

5. The Applicant is authorized by the CFTC and SEC to advise on, *inter alia*, securities, options, futures, swaps, forward rate agreements and any other derivative contracts.
6. The Applicant is not registered under *The Securities Act* (the “**Securities Act**”) or the CFA in Manitoba or under the securities legislation or derivatives legislation, including commodity futures legislation, of any other jurisdiction of Canada.
7. The Applicant is not in default of the securities legislation or derivatives legislation, including commodity futures legislation, of any jurisdiction of Canada. The Applicant is also in compliance with securities law, commodity futures law and derivatives laws of the United States of America.
8. Certain investors that are Permitted Clients (as that term is defined in section 1.1 of National Instrument 31-103 - *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (“**NI 31-103**”), except that for purposes of this Order such definition shall exclude a person or company registered as an adviser or dealer under the securities legislation or derivatives legislation, including commodity futures legislation, of a jurisdiction of Canada) including separately managed accounts, mutual funds and collective investment trust funds, may seek to engage the Applicant as an investment adviser for the purposes of implementing certain investment strategies, including employing commodity futures contracts and commodity futures options (as defined in section 1(1) of the CFA) (referred to herein as “**Contracts**”, such term including, for greater certainty, Contracts based on government of Canada bonds) that are primarily traded on one or more organized exchanges located outside of Canada and primarily cleared through one or more clearing corporations located outside of Canada (collectively, “**Foreign Contracts**”), as well as derivatives that are primarily traded on the over-the-counter market with counterparties located outside of Canada.
9. Section 24(2) of the CFA prohibits a person or company from acting as an adviser in respect of Contracts unless the person or company is registered as an adviser under the CFA, or is registered as a representative or as partner or an officer of a registered adviser and is acting on behalf of a registered adviser.
10. There is currently no exemption from the adviser registration requirement in section 24(2) of the CFA that is equivalent to the international adviser exemption provided in section 8.26 of NI 31-103. Consequently, in order to advise Permitted Clients as to trading in Foreign Contracts, in the absence of this Order, the Applicant would be required to apply for and obtain registration under the CFA in the appropriate category of registration.
11. The Applicant confirms that there are currently no regulatory actions of the type contemplated by the Notice of Regulatory Action attached as Appendix “B”.

(C) The Commission is of the opinion that it would not be prejudicial to the public interest for the Commission to grant the Amended Requested Relief.

IT IS ORDERED:

1. **THAT**, pursuant to section 66(1) of the CFA that the Applicant and its Representatives are exempt from the adviser registration requirement in section 24(2) of the CFA in respect of providing advice to Permitted Clients as to the trading of Foreign Contracts provided that:
 - (a) the Applicant provides advice to Permitted Clients only as to trading in Foreign Contracts and does not advise any Permitted Client as to trading in Contracts that are not Foreign Contracts, unless providing such advice is incidental to its providing advice on Foreign Contracts;
 - (b) the Applicant's head office or principal place of business remains in the United States of America;
 - (c) the Applicant is registered in a category of registration, or operates under an exemption from registration, under the applicable securities or derivatives legislation, including commodity futures legislation of the United States that permits it to carry on the activities in the United States of America that registration under the CFA as an adviser in the category of commodity trading manager would permit it to carry on in Manitoba;
 - (d) the Applicant continues to engage in the business of an adviser (as defined in the CFA) in the United States of America;
 - (e) as at the end of the Applicant's most recently completed financial year, not more than 10% of the aggregate consolidated gross revenue of the Applicant, its affiliates and its affiliated partnerships (excluding the gross revenue of an affiliate or affiliated partnership of the Applicant if the affiliate or affiliated partnership is registered under securities legislation, commodities legislation or derivatives legislation of a jurisdiction of Canada) was derived from the portfolio management activities of the Applicant, its affiliates and its affiliated partnerships in Canada (which, for greater certainty, includes both securities related and commodity futures related activities);
 - (f) before advising a Permitted Client with respect to Foreign Contracts, the Applicant notifies the Permitted Client of all the following:
 - (i) the Applicant is not registered in Manitoba to provide the advice described in paragraph (a) of this Order;
 - (ii) the foreign jurisdiction in which the Applicant's head office or principal place of business is located;

- (iii) all or substantially all of the Applicant's assets may be situated outside of Canada;
 - (iv) there may be difficulty enforcing legal rights against the Applicant because of the above; and
 - (v) the name and address of the Applicant's agent for service of process in Manitoba;
- (g) the Applicant has submitted to the Commission a completed *Submission to Jurisdiction and Appointment of Agent for Service* in the form attached as Appendix "A";
 - (h) the Applicant notifies the Commission of any regulatory action initiated after the date of this Order with respect to the Applicant or any predecessors or the specified affiliates of the Applicant (as such term is defined in Form 33-109F6 to National Instrument 33-109 - *Registration Information*) by completing and filing Appendix "B" within 10 days of the commencement of each such action; and
 - (i) the Applicant has submitted to the Commission a completed *Submission to Jurisdiction and Appointment of Agent for Service* in the form attached as Appendix "A";
 - (j) the Applicant notifies the Commission of any regulatory action initiated after the date of this Order with respect to the Applicant or any predecessors or the specified affiliates of the Applicant (as such term is defined in Form 33-109F6 to National Instrument 33-109 - *Registration Information*) by completing and filing Appendix "B" within 10 days of the commencement of each such action; and

IT IS FURTHER ORDERED THAT this Order will terminate on the earlier of:

- (a) the expiry of any transition period as may be provided by law, after the effective date of the repeal of the CFA;
- (b) the Applicant becoming registered as an adviser under the commodity futures or securities legislation of any jurisdiction of Canada;
- (c) six months, or such other transition period as provided by operation of law, after the coming into force of any amendment to the CFA or the Securities Act that affects the ability of the Applicant to act as an adviser to a Permitted Client in Manitoba; and
- (d) five years after the date of this Order.

