

THE SECURITIES ACT) Order No. 3441
)
Section 20) July 25, 2001

UPLAND INVESTMENT MANAGEMENT LIMITED

WHEREAS:

(A) Upland Investment Management Limited (the "Applicant") has made application to The Manitoba Securities Commission (the "Commission") for an order pursuant to subsection 20(1) of *The Securities Act*, R.S.M.1988, c. S50 (the "Act") that:

(a) certain trades to investors and their Registered Plans (as defined below) in units ("Units") of open-end unit trusts established, or to be established from time to time, by the Applicant or an affiliate of the Applicant (the "Funds") be exempt from the registration and prospectus requirements of sections 6 and 37 of the Act; and

(b) trades in Additional Units and Reinvested Units of the Funds to an investor, as defined below, be exempt from the registration and prospectus requirements of sections 6 and 37 of the Act.

(B) The Applicant has represented to the Commission that:

1. the Applicant is registered under the *Securities Act* (Ontario) as an adviser in the categories of investment counsel and portfolio manager and as a limited market dealer;
2. the Applicant intends to establish one or more Funds pursuant to declarations of trust for which the Applicant will act as the manager and trustee;
3. each Fund will be a "mutual fund" as defined in the Act;
4. none of the Funds currently intends to become a reporting issuer, as such term is defined in the Act, and the Units of the Funds will not be listed on any stock exchange;
5. each Fund will be divided into Units that will evidence the undivided interest of each investor in the assets of the Fund;
6. it is intended that Units of the Funds will be qualified for investment by a trust governed by a self-administered registered retirement savings plan or registered retirement income fund ("Registered Plans");

7. the initial distribution of Units of a Fund (the "Initial Investment") to an investor and the Registered Plans of the investor (an investor alone, an investor's Registered Plan alone, or any combination of the foregoing, a "Unitholder") will have an aggregate acquisition cost to the Unitholder of at least \$97,000. (the "Prescribed Amount");

8. as the Prescribed Amount of an Initial Investment in a Fund is met through the aggregation of the acquisition costs of Units of a Fund by some or all of an investor and an investor's Registered Plans, there are no exemptions from the registration and prospectus requirements of the Act;

9. following the Initial Investment in a Fund, it is proposed that Unitholder be permitted to subscribe and pay for Additional Units of that Fund in increments of less than the Prescribed Amount (the "Additional Units") provided that at the time of such acquisition the Unitholder holds Units of the Fund with an aggregate acquisition cost or aggregate net asset value, whichever is higher, of at least the Prescribed Amount;

10. each Fund proposes to distribute Additional Units by way of automatic reinvestment of distributions to Unitholders of the Fund (the "Reinvested Units");

11. Units of the Funds will be non-transferable, except with the consent of the Applicant, in the limited circumstances set out in the declaration of trust of the particular Fund, but will be redeemable in accordance with the procedures set out in the declaration of trust of the particular Fund;

(C) The Commission is of the opinion that it would not be prejudicial to the public interest to grant the order requested.

IT IS ORDERED:

1. THAT, pursuant to subsection 20(1) of the Act, an Initial Investment in Units of a Fund shall be exempt from sections 6 and 37 of the Act provided that the aggregate acquisition cost to a Unitholder of the Initial Investment is not less than the Prescribed Amount and provided that a report as prescribed in Form 8 to the *Securities Regulation* to the Act is filed by the Applicant within 10 days of the date of the Initial Investment along with the prescribed filing fee for a Form 8.

2. THAT, pursuant to subsection 20(1) of the Act, that trades in Subscribed Units are exempt from sections 6 and 37 of the Act provided that:

(a) at the time of the trade the Unitholder who made the Initial Investment then owns Units of that Fund having an aggregate acquisition cost or an aggregate net asset value of not less than the Prescribed Amount; and

(b) the Applicant is registered in Ontario as a limited market dealer and as an adviser in the categories of investment counsel and portfolio manager.

3. THAT, pursuant to subsection 20(1) of the Act, that trades in Reinvested Units are exempt from sections 6 and 37 of the Act provided that:

(a) no sales commission or other charge in respect of such issuance of Reinvested Units is payable; and

(b) the unitholder has received, not more than 12 months before such issuance, a statement describing (A) the details of any deferred or contingent sales charge or redemption fee that is payable at the time of the redemption of a Unit, (B) the right, if any, that the unitholder has to make an election to receive cash instead of Units on the payment of the net income or net realized capital gains distributed by the Fund, (C) instructions on how the right referred to in sub-clause (B) can be exercised, and (D) the fact that no prospectus is available for the Fund as Units are offered pursuant to prospectus exemptions only.

4. THAT the fee for this Order is \$1,000.00.

BY ORDER OF THE COMMISSION

Deputy Director, Legal