

Decision Document

February 2, 2012

IN THE MATTER OF  
THE SECURITIES LEGISLATION OF MANITOBA AND ONTARIO  
(the Jurisdictions)  
AND  
IN THE MATTER OF  
THE PROCESS FOR EXEMPTIVE RELIEF APPLICATIONS IN MULTIPLE JURISDICTIONS  
AND  
IN THE MATTER OF  
I.G. INVESTMENT MANAGEMENT, LTD.  
( the Filer)  
DECISION

**Background**

The securities regulatory authority or regulator in each of the Jurisdictions (Decision Maker) has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the Legislation) for an exemption (the Exemption Sought) from the requirement in item 5 of Form 33-103 F1 that long term debt owed to related parties by a registered firm be included in the adjusted current liabilities of the firm, unless a subordination agreement (Subordination Agreement) has been entered into in respect of such debt, in calculating its excess working capital.

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

- (a) The Manitoba Securities Commission is the principal regulator for this application,
- (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 Quebec and
- (c) the decision is the decision of the principal regulator and evidences the decision of the securities regulatory authority or regulator in Ontario.

## 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 registered firm under National Instrument 31-103 *Registration Requirements* (NI 31-103), as an adviser in Manitoba, Ontario and Quebec and has applied for registration as an investment fund manager in Manitoba.
2. The Filer's Head Office is located in Winnipeg, Manitoba. Under section 3.6(3)(b) of National Policy 11-203 (NP 11-203), the Manitoba Securities Commission, which is a passport regulator within the meaning of NP 11-203, is the Filer's principal regulator.
3. The Filer is a corporation continued under the *Ontario Business Corporations Act* (OBCA) and it acts as:
  - (i) investment fund manager for approximately 161 mutual funds (Investors Group Mutual Funds), securities of which are qualified for distribution to the public in all provinces and territories in Canada which, as such, are reporting issuers or equivalent in all of those jurisdictions
  - (ii) adviser for a number of the Investors Group Mutual Funds; and
  - (iii) trustee for the Investors Group Mutual Funds that are trusts.
4. The Filer's principal place of business is 447 Portage Avenue, Winnipeg, Manitoba R3C 3B6.
5. The Filer is not in default of securities legislation in any jurisdiction.
6. The Filer is wholly owned by Investors Group Inc. (IGI) and is its most substantial subsidiary in terms of revenues and assets. IGI is, in turn, a wholly owned subsidiary of IGM Financial Inc. (IGM). IGM's common shares and first preferred shares are traded on the Toronto Stock Exchange (TSX).
7. IGM is a very well capitalized corporation with shareholders' equity of approximately \$4.4 billion as of September 30, 2011 as set forth in its most recent quarterly financial statements. As of that date, the market capitalization of its common shares traded on the TSX was approximately \$11.5 billion.
8. Because IGM is a reporting issuer whose securities are publicly traded on the TSX, it is subject to the continuous reporting obligations under securities legislation in Canada, including preparing and filing quarterly unaudited and annual audited financial statements.
9. The Filer has incurred debt, which when originally issued was long term in nature, (Long Term Related Party Debt) to IGM or certain wholly owned subsidiaries of IGM, having

various maturities between June 2014 and December 2040, which totaled \$3,092.4 million as of September 30, 2011.

