

September 10, 2009

IN THE MATTER OF  
THE SECURITIES LEGISLATION OF  
BRITISH COLUMBIA, ALBERTA, SASKATCHEWAN,  
MANITOBA, ONTARIO, QUEBEC, NOVA SCOTIA,  
NEW BRUNSWICK, PRINCE EDWARD ISLAND,  
NEWFOUNDLAND AND LABRADOR, NORTHWEST  
TERRITORIES, NUNAVUT AND YUKON  
(the "Jurisdictions")

AND

IN THE MATTER OF  
THE PROCESS FOR EXEMPTIVE RELIEF  
APPLICATIONS IN MULTIPLE JURISDICTIONS

AND

IN THE MATTER OF  
SCOTIA SECURITIES INC.  
(the "Filer")

AND

THE FUNDS  
LISTED IN APPENDIX "A"  
(the "Funds")

DECISION

**Background**

The securities regulatory authority or regulator in each of the Jurisdictions (the "**Decision Maker**") has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the "**Legislation**") that the time limits for the renewal of the simplified prospectuses and annual information form of the Funds be extended to those time limits that would be applicable if the lapse date of the simplified prospectuses and annual information form of the Funds were December 14, 2009 (the "**Exemptive Relief Sought**").

Under the Process for Exemptive Relief Applications in Multiple Jurisdictions (for a coordinated review application):

(a) the Ontario Securities Commission is the principal regulator for this application; and

(b) the decision is the decision of the principal regulator and evidences the decision of each other Decision Maker.

## **Interpretation**

Terms defined in National Instrument 14-101 *Definitions* have the same meaning if used in this decision, unless otherwise defined.

## **Representations**

This decision is based on the following facts represented by the Filer:

- a) The Filer is a corporation amalgamated under the laws of Ontario with its head office in Toronto, Ontario. The Filer is wholly-owned by The Bank of Nova Scotia (“**BNS**”). The Filer is currently the manager and trustee of the Funds.
- b) The Funds are open-ended mutual fund trusts established under the laws of Ontario pursuant to a declaration of trust.
- c) Securities of the Funds are currently qualified for distribution in each of the provinces and territories of Canada under a simplified prospectus and annual information form dated November 3, 2008. Certain of the Funds as well as the Scotia Private Client Units offered by certain of the Funds (the “**Private Client Units**”) are currently qualified for distribution in each of the provinces and territories of Canada under a separate simplified prospectus dated November 3, 2008 but share the same annual information form as the rest of the Funds. The Advisor Class Units of certain of the Funds (the “**Advisor Class Units**”) are currently qualified for distribution in each of the provinces and territories of Canada under a further simplified prospectus and annual information form dated February 2, 2009.
- d) The Funds are reporting issuers under the laws of each of the provinces and territories of Canada. None of the Funds is in default of any of the requirements of the Legislation.
- e) Pursuant to the Legislation, the lapse date for the distribution of securities of the Funds (including the Private Client Units but not including the Advisor Class Units) is currently November 3, 2009. In each Jurisdiction, provided a pro forma simplified prospectus is filed 30 days prior to November 3, 2009 (by October 3, 2009), a final version of the simplified prospectus is filed by November 13, 2009, and a receipt for the simplified prospectus is issued by the securities regulatory authorities by November 23, 2009, securities of the Funds may be distributed without interruption throughout this prospectus renewal period.
- f) The Scotia group of companies (“**Scotia Group**”) is planning an internal reorganization of its asset management and investment fund manager businesses (the “**SAM Businesses**”) currently conducted by three entities within the Scotia Group (the Filer and two of its affiliates, Scotia Cassels Investment Counsel Limited (“**SCICL**”) and Scotia Capital Inc. (“**SCI**”)) (the “**Reorganization**”). The effective date of the Reorganization is scheduled for November 1, 2009.

g) The Reorganization is subject to the approval of the Board of Directors of each of the participating Scotia Group entities, the meetings for which are currently scheduled for September 30, 2009.

h) The current timing for preparing and filing the pro forma simplified prospectus and final simplified prospectus for the Funds to renew the simplified prospectuses for the Funds by November 3, 2009 falls in the midst of the planning, approval and implementation of the proposed Reorganization.

