

THE COMMODITY FUTURES) **Order No. 6227**
ACT)
Section 66(1)) **November 24, 2010**

RUSSELL IMPLEMENTATION SERVICES INC.

WHEREAS:

A. Russell Implementation Services Inc. (“**RIS**”) has applied to The Manitoba Securities Commission (the “**Commission**”) for an order pursuant to subsection 66(1) of the *Commodity Futures Act* (Manitoba) (the “**CFA**”) exempting RIS and those individual representatives providing the advice under the CFA and acting on its behalf (the “**Applicant**”) from the adviser registration requirement set forth under subsection 24(2) of the CFA in connection with the Applicant rendering advice as to trading in commodity futures contracts and commodity futures options to clients in Manitoba (the “**Adviser Registration Relief**”).

B. For the purposes of this Order:

"**adviser registration requirement in the CFA**" means the requirement set out in paragraph 24(2) of the CFA that prohibits a person or company from acting as an adviser, as defined in the CFA, unless the person or company satisfies the applicable provisions of section 24 of the CFA;

"**adviser registration requirement in NI 31-103**" means the requirement set out in paragraph 8.26 of NI 31-103 that prohibits a person or company from acting as an adviser, as defined in the MSA, unless the person or company satisfies the applicable provisions of section 6 of the MSA;

"**MSA**" means the *Securities Act* (Manitoba); and

"**NI 31-103**" means National Instrument 31-103 - *Registration Requirements and Exemptions*.

"**Permitted Clients**" has the meaning set forth in section 8.26 of NI 31-103.

C. The Applicant has represented to the Commission that:

1. The Applicant is a corporation established under the laws of the State of Washington, U.S.A. and its principal place of business is Tacoma, Washington.
2. The Applicant engages in the business of an adviser in Washington, U.S.A.
3. The Applicant is registered as an investment adviser under the U.S. Investment Advisers Act of 1940, as amended, for the purposes of providing advice in respect of securities.
4. In addition to providing advice in respect of securities in the United States, the Applicant provides advice to its clients in the United States with respect to futures contracts in reliance on an exemption from registration with the Commodity Futures Trading Commission in the United

States, which exemption requires that the Applicant not (i) primarily act as a commodity trading adviser and (ii) not act as a commodity trading adviser to any investment trust, syndicate or similar form of enterprise that is engaged primarily in trading in any commodity for future delivery or on or subject to the rules of any contract market or registered derivatives transaction facility (“**Permitted Commodity Activity**”).

5. The Applicant advises Manitoba clients with respect to securities in reliance on the exemption in section 8.26 of NI 31-103.

6. In addition to providing advice in respect of securities in Manitoba as described in paragraph 5 above, the Applicant proposes to act also as an adviser to Permitted Clients in Manitoba regarding futures contracts as defined in the CFA (the “**Contracts**”) to the same extent as it is permitted to do so in the United States.

7. In acting as an adviser, the Applicant is responsible for arranging for the execution of transactions, on behalf of clients.

8. The Applicant is not, and will not be, registered in any capacity under the CFA.

9. Paragraph 24(2) of the CFA prohibits a person or company from acting as an adviser unless the person or company is registered as an adviser under the CFA, or is registered as a representative or as a partner or an officer of a registered adviser and is acting on behalf of such registered adviser, and otherwise satisfies the applicable requirements specified in section 24(2) of the CFA.

10. There is currently no comparable rule or other regulation under the CFA that provides an exemption from the adviser registration requirement in the CFA for a person or company acting as an adviser, in respect of Contracts, that corresponds to the exemption from the adviser registration requirement of the MSA contained in section 8.26 of NI 31-103.

11. The Applicant will be providing advice to Permitted Clients in respect of Contracts in Manitoba consistent with section 8.26 of NI 31-103.

IT IS ORDERED:

1. **THAT** pursuant to Section 66(1) of the CFA, the Adviser Registration Relief is granted in connection with providing the advisory services in respect of Contracts, provided that:

(a) the Applicant's head office or principal place of business is in a foreign jurisdiction;

(b) the Applicant is registered, or operates under an exemption from registration, under the legislation of the foreign jurisdiction in which its head office or principal place of business is located, in a category of registration that permits it to carry on the activities in that jurisdiction that registration as an adviser would permit it to carry on in the local jurisdiction, provided the advisory activity is a Permitted Commodity Activity for the Applicant;

(c) the Applicant engages in the business of a commodity adviser in the foreign jurisdiction in which its head office or principal place of business is located;

(d) at the end of its most recently completed financial year, not more than 10% of the aggregate consolidated gross revenue of the Applicant, its affiliates and its affiliated partnerships was derived from the portfolio management activities involving securities, commodity futures contracts and commodity futures options of the Applicant, its affiliates and its affiliated partnerships in Canada;

(e) before advising a client, the Applicant notifies the client of all of the following:

(i) the Applicant is not registered in Canada;

(ii) the jurisdiction of residence of the Applicant;

(iii) the name and address of the Applicant's agent for service of process in the local jurisdiction;

(iv) that there may be difficulty enforcing legal rights against the Applicant because it is resident outside Canada and all or substantially all of its assets may be situated outside of Canada; and

(f) the Adviser Registration Relief is available to the Applicant so long as it is not registered in any Canadian jurisdiction.

2. **THAT** the fee for this order is \$650.00.

BY ORDER OF THE COMMISSION

Director - Legal