

Headnote:

Exemption from the requirements in subsections 22(1) and 22(2) of the General Securities Rules to maintain a business office and business office manager in Nova Scotia and from the requirements of subsections 30(5) and 30(6) of the General Securities Rules to maintain books and records in Nova Scotia – A foreign adviser seeks relief from the requirements to maintain a business office, business office manager and books and records in Nova Scotia – The foreign adviser will not have a business office in any jurisdiction in Canada- The foreign adviser will remain registered as an investment adviser in the USA, its principal jurisdiction, will provide advice to residents of Nova Scotia mainly with respect to foreign securities and will only provide advice to institutional and high net worth investors.

Applicable Legislative Provisions:

General Securities Rules, previously the Securities Regulations, subsections 20(2), 22(1), 22(2), 30(5) and 30(6)

In the Matter of
the *Securities Act*, R.S.N.S. 1989, c. 418,
as amended (the “Act”)

- and -

In the Matter of
Manning & Napier Advisors, Inc.

RULING

(Subsection 20(2) of the Securities Rules)

UPON the application of Manning & Napier Advisors, Inc. (“MNA”) to the Nova Scotia Securities Commission (the “Commission”) pursuant to subsection 20(2) of the rules of the Commission deemed by subsection 150A(9) of the Act to have been made pursuant to Section 150 of the Act (the “Securities Rules”) for a ruling that MNA be exempted from the requirements of subsections 22(1) and 22(2) of the Securities Rules to maintain a business office and business office manager in Nova Scotia and from the requirements of subsections 30(5) and 30(6) of the Securities Rules to maintain books and records in Nova Scotia, in connection with the registration of MNA as an adviser in the categories of investment counsel and portfolio manager under the Act;

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

AND UPON MNA having represented to the Commission that:

1. MNA was incorporated under the laws of the State of New York;

2. MNA is not a reporting issuer. MNA is currently registered in good standing as an investment adviser in the United States of America (“USA”) and its primary regulator is the Securities and Exchange Commission;
3. MNA’s head office is located at 290 Woodcliff Drive, Fairport, New York 14450;
4. The nature of MNA’s business is an investment adviser. MNA is engaged principally in the USA in the business of advising in respect of the buying and selling of securities, primarily for certain accredited investors as defined in National Instrument 45-106 *Prospectus and Registration Exemptions* (“NI 45-106”), and wishes to provide similar services to clients in Nova Scotia;
5. The advice being provided by MNA to residents of Nova Scotia will be mainly with respect to foreign securities, and any advice given on Canadian securities would be strictly and entirely incidental to the main business of providing advice on foreign securities;
6. MNA is registered under the *Securities Act* (Ontario) as a Non-Canadian Adviser in the categories of investment counsel and portfolio manager, and under the *Securities Act* (British Columbia) as an adviser in the categories of investment counsel and portfolio manager. As a non-resident of Canada, MNA does not maintain a business office from which it provides advice nor financial records anywhere in Canada;
7. The costs of maintaining an office, staff and records in Nova Scotia, some of which would be indirectly borne by MNA clients, would far outweigh the benefits to be provided to these clients and would impede MNA’s ability to compete in an effective and cost efficient manner with other advisers; and
8. MNA has made the necessary arrangements which will enable it to comply with the statutory and other obligations to its clients in Nova Scotia. Services will be provided to MNA clients through the head office of MNA located at Fairport, New York. Supervision of all MNA’s activities with clients in Nova Scotia will be provided by the Chief Compliance Officer of MNA.

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

IT IS RULED pursuant to subsection 20(2) of the Securities Rules that MNA is exempted from the requirements of subsections 22(1) and 22(2) of the Securities Rules to maintain a business office and business office manager in Nova Scotia and from the requirements of subsections 30(5) and 30(6) of the Securities Rules to maintain books and records in Nova Scotia, in connection with the registration of MNA as an adviser in the categories of investment counsel and portfolio manager under Act, provided that:

1. MNA is registered in the USA as an investment adviser;
2. MNA acts as an adviser in Nova Scotia solely for:

- (a) accredited investors as defined in paragraphs (a) to (d), (f) to (i), (l) to (s) and (u) of section 1.1 of NI 45-106; and
- (b) a person or company in respect of which all of the owners of interests, direct, indirect or beneficial, except the voting securities required by law to be owned by directors, are persons or companies that are accredited investors described in paragraph 2. (a) of this ruling,

acting as principal only unless otherwise stated;

- 3. any acting as an adviser in Nova Scotia in respect of Canadian securities is incidental to MNA's acting as an adviser in Nova Scotia in respect of foreign securities;
- 4. all funds, securities and other assets of MNA's clients who are in Nova Scotia are held by the clients or by a custodian which satisfies the requirements for acting as a custodian or sub-custodian of the portfolio securities of a mutual fund in National Instrument 81-102 *Mutual Funds*;
- 5. all partners, directors, officers and advisers of MNA who seek registration or are required to be registered in Nova Scotia are registered in the USA in relation to MNA's registration as an investment adviser in the USA;
- 6. MNA promptly notifies the Director if there are any terms, conditions or restrictions imposed at any time on the registration of MNA or its partners, directors, officers and advisers who are registered in Nova Scotia, by the securities regulator in the USA or if that regulator reprimands at any time any of those registrants;
- 7. MNA promptly notifies the Director if it establishes an office in Nova Scotia or employs a Nova Scotia resident;
- 8. MNA:
 - (a) files a duly executed submission to jurisdiction and appointment of agent for service of process substantially in the form attached as Appendix A to the Commission's Blanket Order No. 31-504 ("BO 31-504"); and
 - (b) advises each Nova Scotia resident client of the name and address of the agent so appointed from time to time;
- 9. MNA files with the Director such reports relating to its advising activities with respect to its Nova Scotia resident clients as the Director may require from time to time;
- 10. MNA maintains the books and records which would otherwise be required to be maintained in Nova Scotia pursuant to subsection 30(6) of the Securities Rules at a business office in a jurisdiction satisfactory to the Director; and
- 11. MNA files with the Director a written undertaking substantially in the form attached as Appendix B to BO 31-504 and complies with the undertaking.

DATED at Halifax, Nova Scotia, this 17th day of December, 2008.

NOVA SCOTIA SECURITIES COMMISSION

“H. Leslie O’Brien”

H. Leslie O’Brien

“R. Daren Baxter”

R. Daren Baxter