

THE SECURITIES ACT

)

Order No. 4064

)

Section 20

)

February 25, 2003

THE BOYD GROUP INC. and BOYD GROUP INCOME FUND
AMENDED AND RESTATED

WHEREAS:

(A) The Boyd Group Inc. ("Boyd") and Boyd Group Income Fund (the "Fund") applied to The Manitoba Securities Commission ("Commission") for an order under s. 20(1) of *The Securities Act*, R.S.M. 1988, c. S50 (the "Act") exempting:

1. from the registration and prospectus requirements of sections 6 and 37 of the Act (the "Registration and Prospectus Requirements") certain trades in securities in connection with a proposed reorganization of Boyd to be effected by way of a plan of arrangement (the "Arrangement") under section 185 of *The Corporations Act* (Manitoba) (the "MCA") involving Boyd, the Fund, Boyd Fund Limited ("Fund Subco"), Boyd Group Holdings Inc. ("Amalco Holdco"), 4612094 Manitoba Inc. ("Management Holdco") and the holders of Boyd's securities ("Boyd Securityholders"); and

2. from the prospectus requirements of section 37 of the Act trades of securities of the Fund issued under the Arrangement where the securities are from the holdings of any person, company or any combination of persons or companies holding a sufficient number of any of the securities of the Fund to materially affect control of the Fund (the "Control Person Trades");

(B) Boyd has represented to the Commission that:

1. Boyd is a corporation incorporated under the laws of the Province of Manitoba, is a reporting issuer (or the equivalent thereof) in each of the Provinces of Manitoba and Ontario and, to the best of its knowledge, is not in default of any of the requirements of the MSA or the *Securities Act* (Ontario).

2. Boyd's authorized share capital consists of an unlimited number of Class A Shares of Boyd ("Boyd Class A Shares"), an unlimited number of Class B voting shares, an unlimited number of Class C non-voting redeemable preferred shares, 100 Class D voting shares ("Boyd Class D Shares") and an unlimited number of Class E voting cumulative redeemable convertible shares ("Boyd Class E Shares"), of which 14,737,002 Boyd Class A Shares, 100 Class D voting shares and 2,125,000 Boyd Class E Shares are issued and outstanding as of January 16, 2003. The Boyd Class A Shares, the Boyd Class D Shares and the Boyd Class E Shares are sometimes collectively hereinafter referred to as the "Boyd Voting Shares".

3. Boyd owns and operates, either directly or through subsidiaries, automotive collision repair centres in Canada and the United States. The principal names under which Boyd carries on business in Canada are "Boyd Autobody and Glass", "Boyd Autobody", "Imperial Collision" and "Service Collision Repair Centres".

4. The Fund is an open-ended mutual fund trust governed by the laws of the Province of Manitoba created pursuant to a declaration of trust. The Fund was established for the purposes, among other things, of investing in securities of Fund Subco and Amalco (New Boyd). The unitholders of the Fund ("Unitholders") will be its sole beneficiaries.

5. Following the Arrangement, the Fund will own all of the issued and outstanding Class I Shares of Amalco ("Amalco Class I Shares") and all of the promissory notes issued by Fund Subco ("Fund Subco Notes"). Amalco Holdco will own all of the issued and outstanding Class II Shares of Amalco ("Amalco Class II Shares").

6. Amalco Holdco was incorporated under the MCA for purposes of participating in the Arrangement and will own, upon completion of the Arrangement, a minority economic interest in Amalco (New Boyd) through its ownership of all of the Amalco Class II Shares. Amalco Holdco will, subject to applicable legal and contractual requirements, distribute its income on a monthly basis to its shareholders by way of a dividend on the Amalco Holdco Common Shares.

7. Fund Subco is a wholly-owned subsidiary of the Fund and was incorporated under the MCA for purposes of participating in the Arrangement, including creating and issuing the Common Shares of Fund Subco ("Fund Subco Common Shares") and the Fund Subco Notes required for implementing the Arrangement. Pursuant to the Arrangement, Fund Subco will amalgamate with Boyd to form Amalco and continue under the name "The Boyd Group Inc.".

8. Management Holdco was incorporated by the Management Group (as hereinafter defined) under the MCA for purposes of participating in the Arrangement, including holding a minority interest in the Class A Common Shares of Amalco Holdco ("Amalco Holdco Class A Common Shares").

9. The Arrangement will be carried out under section 185 of the MCA. On December 17, 2002, Boyd obtained, under section 185 of the MCA, an interim order (the "Interim Order") from the Manitoba Court of Queen's Bench (the "Court") which order specifies, among other things, certain procedures and requirements to be followed in connection with the calling and holding of a special meeting of holders (collectively, "Shareholders") of Boyd Class A Shares, Class D Shares of Boyd, Boyd Class E Shares, options ("Options") to acquire Boyd Class A Shares and debentures ("Debentures") convertible into Boyd Class A Shares, to consider the Arrangement (the "Meeting") and the completion of the Arrangement.

