskatchewan or any partners, officers or employees resident in Saskatchewan;
- (e) "home jurisdiction" means:
  - (i) in the case of an investment dealer, mutual fund dealer or domestic adviser, the province or territory in Canada where the firm has its principal place of business; and
  - (ii) in the case of an international adviser, the foreign jurisdiction where the international adviser has its principal place of business;
- (f) “international adviser” means an adviser that does not have its principal place of

business in Canada and does not have a business office in Saskatchewan or any partners, officers or employees resident in Saskatchewan; and

- (g) “Regulations” means *The Securities Regulations*, R.R.S., c. S-42.2 Reg 1;

## **PART 2 INVESTMENT DEALERS**

AND IT IS FURTHER ORDERED pursuant to section 160 of the Act that the business office requirement and the books and records requirement do not apply to:

- (a) an applicant for registration as an investment dealer; or
- (b) the partners, officers, or salespersons of such dealer;

provided that the applicant dealer:

- 2.1 is registered in its home jurisdiction as a dealer in the category of investment dealer or in an equivalent category;
- 2.2 has a place of business in Canada;
- 2.3 has at least one partner or officer resident in Canada and registered in Saskatchewan as a partner or officer of the dealer;
- 2.4 does not have any partners, officers, or salespersons who reside in Saskatchewan;
- 2.5 files a duly executed submission to jurisdiction and appointment of agent for service of process substantially in the form attached as Appendix A;
- 2.6 files with the Director a written undertaking substantially in the form attached as Appendix B.
- 2.7 satisfies the Director as to how it will comply with the "know your client" and "suitability" requirements set out in section 26 of the Regulations.
- 2.8 after registration complies with the following conditions of registration in addition to the registration requirements that normally apply under the Act and Regulations:
  - (a) maintains registration in its home jurisdiction as a dealer in the category of investment dealer or in an equivalent category;
  - (b) maintains a place of business in Canada;
  - (c) has at least one partner or officer resident in Canada and registered in Saskatchewan as a partner or officer of the dealer;
  - (d) does not have any partners, officers, or salespersons who reside in Saskatchewan;

- (e) complies with the undertaking to provide information submitted on its initial registration application;
- (f) maintains in its home jurisdiction in accordance with the requirements of section 25 of the Regulations those books and records necessary to properly record its business transactions in Saskatchewan; and
- (g) provides a disclosure statement to each new client substantially in the form attached as Appendix C.

### **PART 3 MUTUAL FUND DEALERS**

AND IT IS FURTHER ORDERED pursuant to section 160 of the Act that the business office requirement and the books and records requirement do not apply to an applicant for registration as a mutual fund dealer or to its partners, officers, or salespersons provided that the applicant:

- 3.1 is registered as a mutual fund dealer in its home jurisdiction;
- 3.2 meets the conditions set out in sections 2.2 to 2.7 of this Order;
- 3.3 after registration complies with the following conditions of registration in addition to the registration requirements that normally apply pursuant to the Act and Regulations:
  - (a) maintains its registration as a mutual fund dealer in its home jurisdiction;
  - (b) maintains a place of business in Canada;
  - (c) has at least one partner or officer resident in Canada and registered in Saskatchewan as a partner or officer of the dealer;
  - (d) does not have any partners or officers, or salespersons who reside in Saskatchewan;
  - (e) complies with the undertaking to provide information submitted on its initial registration application;
  - (f) maintains in its home jurisdiction in accordance with the requirements of section 25 of the Regulations those books and records necessary to properly record its business transactions in Saskatchewan; and
  - (g) provides a disclosure statement to each new client substantially in the form attached as Appendix C.