i) SCICL is wholly-owned by BNS with its head office in Ontario and currently acts as portfolio adviser in respect of various mutual funds managed by the Filer. SCI is wholly-owned directly or indirectly by BNS with its head office in Ontario, acts as an investment dealer, and is the manager of the Pinnacle Portfolios and the manager and portfolio adviser of the Pinnacle Program Funds (the “**Pinnacle Funds**”). The Filer is also the manager of the Scotia INNOVA Portfolios (“**Innova Funds**”). The Funds, the Pinnacle Funds and the Innova Funds are together referred to as the “**Scotia Investment Funds**”.

j) The Reorganization is structured as an internal consolidation of the existing SAM Businesses currently conducted by the 3 affiliated Scotia Group entities referred to above, each wholly-owned directly or indirectly by BNS, into a single affiliated entity, Scotia Asset Management L.P. (“**SAM LP**”), which is also wholly-owned directly or indirectly by BNS. SAM LP is a limited partnership formed under Ontario law with its head office in Ontario. The General Partner of SAM LP is an Ontario company wholly-owned by BNS with its head office in Ontario. SAM LP is an affiliate of the Filer (based on the definition of “affiliate” in National Instrument 45-106 *Prospectus and Registration Exemptions* and the definition of “affiliate” in the Bank Act, on which the Filer relies).

k) Upon giving effect to the Reorganization, SAM LP will hold all the assets and liabilities currently comprising the SAM Businesses, and will have substantially the same firm registrations, senior management, registered personnel, the required insurance and capital, and third party portfolio advisors for the Scotia Investment Funds currently employed by the SAM Businesses. SAM LP will also be the manager and trustee of the Scotia Investment Funds.

l) The Reorganization is an internal transaction designed to achieve efficiencies and eliminate duplication through the consolidation of common business operations and specialized activities within a single entity. The Reorganization does not result in a material change to the Scotia Investment Funds or the SAM Businesses currently conducted by the participating Scotia entities.

m) Currently, the simplified prospectuses of the Scotia Investment Funds are subject to 5 different lapse dates, resulting in the renewal of simplified prospectuses and annual information forms by the Scotia Group 5 times each year. The first lapse date following the Reorganization is the lapse date applicable to the Funds that occurs on November 3, 2009. The other lapse dates occur on various dates in late December, January, February and April.

- n) Following the effective date of the Reorganization, it is proposed to streamline and consolidate operations so that there is a single renewal date each year for all the simplified prospectuses and annual information forms of the Scotia Investment Funds, reducing costs and creating operational efficiencies.
- o) The Filer proposes to renew early the simplified prospectuses for the Advisor Class Units and all of the Scotia Investment Funds other than the Funds so that their renewals can be coordinated with and occur on a date following the Reorganization that is the same date as the date for renewal of the simplified prospectuses for the Funds.
- p) The proposed single renewal date for all the Scotia Investment Funds is the requested lapse date for the Funds of December 14, 2009. The December 14, 2009 date is requested to allow for the completion of the Reorganization, the implementation of the operational changes required to move to a single annual renewal date for all the Scotia Investment Funds, and to permit the final simplified prospectuses filed on that date to reflect a coordinated change in disclosure about the manager and trustee of the Scotia Investment Funds.
- q) The Filer wishes to extend the lapse date for the Funds to December 14, 2009 in order to reduce the cost of simplified prospectus and annual information form renewals and streamline and coordinate prospectus filings by SAM LP. The Filer proposes to file a pro forma simplified prospectus and annual information form in respect of all the Funds by November 14, 2009, and then a final simplified prospectus and annual information form in respect of all the Funds on or within 10 days following December 14, 2009, with the final receipt issued by the securities regulatory authorities within twenty days following December 14, 2009. At the same time, the Filer proposes to renew the simplified prospectus and annual information form for each of the other Scotia Investment Funds on or about December 14, 2009.
- r) Under the Legislation, the Reorganization does not necessitate the filing of any prospectus amendments or require the approval of unitholders or the regulators. A notice to account holders of the Filer and SCICL respecting the Reorganization will be delivered to them in advance of the Reorganization.
- s) Since the most recently filed simplified prospectuses and annual information form for the Funds, no undisclosed material change has occurred in respect of the Funds. Accordingly, such simplified prospectuses and annual information form represent the current information regarding each of the Funds.
- t) In the absence of this order, the Legislation would require the Funds to effect the filing of the pro forma simplified prospectus before, and a final simplified prospectus immediately after, the effective date of the proposed Reorganization and then to re-file these documents as part of the initiative to streamline prospectus filings and common disclosure across all the Scotia Investment Funds. This would lead to increased costs borne by the Funds (and ultimately by investors in the Funds).
- u) The Exemptive Relief Sought is for a limited period, and when combined with the early renewals of the simplified prospectuses and annual information forms of the other Scotia

