

December 11, 2009

In the Matter of
the Securities Legislation of
Nova Scotia
(the Jurisdiction)

and

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

and

In the Matter of
PIMCO Canada Corp.
(the Filer)

Decision

Background

The principal regulator in the Jurisdiction has received an application from the Filer for a decision under the securities legislation of the Jurisdiction of the principal regulator (the Legislation) exempting certain foreign portfolio managers (each, a Sub-Adviser and, collectively, the Sub-Advisers) from the adviser registration requirement under the Legislation in order to allow the Sub-Advisers to provide portfolio management services to the Filer for the benefit of clients of the Filer (the Clients) in the circumstances described below (the Exemption Sought).

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

- (a) the Nova Scotia Securities Commission is the principal regulator for this application; and
- (b) the Filer has provided notice that section 4.7(1) of Multilateral Instrument 11-102 *Passport System* (MI 11-102) is intended to be relied upon in Alberta, British Columbia, Manitoba, Quebec and Saskatchewan (collectively with the Jurisdiction, the Passport Jurisdictions).

Interpretation

Terms defined in National Instrument 14-101 *Definitions* and MI 11-102 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:

1. the Filer is a corporation incorporated under the laws of Nova Scotia and has its head office in Toronto, Ontario;

2. the Filer is registered as an adviser in the categories of:
 - (a) portfolio manager and commodity trading manager in Ontario;
 - (b) portfolio manager (securities and exchange contracts) in Alberta and British Columbia; and
 - (c) portfolio manager in Nova Scotia.

The Filer is also registered as a dealer in the category of exempt market dealer in Ontario;

3. the Filer will apply to be registered as an adviser in the category of portfolio manager in Manitoba, Quebec and Saskatchewan;
4. the Filer is applying for the Exemption Sought in Manitoba and Saskatchewan in anticipation of the Filer's registration as an adviser in those jurisdictions;
5. the Filer is applying for the Exemption Sought in Quebec in anticipation of:
 - (a) the repeal on December 28, 2009 of the temporary transitional relief from the Quebec adviser registration requirement provided to sub-advisers in the *Quebec Securities Act Regulations*; and
 - (b) the Filer's registration as an adviser in Quebec;
6. at the time that the Filer relies on the Exemption Sought in a Passport Jurisdiction, it is registered in good standing as an adviser in that jurisdiction;
7. the Exemption Sought is not required in Ontario as an exemption is available in section 7.3 of Ontario Securities Commission Rule 35-502 *Non-Resident Advisers*;
8. the Filer provides portfolio management services to Clients resident in the Passport Jurisdictions in which it is registered as an adviser;
9. the Filer enters into a written agreement (a Client Agreement) with each Client to provide investment advice on a discretionary and non-discretionary basis. Among other things, each Client Agreement provides that the Filer is authorized to select and engage a Sub-Adviser to provide portfolio management services, including on a discretionary basis, to the Filer for the benefit of the Client;
10. each Sub-Adviser is an affiliated or an associated entity of the Filer;
11. each Sub-Adviser is registered or otherwise qualified under the applicable laws in the foreign jurisdiction in which its head office is located to provide portfolio management services. The Sub-Advisers are not residents of Canada. The Sub-Advisers are not registered under the securities legislation of the Passport Jurisdictions to provide advice to the Filer for the benefit of Clients;
12. the Filer enters into a written sub-advisory agreement with a Sub-Adviser setting out the obligations and duties of the Filer and Sub-Adviser whereby the Sub-Adviser is appointed as sub-adviser on behalf of the Filer in respect of purchases and sales of securities, exchange-traded derivatives and other instruments for a Client so long as such

investments are consistent with the investment objectives and strategies of the Client (the Sub-Advisory Services);

13. the Filer agrees with a Client in the Client Agreement to be responsible for any loss that arises out of the failure of a Sub-Adviser:
 - (a) to exercise the powers and discharge the duties of its office honestly, in good faith and in the best interests of the Filer and the Client; or
 - (b) to exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in the circumstances (together with (a), the Assumed Obligations);
14. the Filer will not be relieved by the Client from its responsibility for any loss that arises out of the failure of the Sub-Adviser to meet the Assumed Obligations;
15. if there is any direct contact between a Client and a Sub-Adviser to provide Sub-Advisory Services, a representative of the Filer, duly registered to provide portfolio management services in the Passport Jurisdiction where the Client is resident, is present at all times, either in person or by telephone;
16. the Filer makes enquiries with respect to each Client to determine the investment objectives and strategies of the Client, and to determine the suitability of proposed transactions for the Client, and to otherwise comply with the “know your client” and “suitability” obligations under the securities legislation of the Passport Jurisdictions. The Filer takes responsibility to provide all necessary information in this regard which any Sub-Adviser may require;
17. the Filer sends to each Client all documents that are required to be sent to the Client under the securities legislation of the Passport Jurisdictions or pursuant to the Client Agreement;
18. each Sub-Adviser that provides Sub-Advisory Services to the Filer for the benefit of Clients would be considered to be acting as an “adviser” under the securities legislation of the Passport Jurisdictions and thereby subject to the adviser registration requirement in such jurisdictions;
19. except in Quebec on a temporary basis until December 28, 2009, there are no exemptions from the adviser registration requirement under the securities legislation of the Passport Jurisdictions that the Sub-Advisers may rely on to provide Sub-Advisory Services to the Filer for the benefit of Clients; and
20. the Filer is not in default of any of its obligations under the securities legislation of the Passport Jurisdictions.

Decision

The principal regulator is satisfied that the decision meets the test set out in the Legislation for the principal regulator to make the decision.

The decision of the principal regulator under the Legislation is that the Exemption Sought is granted provided that:

- (a) the Filer is registered in good standing under the securities legislation of the Passport Jurisdiction where the Client is resident in a category that permits it to provide portfolio management services;
- (b) the obligations and duties of each Sub-Adviser are set out in a written agreement between the Sub-Adviser and the Filer;
- (c) the Filer contractually agrees with each Client that the Filer will be responsible for the Assumed Obligations;
- (d) the Filer is not relieved by the Clients from the Filer's responsibility for the Assumed Obligations;
- (e) each Sub-Adviser is registered, licensed or otherwise legally permitted to provide portfolio management services under the applicable securities laws of the foreign jurisdiction in which the Sub-Adviser's head office is located;
- (f) each Sub-Adviser does not have direct contact with a Client to provide Sub-Advisory Services unless a representative of the Filer, duly registered to provide portfolio management services for securities in the Passport Jurisdiction where the Client is resident, is present at all times, either in person or by telephone; and
- (g) for each Passport Jurisdiction, this decision will terminate 90 days after the coming into force of any rule, regulation, blanket order or ruling under the securities legislation of the jurisdiction that provides an equivalent exemption.

"H. Leslie O'Brien"

H. Leslie O'Brien, Q.C.

Chairman

Nova Scotia Securities Commission