### **PART 4 DOMESTIC ADVISERS**

IT IS HEREBY ORDERED pursuant to section 160 of the Act that the business office requirement and

the books and records requirement do not apply to domestic adviser which applies for registration or to its partners, officers, or employees provided that the applicant:

- 4.1 is registered as an adviser in its home jurisdiction;
- 4.2 meets the conditions set out in sections 2.2 to 2.7 of this Order
- 4.3 after registration complies with the following conditions of registration in addition to the registration requirements that normally apply pursuant to the Act and Regulations:
  - (a) maintains its registration as an adviser in its home jurisdiction;
  - (b) maintains a place of business in Canada;
  - (c) has at least one partner or officer resident in Canada and registered in Saskatchewan as a partner or officer of the adviser;
  - (d) does not hold securities, funds or other assets of its Saskatchewan clients. Such assets must be held either by the individual client or by a custodian which satisfies the requirements for acting as a custodian of the portfolio securities of a mutual fund in National Instrument 81-102 Mutual Funds. Where the domestic adviser is acting as an investment counsel only, the custodian may be a dealer which contributes to the Canadian Investor Protection Fund;
  - (e) complies with the undertaking to provide information submitted on its initial registration;
  - (f) maintains in its home jurisdiction in accordance with the requirements of section 25 of the Regulations those books and records necessary to properly record its business transactions in Saskatchewan; and
  - (g) provides a disclosure statement to each new client substantially in the form attached as Appendix C.

## **PART 5 INTERNATIONAL ADVISERS**

IT IS HEREBY ORDERED pursuant to section 160 of the Act that the business office requirement and the books and records requirement do not apply to an international adviser who applies for registration as an investment counsel and/or portfolio manager or to its partners, officers or employees provided that the applicant:

- 5.1 complies with applicable laws in its home jurisdiction with respect to acting as an adviser;
- 5.2 complies with the conditions set out in sections 2.4 to 2.7 of this Order;
- 5.3 after registration complies with the following conditions of registration in addition to the registration requirements that normally apply pursuant to the Act and Regulations:
  - (a) continues to comply with applicable laws in its home jurisdiction with respect to acting as

an adviser;

- (b) acts as an adviser in Saskatchewan solely for the following persons or companies , acting as principal only unless otherwise stated:
- (i) a bank listed in Schedule I or II to the *Bank Act* (Canada), where it acts as principal or as agent for accounts fully managed by it;
  - (ii) a loan corporation or trust company registered under *The Trust and Loan Corporations Act* where it acts as principal or as trustee or agent for accounts fully managed by it;
  - (iii) an insurance company licensed under *The Insurance Act*;
  - (iv) Credit Union Central of Canada or Credit Union Central of Saskatchewan;
  - (v) The Business Development Bank of Canada incorporated under the *Business Development Bank of Canada Act* (Canada);
  - (vi) Her Majesty in right of Canada or of any jurisdiction;
  - (vii) a person or company registered as an adviser, where it acts as principal or as agent for accounts fully managed by it;
  - (viii) a person or company registered as a broker or investment dealer, where it acts as principal or, pursuant to section 60 of the Regulations, as agent for accounts fully managed by it;
  - (ix) a pension fund that is regulated either by the Office of the Superintendent of Financial Institutions (Canada) or a provincial pension commission, or a group of pension funds that are so regulated, if the pension fund has, or the group of pension funds have, net assets of at least \$100 million, provided that, in determining net assets, the liability of the pension fund for future pension payments shall not be included;
  - (x) a registered charity under the *Income Tax Act* (Canada) that has assets not used directly in charitable activities or administration of at least \$5 million or its equivalent in another currency;
  - (xi) an individual who has a net worth of at least \$5 million or its equivalent in another currency; excluding the value of his or her principal residence, as certified by the individual;
  - (xii) a trust, if a majority of the trustees of the trust are individuals who meet the criteria set out in subclause (xi) above;
  - (xiii) a person or company that is entirely owned, legally and beneficially, by individuals referred to in subclause (xi), who hold their ownership interest in the

person or company directly or through a trust the trustee of which is a trust company registered under *The Trust and Loan Companies Act*;