10. Boyd caused the Circular to be mailed to the Shareholders holding shares through intermediaries on or about December 24, 2002 and filed the Circular on SEDAR on or about that same date. Boyd caused the Circular to be mailed to the balance of Shareholders on December 31, 2002.

11. The Circular contains prospectus-level disclosure of the business and affairs of Boyd, the Fund, Fund Subco, Amalco Holdco and Management Holdco and a detailed description of the Arrangement. The Circular also contains certain historical financial statements of Boyd as well as *pro forma* financial information in respect of the Fund.

12. The Interim Order requires, among other things, approval by the Shareholders of the Arrangement at the Meeting to be held on January 24, 2003.

13. Pursuant to the Arrangement, on the effective date of the Arrangement (the "Effective Date"), each of the following events shall occur and shall be deemed to occur in the following sequence without further act or formality:

(a) the note indenture (the "Note Indenture") pursuant to which Fund Subco is authorized to issue the Fund Subco Notes shall be completed to provide for an interest rate under the Note Indenture and the Fund Subco Notes which is the same as the interest rate disclosed for the Note Indenture and the Fund Subco Note by the IPO Prospectus;

(b) the Boyd Class A Shares will be consolidated in accordance with Articles of Amendment of Boyd;

(c) those persons who, after December 17, 2002 and prior to the Effective Date, have converted Debentures, will be issued the number of Boyd Class A Shares to which they are respectively entitled as a result of such conversion;

(d) those persons who, after December 17, 2002 and on or before the last Business Day prior to the Effective Date, have exercised Options by notice and payment of the Option price, will be issued the number of Boyd Class A Shares to which they are entitled as a result of the exercise of such Options;

(e) the Class D Shares of Boyd shall be cancelled and the Boyd Class E Shares shall be converted into Boyd Class A Shares;

(f) Terry Smith, Brock Bulbuck, Coast to Coast Collision Centres Inc., Farelane Properties Ltd., Coast to Coast Franchise Services Inc. and 2630206 Manitoba Inc. (collectively, the "Management Group") will exchange 15% of the Boyd Class A Shares held by them in the aggregate for Fund Subco Notes in the principal amount determined by multiplying the price (the "IPO Price") at which units of the Fund ("Units") are offered under the initial public offering of the Units (the "IPO") by the number of Boyd Class A Shares for which the Fund Subco Notes are exchanged;

(g) the members of the Management Group will exchange their remaining Boyd Class A Shares (other than the part to be exchanged by Brock Bulbuck under paragraph (m) below) for common shares of Management Holdco ("Management Holdco Common Shares") on a one for one basis;

(h) each of the holders of Options ("Optionholders") who is issued Boyd Class A Shares upon the exercise of their Options, other than Terry Smith and Brock Bulbuck, shall exchange such Boyd Class A Shares for Fund Subco Notes in the principal amount determined for each of them respectively by multiplying the IPO Price by the number of Boyd Class Shares for which the Fund Subco Notes are exchanged;

(i) all of the holders of Boyd Class A Shares on the Effective Date who did not dissent to the Arrangement, other than the Management Group (collectively, the "Boyd Public Class A Shareholders") shall exchange a certain percentage (as determined by the application of formulae set out in the plan of arrangement) of his, her or its Boyd Class A Shares for Fund Subco Notes in a principal amount determined for each of them respectively by multiplying the IPO Price by the number of Boyd Class A Shares exchanged for the Fund Subco Notes;

(j) Management Holdco shall exchange all of its Boyd Class A Shares and each of the Boyd Public Class A Shareholders shall exchange his, her or its remaining Boyd Class A Shares for Amalco Holdco Class A Common Shares, on a one for one basis;

(k) Pursuant to the Exchange Agreement, Management Holdco and Boyd Public Class A Shareholders, as holders of Amalco Holdco Class A Common Shares, shall have the right, subject to certain conditions, to retract such shares and receive Units in exchange therefor;

(l) each member of the Management Group and each of the Boyd Public Class A Shareholders shall exchange the Fund Subco Note to which he, she or it is entitled hereunder for that number of Units determined respectively by dividing the principal amount of the Fund Subco Note by the IPO Price;

(m) Bulbuck shall exchange part of his Boyd Class A Shares for Amalco Holdco Class A Common Shares on a one for one basis;

(n) the Units shall be retractable at the request of the Unitholders, for retractions having a cash value in excess of \$25,000 in a calendar month, in exchange for Fund Subco Notes, Amalco Class I Shares and/or Amalco Holdco Class B Common Shares distributed by the Fund in accordance with the terms and conditions of the Trust Declaration;

(o) the stated capital of the Boyd Class A Shares shall be reduced to \$1,000,000;

(p) Boyd and Fund Subco shall amalgamate to form Amalco (the "Amalgamation");

(q) as part of the Amalgamation, all shares in the capital of Boyd and Fund Subco shall be cancelled and Amalco shall issue:

(i) to the Fund, that number of Amalco Class I Shares equal to the sum of the number of Fund Subco Common Shares held by the Fund and the

number of Boyd Class A Shares held by Fund Subco, immediately prior to the Amalgamation; and

(ii) to Amalco Holdco, that number of Amalco Class II Shares equal to the number of Boyd Class A Shares held by Amalco Holdco immediately prior to the Amalgamation;

(r) each outstanding and unexercised Option shall be cancelled;

(s) the trust indentures under which Debentures have been issued shall be amended by making the Fund a party thereto and changing certain of the provisions thereof to provide the holders of Debentures issued thereunder the right to exchange such Debentures for Units.

