

IN THE MATTER OF THE SECURITIES LEGISLATION OF BRITISH COLUMBIA,
ALBERTA, SASKATCHEWAN, MANITOBA, NOVA SCOTIA, NEW BRUNSWICK AND
NEWFOUNDLAND AND LABRADOR

AND

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

AND

IN THE MATTER OF HSBC ASSET MANAGEMENT (CANADA) LIMITED

MRRS DECISION DOCUMENT

1 WHEREAS the local securities regulatory authority or regulator (the "Decision Maker") in each of British Columbia, Alberta, Saskatchewan, Manitoba, Nova Scotia, New Brunswick and Newfoundland and Labrador (collectively, the "Jurisdictions") has received an application from HSBC Asset Management (Canada) Limited (the "Applicant") for a decision under the securities legislation of the Jurisdictions (the "Legislation") that the requirement contained in the Legislation to be registered as an adviser (the "Registration Requirement") does not apply to certain foreign portfolio managers who provide investment counselling and portfolio management services to clients of the Applicant (the "Advisers");

2 AND WHEREAS under the Mutual Reliance Review System for Exemptive Relief Applications (the "System"), the British Columbia Securities Commission is the principal regulator for this application;

3 AND WHEREAS unless otherwise defined, the terms herein have the meaning set out in National Instrument 14-101 Definitions;

4 AND WHEREAS the Applicant has represented to the Decision Makers that:

1. the Applicant is a corporation continued under the *Canada Business Corporations Act*; the head office and the majority of the executive officers and registered portfolio managers of the Applicant are located in British Columbia; the Applicant also maintains offices and has executive officers or registered portfolio managers located in Ontario, Alberta and Quebec, and may from time to time have executive officers or registered portfolio managers located in other Jurisdictions;

2. the Applicant is registered under the Legislation in each of the Jurisdictions as an adviser in the category of portfolio manager or its equivalent;

3. all Advisers will have head offices located outside Canada and will be registered or otherwise qualified under applicable laws in the jurisdiction where

the Adviser's head office is located to provide investment counselling and portfolio management services;

4. the Applicant provides investment counselling and portfolio management services to individual and institutional clients resident in the Jurisdictions and other jurisdictions where it is qualified to provide such services;

5. each of the Advisers provides investment counselling and portfolio management services to clients resident in the jurisdictions where its head office is located and in other jurisdictions where it is registered or otherwise qualified to provide such services;

6. the Applicant intends to offer the investment counselling and portfolio management services of the Applicant and the Advisers to clients who wish to have exposure to capital markets located in a jurisdiction in which the Applicant or an Adviser has experience and expertise (such clients of the Applicant, "Participating Clients");

7. the Applicant will be registered under the Legislation as an adviser in the category of portfolio manager or its equivalent in the Jurisdictions in which Participating Clients are resident;

8. each Participating Client will enter into an investment management agreement ("IMA") with the Applicant which provides the Applicant with complete discretionary authority to purchase and sell securities on behalf of the client, and authorizes the Applicant to delegate its discretionary authority over all or a portion of the client's assets to the Advisers;

9. the Applicant will enter into an agreement with each Adviser which will set out the obligations and duties of each party in connection with the investment counselling and portfolio management services provided to Participating Clients and pursuant to which the Advisers will agree to act as sub-advisers to the Applicant for the benefit of Participating Clients; each Adviser will exercise discretionary authority over the assets of Participating Clients who wish to have exposure to capital markets located in jurisdictions in which the Adviser has experience and expertise;

10. the Applicant will:

(a) make enquiries with respect to each Participating Client to learn the essential facts about each client, to determine the general investment needs and objectives of, the appropriateness of recommendations made to, and the suitability of proposed transactions for the Participating Client, and to otherwise comply with the "know your client" obligations under the Legislation, and

will provide this information to each Adviser who exercises discretionary authority over the assets of a Participating Client;

(b) agree under the IMA to be responsible for any loss that arises out of the failure of an Adviser

(i) to exercise the powers and discharge the duties of its office honestly, in good faith and in the best interests of the Applicant and the Participating Client of the Applicant for whose benefit the investment advice is, or portfolio management services are, to be provided, or

(ii) to exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in the circumstances,

and acknowledges that it cannot be relieved by its clients from this responsibility (collectively, the "Assumed Obligations"); and

(c) send to each Participating Client quarterly statements and performance reports prepared by the Applicant;

11. a Participating Client must obtain all advice and give all instructions and directions through the Applicant;

12. the Advisers who provide investment counselling and portfolio management services with respect to the assets of a Participating Client by exercising discretionary authority to purchase and sell securities on behalf of the Participating Client would be considered to be acting as an "adviser" within the meaning of, and subject to the Registration Requirement of, the applicable Legislation; and

13. none of the Legislation contains an exemption from the Registration Requirement that would be available to the Advisers who provide investment counselling and portfolio management services to Participating Clients;

5 AND WHEREAS under the System, this MRRS Decision Document evidences the decision of each Decision Maker (collectively, the "Decision");

6 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;

7 THE DECISION of the Decision Makers under the Legislation is that the Registration Requirement does not apply to the Advisers who provide investment counselling and portfolio management services to Participating Clients, provided that:

- (a) the obligations and duties of each of the Advisers are set out in a written agreement with the Applicant;
- (b) the Applicant contractually agrees with each Participating Client that the Applicant will be responsible for the Assumed Obligations;
- (c) the Applicant cannot be, and at no time is, relieved of the Assumed Obligations by Participating Clients;
- (d) the Applicant is registered under the Legislation as an adviser in the category of portfolio manager or its equivalent in the Jurisdictions in which Participating Clients are resident;
- (e) in Manitoba, the relief is available only to Advisers who are not registered in any Canadian jurisdiction; and
- (f) an Adviser will not have any direct and personal contact with a Participating Client residing in Alberta, Saskatchewan, Newfoundland and Labrador or New Brunswick if the Adviser is not registered as an adviser in that jurisdiction.

8 May 15, 2003

"Brenda Leong"

Director

Headnote

Mutual Reliance Review System for Exemptive Relief Applications - relief granted from the requirement to be registered as an adviser for foreign portfolio managers acting as sub-advisers of, and providing portfolio management services to clients of, a Canadian adviser, subject to certain conditions

Applicable British Columbia Provisions

Securities Act, R.S.B.C. 1996, c. 418, ss. 34(1)(c) and 48