Investment Funds, will result in efficiencies and potential cost savings for the Funds (and ultimately investors in the Funds).

v) Except for the information related to the Reorganization as described above, the Exemptive Relief Sought will not affect the currency or accuracy of the information contained in the simplified prospectuses and annual information form of the Funds and accordingly will not be prejudicial to the public interest.

## **Decision**

Each of the Decision Makers is satisfied that the decision meets the test set out in the Legislation for the Decision Maker to make the decision.

The decision of the Decision Makers under the Legislation is that the Exemptive Relief Sought is granted.

*“Darren McKall”*

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Darren McKall  
Assistant Manager, Investment Funds Branch  
Ontario Securities Commission

## **Appendix A**

### **The Funds**

- Scotia T-Bill Fund
- Scotia Premium T-Bill Fund
- Scotia Money Market Fund
- Scotia U.S. \$ Money Market Fund
- Scotia Mortgage Income Fund
- Scotia Canadian Income Fund
- Scotia Cassels Canadian Corporate Bond Fund
- Scotia Cassels Short-Mid Government Bond Fund
- Scotia U.S. \$ Bond Fund
- Scotia Global Bond Fund
- Scotia Diversified Monthly Income Fund
- Scotia Canadian Balanced Fund
- Scotia Cassels Advantaged Income Fund
- Scotia Canadian Tactical Asset Allocation Fund
- Scotia Canadian Dividend Fund
- Scotia Cassels Canadian Equity Fund

- Scotia Canadian Blue Chip Fund
- Scotia Canadian Growth Fund
- Scotia Canadian Small Cap Fund
- Scotia Resource Fund
- Scotia Cassels North American Equity Fund
- Scotia Cassels Cyclical Opportunities Fund
- Scotia Cassels U.S. Equity Fund
- Scotia U.S. Growth Fund
- Scotia U.S. Value Fund
- Scotia International Value Fund
- Scotia Cassels International Equity Fund
- Scotia European Fund
- Scotia Pacific Rim Fund
- Scotia Latin American Fund
- Scotia Global Growth Fund
- Scotia Global Small Cap Fund
- Scotia Global Opportunities Fund
- Scotia Global Climate Change Fund
- Scotia Canadian Bond Index Fund
- Scotia Canadian Index Fund
- Scotia U.S. Index Fund
- Scotia CanAm® Index Fund
- Scotia Nasdaq Index Fund
- Scotia International Index Fund
- Scotia Selected Income & Modest Growth Portfolio
- Scotia Selected Balanced Income & Growth Portfolio
- Scotia Selected Moderate Growth Portfolio
- Scotia Selected Aggressive Growth Portfolio
- Scotia Partners™ Income & Modest Growth Portfolio
- Scotia Partners Balanced Income & Growth Portfolio
- Scotia Partners Moderate Growth Portfolio
- Scotia Partners Aggressive Growth Portfolio
- Scotia Vision Conservative 2010 Portfolio
- Scotia Vision Aggressive 2010 Portfolio
- Scotia Vision Conservative 2015 Portfolio
- Scotia Vision Aggressive 2015 Portfolio
- Scotia Vision Conservative 2020 Portfolio
- Scotia Vision Aggressive 2020 Portfolio
- Scotia Vision Conservative 2030 Portfolio
- Scotia Vision Aggressive 2030 Portfolio