- (xiv) a corporation that has shareholders' equity of at least \$100 million or its equivalent in another currency;
- (xv) a fund that distributes its securities in Saskatchewan, if:
  - (A) The manager of the fund is ordinarily resident in a jurisdiction and is registered with a Canadian securities regulatory authority as a portfolio manager, broker, investment dealer or mutual fund dealer; and
  - (B) the manager referred to in subparagraph (A) is a party to the contract under which the international adviser provides advice to the fund; and
- (xvi) a mutual fund or non-redeemable investment fund that distributes its securities in Saskatchewan only to persons or companies referred to in clauses (i) through (xv);
- (c) holds the securities, funds and other assets of its clients in Saskatchewan as follows:
  - (i) by the Saskatchewan client; or
  - (ii) by a custodian or sub-custodian:
    - (A) that meets the guidelines prescribed for acting as a sub-custodian of the portfolio securities of a mutual fund in National Instrument 81-102 Mutual Funds; and
    - (B) that is subject to the agreement announced by the Bank for International Settlements (BIS) on July 1, 1988 concerning international convergence of capital measurement and capital standards; and
  - (iii) where the international adviser or an affiliate or an affiliated partnership of the international adviser holds such securities, funds and other assets of a Saskatchewan client as custodian or sub-custodian, then it must hold such securities, funds and other assets in compliance with the requirements of sections 28, 29 and 30 of the Regulations.

The client's securities may be deposited with or delivered to a depository or clearing agency that is authorized to operate a book-based system.
- (d) complies with the undertaking to provide information submitted on its initial registration; and
- (e) provides a disclosure statement to each new client substantially in the form attached as Appendix C.

- (f) maintains in its home jurisdiction in accordance with the requirements of section 25 of the Regulations those books and records necessary to properly record its business transactions in Saskatchewan.

DATED at Regina, Saskatchewan May 1, 2000.

"Marcel de la Gorgendière"  
Marcel de la Gorgendière, Q.C.  
Chairman

AMENDED on August 29, 2001

AMENDED on November 8, 2001

AMENDED on August 19, 2004

AMENDED on February 23, 2005

"Barbara Shourounis"  
Barbara Shourounis  
Director



**APPENDIX A****FIRMS' SUBMISSION TO JURISDICTION AND APPOINTMENT OF AGENT FOR SERVICE OF PROCESS**

1. Name of applicant or registrant (the "Registrant"):
2. Jurisdiction of incorporation of Registrant:
3. Name of agent for service of process (the "Agent"):
4. Address for service of process of Agent in Saskatchewan:
5. The Registrant designates and appoints the Agent at the address of the Agent stated above as its agent upon whom may be served any notice, pleading, subpoena, summons or other process in any action, investigation or administrative, criminal, quasi-criminal or other proceeding (the "Proceeding") arising out of or relating to or concerning its registration under *The Securities Act, 1988* (Saskatchewan) (the "Act") or its activities in Saskatchewan as a registrant, and irrevocably waives any right to raise as a defense in any such Proceeding any alleged lack of jurisdiction to bring such Proceeding.
6. The registrant irrevocably and unconditionally submits to the non-exclusive jurisdiction of the judicial, quasi-judicial and administrative tribunals of Saskatchewan and any administrative proceeding in Saskatchewan, in any Proceeding arising out of or related to or concerning its registration under the Act or its activities in Saskatchewan as a registrant.
7. Until six years after the termination of its registration under the Act, the Registrant shall file:
  - a. A new Submission to Jurisdiction and Appointment of Agent for Service of Process in the form hereof at least 30 days prior to termination of this Submission to Jurisdiction and Appointment of Agent for Service of Process for any reason whatsoever; and
  - b. An amended Submission to Jurisdiction and Appointment of Agent for Service of Process at least 30 days prior to any change in the name or above address of the Agent.

