

IN THE MATTER OF THE SECURITIES LEGISLATION OF BRITISH COLUMBIA,  
ALBERTA, SASKATCHEWAN, MANITOBA, ONTARIO, NEW BRUNSWICK, PRINCE  
EDWARD ISLAND, NOVA SCOTIA AND NEWFOUNDLAND

AND

IN THE MATTER OF  
THE MUTUAL RELIANCE REVIEW SYSTEM FOR EXEMPTIVE RELIEF  
APPLICATIONS

AND

IN THE MATTER OF ARROW HEDGE PARTNERS INC.

MRRS DECISION DOCUMENT

WHEREAS the local securities regulatory authority or regulator (the "Decision Maker") in each of the provinces of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, New Brunswick, Prince Edward Island, Nova Scotia and Newfoundland (the "Jurisdictions") has received an application (the "Application") from Arrow Hedge Partners Inc. ("Arrow Hedge") for a decision pursuant to the securities legislation of the Jurisdictions (the "Legislation") that the distribution of units (the "Units") of open-ended unit trusts (the "Funds") established or to be established by Arrow Hedge are not subject to the registration or prospectus requirements contained in the Legislation subject to certain conditions;

AND WHEREAS pursuant to the Mutual Reliance Review System for Exemptive Relief Applications (the "System"), the Ontario Securities Commission is the principal regulator for this application;

AND WHEREAS it has been represented by Arrow Hedge to the Decision Makers that:

1. Arrow Hedge is a corporation incorporated under the laws of Ontario, has its head office in Ontario and is registered with the Ontario Securities Commission as a dealer in the category of limited market dealer and as an adviser in the categories of investment counsel and portfolio manager;
2. each of the Funds is or when established will be, an open-end mutual fund trust established under the laws of Ontario;
3. Arrow Hedge is or will be the manager of each of the Funds;
4. units of the Funds will not be offered by prospectus, however, an offering memorandum containing applicable prescribed rights of action and rescission will be delivered to prospective investors in respect of each of the Funds;

5. none of the Funds is or currently intends to become a "reporting issuer"(or equivalent) as defined in the Legislation;

6. any investment in any of the Funds by an investor in the Jurisdictions will be made in reliance upon prospectus and registration exemptions in each of the Jurisdictions which may include an exemption (a "Private Placement Exemption") requiring an aggregate acquisition cost to such investor of not less than the minimum investment required by the exemptions set forth by the Legislation of the Jurisdiction of residence of the investor (namely \$150,000 in each of the Provinces of Saskatchewan, Ontario and Nova Scotia; \$100,000 in the Province of Newfoundland; and \$97,000 in each of the Provinces of British Columbia, Alberta, Manitoba, New Brunswick or Prince Edward Island) (the "Prescribed Amount");

7. following such initial minimum investment of the Prescribed Amount, it is proposed that unitholders of a Fund be permitted to subscribe for additional units (the "Subscribed Units"), provided that at the time of such subsequent acquisition the investor holds Units of the Fund with an aggregate acquisition cost or aggregate net asset value of at least the greater of the Prescribed Amount and the minimum prescribed by applicable Legislation for such subscriptions; and

8. each Fund proposes to distribute additional Units ("Reinvested Units") by way of automatic reinvestment of distributions of income or capital gains or which represent a return of capital to unitholders of such Fund, unless otherwise requested by a unitholder;

AND WHEREAS pursuant to the System this MRRS Decision Document evidences the decision of each Decision Maker (collectively, the "Decision");

AND WHEREAS each of the Decision Makers is satisfied that the test contained in the Legislation that provides the Decision Maker with the jurisdiction to make the Decision has been met;

THE DECISION of the Decision Makers pursuant to the Legislation is that the registration and prospectus requirements contained in the Legislation shall not apply to:

(i) the issuance of Subscribed Units of a Fund to a unitholder of that Fund provided that:

(1) the initial investment in Units of that Fund was pursuant to a Private Placement Exemption,

(2) at the time of the issuance of such Subscribed Units, the unitholder then owns Units of that Fund having an aggregate acquisition cost or an aggregate net asset value of at least the greater of the Prescribed Amount and the minimum prescribed by applicable Legislation for such subscriptions,

(3) at the time of the issuance of such Subscribed Units, the Applicant is registered under the Legislation of Ontario as an adviser in the categories of investment counsel and portfolio manager and such registration is in good standing,

(4) within 30 days of the end of each financial year of each Fund, such Fund:

(A) files with the applicable Decision Maker a report in respect of all trades in Subscribed Units of the Fund during such financial year, in the form prescribed by the applicable Legislation; and

(B) remits to the applicable Decision Maker the fee prescribed by the applicable Legislation in respect of all trades in Subscribed Units of the Fund during such financial year; and

(5) this clause (i) will cease to be in effect with respect to a Jurisdiction 90 days after the coming into force of any legislation, regulation or rule in such Jurisdiction relating to the distribution of Subscribed Units of pooled funds; and

(ii) an issuance of Reinvested Units of a Fund to a unitholder of that Fund provided that:

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

(2) 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 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 or upon a return of capital by the Fund, (C) instructions on how the right referred to in subsubclause (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.

DATED this 1<sup>st</sup> day of October, 2001.

*"Paul Moore"*

*"K.D. Adams"*

#### Headnote

Mutual Reliance Review System for Exemptive Relief Applications - trades by pooled funds of additional units to existing unitholders holding units having an aggregate acquisition cost or net asset value of not less than the minimum amount prescribed by legislation under "private placement" exemption exempted from registration and prospectus requirements provided that reports of trades are filed and fees paid within 30 days after the financial year end of pooled funds - trades by pooled funds of units to existing unitholders pursuant to automatic reinvestment of distributions of income or capital gains or which represent a return of capital exempted from registration and prospectus requirements

#### Statutes Cited

Securities Act, R.S.O. 1990, c.S.5, as am., ss. 25, 53,72(3), 74(1)

Rules Cited

Ontario Securities Commission Rule 45-501- *Exempt Distributions*

Ontario Securities Commission Rule 81-501 - *Mutual Fund Reinvestment Plans* (1998) 21 OSCB  
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