

ALBERTA SECURITIES COMMISSION

DECISION

Citation: Manulife Securities Incorporated, Re, 2010 ABASC 538

Date: 20101119

In the Matter of the Securities Legislation of
Alberta and Newfoundland and Labrador
(the **Jurisdictions**)

and

In the Matter of the Process for
Exemptive Relief Applications
in Multiple Jurisdictions

and

In the Matter of
Manulife Securities Incorporated
(the **Filer**)

Background

The securities 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 provision of the Legislation requiring a registered dealer who has acted as principal or agent in connection with any trade in securities to send a written confirmation of the trade (the **Trade Confirmation Requirement**) shall not apply to clients of the Filer (the **Participating Clients**) who receive discretionary managed services pursuant to the Filer's model portfolio account program (the **Program**) with respect to trades in securities in the accounts (the **Program Accounts**) of Participating Clients under the Program (the **Relief**).

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

- (a) the Alberta 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 the other Decision Maker.

Interpretation

Terms defined in National Instrument 14-101 *Definitions* have the same meaning in this decision unless they are defined in this decision.

Representations

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

Facts

1. The Filer is a corporation amalgamated under the laws of Ontario. It is a wholly-owned subsidiary of The Manufacturers Life Insurance Company and has its head office located in Burlington, Ontario.
2. The Filer is registered under the Legislation as a dealer in the category of investment dealer, is a member of the Investment Industry Regulatory Organization of Canada (**IIROC**), and is not, to its knowledge, in default of the Legislation or the rules made by IIROC (the **IIROC Rules**).
3. The Filer provides investment dealer services where it is qualified to provide such services, and makes portfolio management services available, to individuals and institutional clients resident in Alberta and the other provinces and territories of Canada.
4. The Filer may engage external portfolio managers to create and recommend model portfolios for the Program, or may provide these portfolio management services through in-house personnel, as the case may be (the **Investment Advisers**). Any such Investment Adviser will be appropriately registered, or exempt from registration, as an adviser under the Legislation.
5. For each Participating Client, the Filer will open a Program Account that is separate and distinct from any other account the Participating Client may have with the Filer.
6. The Program Accounts will be "managed accounts" as defined under IIROC Rule 1300 and the Filer will comply with applicable IIROC Rules with respect to managed accounts.
7. To participate in the Program, a Participating Client will, among other things, enter into a written account agreement (the **Private Account Agreement**) with the Filer, which, in accordance with applicable IIROC Rules, sets out the terms, conditions, rights, duties and obligations relating to the Program, including the following:
 - (a) with the assistance of the Filer, the Participating Client will select the model portfolio of an Investment Adviser that is consistent with the investment objectives and risk tolerance of the Participating Client;
 - (b) the Participating Client will receive statements of activity from the Filer; and
 - (c) the Participating Client will have the option to choose to receive quarterly commentary from the Investment Adviser.
8. Under a Private Account Agreement:

- (a) the Participating Client will grant full discretionary authority to the Investment Adviser of their choosing, who, acting in its capacity as an internal adviser or external sub-adviser for the Filer, as the case may be, will make investment decisions in accordance with the Investment Adviser's model portfolio that has been selected by the Participating Client;
 - (b) the Filer will act as custodian of the securities and other assets in the Participating Client's Program Account;
 - (c) the Participating Client will acknowledge and agree that securities transactions in the Participating Client's Program Account will generally be executed through the Filer in accordance with the recommended securities and weightings used in the Investment Adviser's model portfolio that has been selected by the Participating Client, without obtaining the specific consent of the Participating Client to each individual trade; and
 - (d) unless the Participating Client requests otherwise, the Participating Client will waive receipt of all trade confirmations in respect of securities transactions conducted by the Filer for the Participating Client's Program Account.
9. The Filer will provide to each Participating Client a statement of account with respect to such Participating Client's Program Account as required under the Legislation and the IIROC Rules.
10. In the absence of the Relief, the Filer would be subject to the Trade Confirmation Requirement in the Jurisdictions.
11. IIROC Rule 200.1(h) prescribes circumstances in which IIROC permits withholding delivery of trade confirmations in respect of managed accounts (the **IIROC Trade Confirmation Exemption**).
12. The Program will be conducted in compliance with the requirements of the IIROC Trade Confirmation Exemption, including the provision of a trade confirmation to a client at his or her request.
13. The securities legislation in the provinces of British Columbia, Saskatchewan, Manitoba, Ontario, Québec, New Brunswick, Nova Scotia and Prince Edward Island and in the Yukon, Nunavut and Northwest Territories (the **Exempting Jurisdictions**) no longer contains a provision requiring the delivery of trade confirmations, or section 9.3(1) of National Instrument 31-103 *Registration Requirements and Exemptions* applies to exempt members of IIROC from the requirement to deliver trade confirmations contained in the applicable securities legislation. The Relief will result in the Filer having obligations in relation to the delivery of trade confirmations under the Legislation that are similar to those under the securities legislation of the Exempting Jurisdictions.

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 Relief is granted provided that the Filer is a member of IIROC and complies with all IIROC Rules, including all IIROC Trade Confirmation Exemption requirements.

For the Commission:

“original signed by”

William S. Rice, QC
Chair

“original signed by”

Glenda A. Campbell, QC
Vice-Chair