2. **THAT the fee for this Order is \$650.**

BY ORDER OF THE COMMISSION



 Director

APPENDIX "A"
SUBMISSION TO JURISDICTION AND APPOINTMENT OF AGENT FOR SERVICE
INTERNATIONAL ADVISER EXEMPTED FROM REGISTRATION UNDER THE
COMMODITY FUTURES ACT (MANITOBA)

1. Name of person or company ("International Firm"):
2. If the International Firm was previously assigned an NRD number as a registered firm or an unregistered exempt international firm, provide the NRD number of the firm.
3. Jurisdiction of incorporation of the International Firm:
4. Head office address of the International Firm:
5. The name, e-mail address, phone number and fax number of the International Firm's individual(s) responsible for the supervisory procedure of the International Firm, its chief compliance officer, or equivalent.

Name:
E-mail address:
Phone:
Fax:
6. The International Firm is relying on an exemption order under section 66 of the *Commodity Futures Act* (Manitoba) that is similar to the following exemption in National Instrument 31-103, *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (the "Relief Order"):

 Section 8.18 [*international dealer*]
 Section 8.26 [*international adviser*]
 Other [*specify*]
7. Name of agent for service of process (the "Agent for Service"):
8. Address for service of process on the Agent for Service:
9. The International Firm designates and appoints the Agent for Service at the address stated above as its agent upon whom may be served a notice, pleading, subpoena, summons or other process in any action, investigation or administrative, criminal, quasi-criminal or other proceeding (a "Proceeding") arising out of or relating to or concerning the International Firm's activities in the local jurisdiction and irrevocably waives any right to raise as a defence in any such proceeding any alleged lack of jurisdiction to bring such Proceeding.
10. The International Firm irrevocably and unconditionally submits to the non-exclusive jurisdiction of the judicial, quasi-judicial and administrative tribunals of the local jurisdiction in any Proceeding arising out of or related to or concerning the International Firm's activities in the local jurisdiction.
11. Until 6 years after the International Firm ceases to rely on the Relief Order, the International Firm must submit to the regulator
 - a. a new Submission to Jurisdiction and Appointment of Agent for Service in this form no later than the 30th day before the date this Submission to Jurisdiction and Appointment of Agent for Service is terminated;
 - b. an amended Submission to Jurisdiction and Appointment of Agent for Service no later than the 30th day before any change in the name or above address of the Agent for Service; and

c. a notice detailing a change to any information submitted in this form, other than the name or above address of the Agent for Service, no later than the 30th day after the change.

12. This Submission to Jurisdiction and Appointment of Agent for Service is governed by and construed in accordance with the laws of the local jurisdiction.

Dated: _____

(Signature of the International Firm or authorized signatory)

(Name and Title of authorized signatory)

Acceptance

The undersigned accepts the appointment as Agent for Service of _____ under the terms and conditions of the foregoing Submission to Jurisdiction and Appointment of Agent for Service.

Dated: _____

(Signature of the Agent of Service or authorized signatory)

(Name and Title of authorized signatory)

APPENDIX “B”
Notice of Regulatory Action

1. Has the firm, or any predecessors or specified affiliates¹ of the firm entered into a settlement agreement with any financial services regulator, securities or derivatives exchange, SRO or similar organization or similar agreement with any financial services regulator, securities or derivatives exchange, SRO or similar organization?

Yes _____ No _____

If yes, provide the following information for each settlement agreement:

Name of entity
Regulator/organization
Date of settlement (yyyy/mm/dd)
Details of settlement
Jurisdiction

2. Has any financial services regulator, securities or derivatives exchange, SRO or similar organization:

	Yes	No
(a) Determined that the firm, or any predecessors or specified affiliates of the firm violated any securities regulations or any rules of a securities or derivatives exchange, SRO or similar organization?		
(b) Determined that the firm, or any predecessors or specified affiliates of the firm made a false statement or omission?		
(c) Issued a warning or requested an undertaking by the firm, or any predecessors or specified affiliates of the firm?		
(d) Suspended or terminated any registration, licensing or membership of the firm, or any predecessors or specified affiliates of the firm?		
(e) Imposed terms or conditions on any registration or membership of the firm, or predecessors or specified affiliates of the firm?		
(f) Conducted a proceeding or investigation involving the firm, or any predecessors or specified affiliates of the firm?		
(g) Issued an order (other than an exemption order) or a sanction to the firm, or any predecessors or specified affiliates of the firm for securities or derivatives-related activity (e.g. cease trade order)?		

¹ In Appendix, the term "specified affiliate" has the meaning ascribed to that term in Form 33-109F6 to National Instrument 33-109 *Registration Information*.

If yes, provide the following information for each action:

Name of entity	
Type of action	
Regulator/organization	
Date of action (yyyy/mm/dd)	Reason for action
Jurisdiction	

3. Is the firm aware of any ongoing investigation of which the firm or any of its specified affiliates is the subject?

Yes _____ No _____

If yes, provide the following information for each action:

Name of entity
Reason or purpose of investigation
Regulator/organization
Date investigation commenced (yyyy/mm.dd)
Jurisdiction

Name of firm
Name of firm's authorized signing officer or partner
Title of firm's authorized signing officer or partner
Signature:
Date (yyyy/mm/dd)

Witness

The witness must be a lawyer, notary public or commissioner of oaths.

Name of witness
Title of witness
Signature
Date (yyyy/mm/dd)