10. The Filer's Long Term Related Party Debt was incurred primarily in connection with the financing of acquisitions by the Filer which were significant revenue generating entities.
11. The Filer's Long Term Related Party Debt was not incurred for the purpose of providing working capital to or funding the ongoing operations of the Filer. Instead, these financing arrangements were primarily structured for significant business acquisitions and any changes to the structure of the financing would be detrimental to the Filer and IGM.
12. The Long Term Related Party Debt and long term related party investments were put in place when there were no adjustments to Generally Accepted Accounting Principles (GAAP) working capital for purpose of regulatory capital calculations. Prior to NI 31-103 coming into force the Filer, as a registered investment counsel and portfolio managers, or equivalent, in Manitoba, Ontario and Quebec was required to maintain excess working capital of greater than zero, but in making this calculation under the predecessor requirements Long Term Related Party Debt was excluded from the determination. Instead, the requirement was that firms such as the Filer calculate working capital in accordance with GAAP, which do not require that long term debt such as the Filer's Long Term Related Party Debt be taken into account in determining working capital. Based on this formula, as of September 30, 2011 the Filer had substantial working capital.
13. All of the Filer's Long Term Related Party Debt is either owed by the Filer to its indirect parent, IGM, or to wholly owned direct or indirect subsidiaries of IGM. Under the terms governing the repayment of the Long Term Related Party Debt, which terms are consistent with general commercial transactions with a third party lender. the lender cannot accelerate repayment of it, except in the event of certain defaults by the Filer, such as its failure to pay any interest due that continues for seven days or more or the issuance of a declaration by a court that the Filer is bankrupt or insolvent or the appointment of a receiver,
14. Section 12.1 of NI 31-103 requires that the Filer, as a registered firm, must ensure that it has excess working capital, as calculated using Form 31-103F1, of greater than zero and that for the purpose of this calculation its minimum capital is:
  - (i) \$25,000 as an adviser; and
  - (ii) \$100,000 as an investment fund manager.
15. Item 5 of Form 31-103F1 essentially provides that in determining a registered firm's excess working capital that firm must include in its adjusted current liabilities all Long Term Related Party Debt, unless the firm and the lender have entered into a Subordination Agreement in the form set out in Appendix B to NI 31-103 with respect to such debt and delivered a copy of the agreement to the regulator.
16. The prescribed form of Subordination Agreement essentially provides, among other things, that:
  - (i) the Long Term Related Party Debt is subordinated to all claims of all present and future creditors of the registered firm; and

- (ii) the registered firm cannot repay any portion of the Long Term Related Party Debt without first notifying the regulator, which may require further documentation from the firm after receiving such notification.
17. In the absence of an exemption, the Filer will have to enter into Subordination Agreements with its affiliates in respect of the entire amount of the outstanding Long Term Related Party Debt in order to comply with NI 31-103.
18. This requirement is inequitable in respect to the Filer and the holders of the Long Term Related Party Debt in that:
- the value of the Long Term Related Party Debt that would be subordinated far exceeds the capital that the Filer is required to maintain as an investment fund manager (\$100,000) and adviser (\$25,000) under NI 31-103;
  - it fails to take into account the fact that the Long Term Related Party Debt arose primarily in connection with the financing of long term related party investments;
  - the Long Term Related Party Debt was not incurred to provide working capital for the Filer or to fund their ongoing operations; and
  - the Long Term Related Party Debt is more than offset by the book value of the long term related party investments in affiliates.
19. Under the capital formula set out in NI 31-103 and Form 31-103F1, while the Filer must include the value of the Long Term Related Party Debt in its adjusted current liabilities, the value of the long term related party investments, is excluded from current assets in Item 1 of Form 31-103F1.

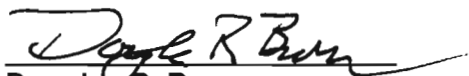
## **Decision**

Each of the Decision Makers is satisfied that the decision meets the test set out in the Legislation for the Decision Maker to make the decision.

The decision of the Decision Makers under the Legislation is that the Exemption Sought is granted, subject to the following conditions:

1. the lender of the Long Term Related Party Debt cannot accelerate repayment of it under any circumstances, except in the event that the Filer becomes insolvent or otherwise is in material default of its obligations under the agreements documenting the debt;
2. in the event that the aggregate amount of the Long Term Related Party Debt exceeds the aggregate value of the long term related party investments, a Subordination Agreement equal or greater than the deficiency must be executed and delivered by the Filer to The Manitoba Securities Commission; and
3. this decision in respect of the Exemption Sought shall apply to a renewal or extension of existing Long Term Related Party Debt that takes place after the date of this decision, provided that the principal amount of the existing Long

Term Related Party Debt is not increased and the terms reflect current market rates at that time, but shall not apply to any new related party debt.



Douglas R. Brown

Director

The Manitoba Securities Commission