

THE SECURITIES ACT) Order No. 5945
)
Section 66 of) June 17, 2009
The Commodity Futures Act)

**FRANK RUSSELL COMPANY
RUSSELL IMPLEMENTATION SERVICES INC. and
RUSSELL INVESTMENT MANAGEMENT COMPANY
(the Filers)**

WHEREAS

(A) On June 21, 2006 the Manitoba Securities Commission (the MSC) made a decision (the Original Decision) under the CFA that Frank Russell Company (FRC), Russell Implementation Services Inc. (RIS) and the FR Foreign Adviser Affiliates (as defined in the Original Decision) are not subject to the requirement (the Registration Requirement) under section 24(2) of the CFA to be registered as an adviser in connection with FRC, RIS and the FR Foreign Adviser Affiliates acting as an adviser to Russell Investments Canada Limited (RICL) with respect to trades in commodity futures contracts and related products traded on commodity futures exchanges for the benefit of RICL's portfolio managed clients resident in Manitoba (the Clients);

(B) **AND UPON** the application (the Application) of the Filers to the MSC for an order revoking the Original Decision and granting to the Filers an exemption pursuant to section 66(1) of the CFA to the Filers from the Registration Requirement in connection with FRC, RIS and Russell Investment Management Company (RIM) acting as an adviser to RICL with respect to trades in commodity futures contracts and related products traded on commodity futures exchanges for the benefit of Clients;

(C) **AND UPON** considering the Application and the recommendations of staff of the MSC;

(D) **AND UPON** the Filers having represented to the MSC that:

1. FRC is a corporation organized under the laws of the State of Washington, United States, with its principal place of business located in Tacoma, Washington, United States. FRC is registered with the United States Securities and Exchange Commission (the SEC) as an investment adviser and is exempted pursuant to the provisions of the *Commodity Exchange Act* (United States) from registration with the U.S. Commodity Futures Trading Commission (the CFTC).

2. FRC is the direct parent corporation of:

- (a) RICL (formerly called Frank Russell Canada Limited);
- (b) RIS (formerly called Frank Russell Securities, Inc.); and
- (c) RIM.

3. RIS is a corporation organized under the laws of the State of Washington, United States with its principal place of business located in Tacoma, Washington, United States. RIS is registered with the SEC as an investment adviser and a broker-dealer and is exempted pursuant to the provisions of the *Commodity Exchange Act* (United States) from registration with the CFTC. RIS is currently registered with the Ontario Securities Commission (the OSC) as an international dealer.

4. RIM is registered with the SEC as an investment adviser and has either registered with or is exempted from registration with the CFTC. RIM is not resident in Canada and is not registered, and has no current intention of becoming registered, in any capacity under *The Securities Act* (Manitoba), the *Securities Act* (Ontario) (the OSA) or the CFA.

5. RICL is a corporation incorporated under the laws of Canada with its head office located in Toronto, Ontario.

6. RICL is registered as an adviser in the categories of investment counsel and portfolio manager and as a dealer in the categories of mutual fund dealer and limited market dealer under the OSA and as a commodity trading manager under the *Commodity Futures Act* (Ontario). RICL is also registered as a portfolio manager (securities) and adviser (commodities) and commodity trading manager in Manitoba.

7. RICL acts as an adviser to RICL's Clients and may advise Clients to invest in futures and options on futures traded on Canadian or other organized exchanges outside of Canada and in other derivative instruments traded over-the-counter (the Advisory Services)

8. RICL retains from time to time FRC and RIS and may, in the future, retain RIM as sub-advisers to provide advice to RICL in connection with Advisory Services to Clients.

9. The discretionary investment accounts of Clients for which each of FRC, RIS or RIM are retained are accounts for "accredited investors" as defined in National Instrument 45-106 – *Prospectus and Registration Exemptions*.

10. In performing the Advisory Services, FRC, RIS and RIM comply with the requirements of section 7.3 of Ontario Securities Commission Rule 35-502 – *Non-Resident Advisers* and accordingly:

(a) the obligations and duties of each of FRC, RIS and RIM are set out in written agreements with RICL;

(b) RICL contractually agrees with its Clients on whose behalf investment advice is or portfolio management services are provided by FRC, RIS and RIM to be responsible for any loss that arises out of the failure of FRC, RIS or RIM:

(i) to exercise the powers and discharge the duties of its office honestly, in good faith and in the best interest of RICL and each

Client of RICL for whose benefit the advice is or portfolio management services are provided; or

(ii) to exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in the circumstances; and

(c) RICL is not relieved by its Clients from its responsibility for loss under paragraph (b) above.

11. RICL is responsible for providing all Client reports and statements required under the CFA. All direct contact with Clients is by RICL and its directors, officers or employees, although representatives of FRC, RIS and/or RIM may participate in such communications from time to time.

12. FRC, RIS and RIM, in providing the Advisory Services to RICL and, indirectly, to Clients of RICL, may be considered to be acting as an adviser under the CFA and, in the absence of the exemption requested, would be subject to the Registration Requirement.

13. FRC, RIS and RIM cannot rely on any adviser registration exemptions in the CFA to provide the Advisory Services to the Clients.

AND UPON the MSC being satisfied that it would not be prejudicial to the public interest for the MSC to grant the exemption requested on the basis of the terms and conditions proposed;

IT IS ORDERED:

1. **THAT** the Original Decision is revoked; and

2. **THAT**, for a period of three years from the date of this order, the Registration Requirement shall not apply to each of FRC, RIS and RIM with respect to its activities in providing the Advisory Services for the benefit of RICL and RICL's Clients provided that:

(a) the obligations and duties of each of FRC, RIS and RIM are set out in written agreements with RICL;

(b) RICL contractually agrees with its Clients, on whose behalf investment advice is or portfolio management services are provided by FRC, RIS or RIM, to be responsible for any loss that arises out of the failure of FRC, RIS or RIM:

(i) to exercise the powers and discharge the duties of its office honestly, in good faith and in the best interests of RICL and each Client of RICL for whose benefit the advice is or portfolio management services are to be provided, or

(ii) to exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in the circumstances;

(c) RICL cannot be relieved by its Clients from its responsibility for loss under paragraph (b) above; and

(d) FRC, RIS and RIM are not resident in Canada, but are licensed or otherwise legally qualified to provide the Advisory Services by the applicable regulator in the jurisdiction in which each resides.

3. **THAT** the fee for this Order is \$650.00.

BY ORDER OF THE COMMISSION

Director - Legal