

Headnote

Application for relief from the dealer and adviser registration requirements in subsections 31(1) and (2) of the *Securities Act* (Nova Scotia) for the applicant to provide pension administration and pension investment services to several Government and teachers pension plans; under legislation, responsibility for delivery of these services for these plans is transferred from the Nova Scotia Pension Agency to the applicant; management agreements with the applicant require the applicant to comply with existing investment policies governing the pension plans; as a result of the structures created by the Minister of Finance through statute or agreement, there are parameters on the provision of the services by the applicant.

Applicable Legislative Provisions

Securities Act, R.S.N.S. 1989, c. 418, as amended, sections 31 and 79

IN THE MATTER OF: **The *Securities Act*, R.S.N.S. 1989, c. 418, as amended (the "Act");**

AND IN THE MATTER OF: **Nova Scotia Pension Services Corporation (the "Applicant")**

R U L I N G (Section 79)

UPON the application of the Applicant to the Nova Scotia Securities Commission (the "**Commission**") for a ruling pursuant to section 79 of the Act that subsections 31(1) and (2) of the Act do not apply to the Applicant in respect of trades in securities and advice by the Applicant for the Plans, as defined below;

AND UPON considering the application and the recommendation of the staff of the Commission;

AND UPON the Applicant having represented to the Commission that:

1. On April 1, 2013 (the "**Effective Date**"), with the coming into force of the *Nova Scotia Pension Services Corporation Act* (the "**NSPSC Act**"), the Applicant was constituted a corporation pursuant to the NSPSC Act, with share capital and its head office in the Halifax Regional Municipality.
2. The Applicant operates on a non-profit basis. It is not an agent of the Crown nor a crown corporation within the meaning of the *Finance Act* (Nova Scotia).
3. The purposes of the Applicant, as provided for in the NSPSC Act, are to provide pension administration and pension investment services (the "**Services**") for the Public Service Superannuation Plan (the "**Superannuation Plan**"), Nova Scotia Teachers' Pension Plan (the "**Teachers' Plan**") and certain other pension arrangements for which the Nova

Scotia Pension Agency (the “**Agency**”) had responsibility immediately prior to the NSPSC Act coming into force (the “**Ancillary Plans**” and together with the Superannuation Plan and the Teachers’ Plan, the “**Plans**”).

4. The Superannuation Plan is a pension plan established for certain public employees of the Nova Scotia Government and other participating employers pursuant to the *Public Service Superannuation Act* (Nova Scotia) (the “**Superannuation Act**”).
5. The Teachers’ Plan is a pension plan established for certain persons employed as teachers in Nova Scotia pursuant to the *Teachers’ Pension Act* (Nova Scotia).
6. Prior to the Effective Date, the administration of and pension investment services for the Plans was provided by the Agency, a special operating agency created pursuant to the *Public Service Act* (Nova Scotia).
7. Pursuant to the NSPSC Act, the outstanding shares of the Applicant are owned equally by the trustee of the Superannuation Plan, Public Service Superannuation Plan Trustee Incorporated (the “**Superannuation Trustee**”) and the trustee of the Teachers’ Plan, Teachers’ Pension Plan Trustee Inc. (the “**Teachers’ Trustee**”).
8. The board of directors of the Applicant is composed of eight directors, half of which are appointed by the Superannuation Trustee and half appointed by the Teachers’ Trustee.
9. The Superannuation Trustee is a body corporate incorporated pursuant to the Superannuation Act, all of the directors of which are appointed by the Minister of Finance in accordance with the provisions of the Superannuation Act. Six of the twelve directors of the Superannuation Trustee are designated by the Superannuation Act as the “government directors” who must vote their six votes as a block, and *de facto* must approve all items to be approved by the board of the Superannuation Trustee. There is a non-voting chair of the board who is jointly chosen by the directors in accordance with the provisions of the Superannuation Act and appointed by the Minister of Finance.
10. Pursuant to the Superannuation Act, the Superannuation Trustee has established an investment committee to advise the Superannuation Trustee on investment matters. The Superannuation Trustee has approved investment policies to govern the investment of assets under the Superannuation Plan.
11. The Teachers’ Trustee is a guarantee company incorporated under the *Companies Act* (Nova Scotia). The board of directors of the Teachers’ Trustee consists of nine directors. Four directors are appointed by the Nova Scotia Teachers’ Union (the “**NSTU**”) and four directors are appointed by the Minister of Finance. The chair of the board is mutually appointed by the NSTU and the Minister of Finance.
12. The administration of the Teachers’ Plan is governed pursuant to an agreement (the “**Teachers’ Pension Agreement**”) between the Minister of Finance and the NSTU. Pursuant to the Teachers’ Pension Agreement, the Minister of Finance and the NSTU agree that they will participate jointly in the governance, general administration and management of the Teachers’ Plan. In this regard, the Teachers’ Pension Agreement sets up an advisory board (the “**Teachers’ Pension Board**”) to make recommendations to the Minister of Finance and the NSTU on several matters, including funding the Teachers’ Plan and reviewing any recommendations by the Teachers’ Trustee. Four of the eight members of the Teachers’ Pension Board are the Deputy Minister of Finance and three other persons appointed by the Minister of Finance. The Teachers’ Trustee