14. All voting shares of Boyd and Options held by persons who validly exercise the rights of dissent provided to them under the Interim Order ("Dissenting Shareholders") shall, if the Dissenting Shareholder is ultimately entitled to be paid the fair value therefor, be deemed to be transferred to the Company on the Effective Date in exchange for such fair value.

15. Upon the completion of the Arrangement, sellers of businesses which Boyd has acquired in the past ("Past Sellers"), who have an obligation to purchase further Boyd Class A Shares pursuant to a price protection mechanism that Boyd has included in the purchase and sale documentation of certain acquisitions it has made in the past, will instead be required to purchase Class III Shares in Amalco ("Amalco Class III Shares"), which are convertible into Units at the option of the holders thereof or Amalco (New Boyd).

16. Upon completion of the Arrangement, the Fund will be the holder of all of the Fund Subco Notes and all of the Amalco Class I Shares, Amalco Holdco will be the holder of all of the Amalco Class II Shares and the Boyd Public Class A Shareholders and Management Holdco will hold Units and Amalco Holdco Class A Common Shares.

17. Pursuant to the Arrangement, the following trades (the "Arrangement Trades") will or may occur:

(a) the distribution of Units by Amalco Holdco to the holders of Amalco Holdco Class A Common Shares upon the exercise by such holders of the retraction right attaching to the Amalco Holdco Class A Common Shares;

(b) the distribution by the Fund to the Unitholders of Fund Subco Notes, Amalco Class I Shares and/or Amalco Holdco Class B Common Shares upon the exercise by such Unitholders of the retraction right attaching to the Units;

(c) the issuance of Amalco Class III Shares by Amalco to Past Sellers;

(d) the conversion of Amalco Class III Shares into Units at the option of the holders thereof or Amalco;

(e) the deemed conversion of Boyd Class E Shares held by Manitoba Shareholders, into Boyd Class A Shares;

(f) the exchange by the Management Group of:

(i) 15% of the Boyd Class A Shares held by them in the aggregate for Fund Subco Notes;

(ii) 85% of the Boyd Class A Shares held by them in the aggregate for Management Holdco Common Shares (other than the part to be exchanged by Brock Bulbuck as described below) on a one for one basis; and

(iii) all of the Fund Subco Notes held by them in the aggregate for Units;

(g) the exchange by the Boyd Public Class A Shareholders in Manitoba of:

(i) a certain percentage of the Boyd Class A Shares held by them for Fund Subco Notes;

(ii) the remaining Boyd Class A Shares held by them for Amalco Holdco Class A Common Shares, on a one for one basis; and

(iii) all of the Fund Subco Notes held by them in the aggregate for Units.

(h) the exchange by the Optionholders in Manitoba of all of the Boyd Class A Shares, received upon the exercise of their Options, for Fund Subco Notes;

(i) the exchange by Management Holdco of all of its Boyd Class A Shares for Amalco Holdco Class A Common Shares; and

(j) the exchange by Brock Bulbuck of a certain percentage of his Boyd Class A Shares for Amalco Holdco Class A Common Shares.

(C) The Commission is of the opinion that it would not be prejudicial to the public interest to grant the order requested.

IT IS ORDERED:

1. THAT, pursuant to subsection 20(1) of the Act, the Arrangement Trades shall be exempt from Sections 6 and 37 of the Act.

2. THAT, pursuant to subsection 20(1) of the Act, Control Person Trades are exempt from section 37 of the Act, provided that the conditions in subsections (2) or (3) of section 2.8 of Multilateral Instrument 45-102 Resale of Securities ("MI 45-102"), are satisfied, except that:

(a) for the purposes of determining the period of time that the Fund has been a reporting issuer under section 2.8 of MI 45-102, the period of time that Boyd was a reporting issuer in at least one of the jurisdictions listed in Appendix B of MI 45-102 immediately before the Arrangement may be included; and

(b) for the purposes of determining the period of time that the selling control person has held Units under section 2.8 of MI 45-102, the period of time that the control person held Boyd Class A Shares, Boyd Class E Shares, Options or Debentures immediately before the Arrangement may be included.

3. THAT the fee for this order shall be \$1,000.00.

BY ORDER OF THE COMMISSION

Deputy Director - Legal