8. This Submission to Jurisdiction and Appointment of Agent for Service of Process shall be governed by and construed in accordance with the laws of Saskatchewan.

Dated: \_\_\_\_\_  
\_\_\_\_\_ (Signature of Registrant's authorized signatory)

(Name and title of authorized signatory)

**Acceptance**

The undersigned accepts the appointment as agent for service of process of \_\_\_\_\_  
\_\_\_\_\_ (Insert name of Registrant) pursuant to the terms and conditions  
of the foregoing Submission to Jurisdiction and Appointment of Agent for Service of Process.

Dated: \_\_\_\_\_  
\_\_\_\_\_ (Signature of Agent or authorized signatory)

(Name and title of authorized signatory)

**APPENDIX B UNDERTAKING TO PROVIDE INFORMATION**

1. Name of applicant or registrant (the "Registrant"): \_\_\_\_\_
2. Jurisdiction of incorporation of Registrant: \_\_\_\_\_
3. The Registrant hereby undertakes:
  - (a) to inform the Director as soon as it becomes aware that:
    - (i) its registration or the registration of any of its salespersons, partners, or officers in any other jurisdiction in Canada is revoked by the securities regulatory authority in that jurisdiction or is suspended for cause other than lapse, transfer or resignation; or
    - (ii) an investigation order or notice hearing has been issued by any Canadian securities regulatory authority with respect to it or any of its salespersons, partners or officers;
  - (b) that it will upon the request of the Commission, a person appointed by the Commission to make an investigation under the Act relating to the Registrant's activities in Saskatchewan, or the Director:
    - (i) produce forthwith to such person making the request at the Registrant's expense all books, papers, documents, records and correspondence, relating to the Registrant's activities in Saskatchewan that are in the possession control or power of the Registrant, subject to the laws of the jurisdiction that are otherwise applicable to the production of such books, papers, documents, records and correspondence, provided that where the laws of such jurisdiction prohibit production of the such books, papers, documents, records or correspondence without the relevant client's consent, the Registrant shall use its best efforts to obtain such client's consent; and
    - (ii) produce forthwith in Saskatchewan at the Registrant's expense appropriate persons in its employ as witnesses to give evidence on oath or otherwise. If the appropriate persons are not in its employ, it will use its best efforts to produce forthwith in Saskatchewan at the Registrant's expense such persons to give evidence on oath or otherwise, subject to the laws of the jurisdiction that are otherwise applicable to the giving of such evidence. Where the laws of such jurisdiction prohibit the giving of such evidence without the relevant client's consent, the Registrant shall use its best efforts to obtain such client's consent; and
  - (c) permit the Commission, the staff of the Commission or an agent of the Commission to inspect and examine, from time to time, our books and records in our home jurisdiction;
  - (d) reimburse the Commission for all costs and expenses incurred in conducting the inspection and examination referred to in clause (c) above which the Commission would not have incurred had the books and records been maintained in Regina, Saskatchewan;

- (e) not object to any hearing before the Commission on the basis that it was not present or represented if it has received a notice to appear from the Commission;

Dated: \_\_\_\_\_

\_\_\_\_\_  
*(Signature of Registrant or authorized signatory)*

\_\_\_\_\_  
*(Name and title of authorized signatory)*

**APPENDIX C DISCLOSURE STATEMENT TO NEW CLIENTS**

*[on the letterhead of the dealer]*

To all new clients:

You have recently opened an account with our firm. We agree that the laws of the province of Saskatchewan apply to any matter that may arise between us. We also agree to submit and attorn to the jurisdiction of the courts of the Province of Saskatchewan with respect to that matter.

Our address for service of legal proceedings is: *[state name and address of agent for service of process]*.

You should be aware that, because we do not have a place of business in Saskatchewan, you may have difficulty in enforcing any legal rights you have against us .

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*(Signature of Registrant's authorized signatory)*

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*(Name and title of authorized signatory)*