has approved investment policies to govern the investment of assets under the Teachers' Plan.

13. The Ancillary Plans are:
 - (a) the superannuation allowance established under the Superannuation Act,
 - (b) the Deputy Ministers' supplementary pension arrangements established under the *Public Service Act* (Nova Scotia),
 - (c) any supplementary pension payable to provincial court judges pursuant to the *Provincial Court Act* (Nova Scotia),
 - (d) the Members' Retiring Allowances Plan or the Members' Supplementary Retiring Allowances Plan established under the *Members' Retiring Allowances Act* (Nova Scotia), and
 - (e) the Sydney Steel Corporation Superannuation Fund established under the *Sydney Steel Corporation Sale Act* (Nova Scotia).
14. The Minister of Finance has responsibility for each of the Ancillary Plans, and the policies of the Superannuation Plan effectively govern the assets under the Ancillary Plans.
15. On the Effective Date, the Applicant entered into agreements (the "**Management Agreements**") pursuant to subsections 34(1) and (2) of the NSPSC Act for transfer of responsibility for delivery of the Services for the Plans from the Agency to the Applicant and for the continuing delivery of the Services by the Applicant.
16. The Management Agreements contain investment parameters applicable to the Services provided by the Applicant, including that investments comply with the *Trustee Act* (Nova Scotia), the respective investment policies of the Teachers' Trustee or Superannuation Trustee, as applicable, and the Superannuation Act or Teachers' Pension Agreement, as applicable. The Management Agreements contain requirements for the Applicant to make various reports to the Superannuation Trustee and Teachers' Trustee on a monthly, quarterly and annual basis to enable the Superannuation Trustee and Teachers' Trustee to monitor the Services.
17. The Management Agreements also provide that the Applicant shall act in a manner appropriate to an administrator of a public pension plan in Canada and exercise the same degree of care, diligence, prudence and skill that a prudent, professional investment manager experienced in the investment of pension plans would exercise in like circumstances.
18. Section 30 of the NSPSC Act requires that the Applicant, on or before August 1st in each fiscal year, provide an annual report to each of the Teachers' Trustee and the Superannuation Trustee concerning the previous fiscal year including the audited financial statements of the Applicant, a narrative of the Applicant's activities for the fiscal year covered by the report, an evaluation of its activities based on performance measures and confirmation of compliance with standards adopted by the board of directors of the Applicant.

19. As a result of the structures created by the Minister of Finance through statute or agreement, there are parameters on the provision of the Services by the Applicant, and the appointees of the Minister of Finance provide oversight of the Applicant and the performance of the Services.

AND UPON the Commission being satisfied that to do so would not be prejudicial to the public interest;

IT IS RULED pursuant to section 79 of the Act that subsections 31(1) and (2) of the Act do not apply to the Applicant in respect of the Services provided to the Plans.

SIGNED at Halifax, Nova Scotia, effective this 1st day of April, 2013.

NOVA SCOTIA SECURITIES COMMISSION

"Sarah P. Bradley"

"Paul Radford"