

IN THE MATTER OF THE SECURITIES LEGISLATION OF BRITISH COLUMBIA
ALBERTA, SASKATCHEWAN, MANITOBA, ONTARIO, NOVA SCOTIA, AND
NEWFOUNDLAND

AND

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

AND

IN THE MATTER OF THE HSBC INVESTMENT FUNDS (CANADA) INC.

MRRS DECISION DOCUMENT

WHEREAS the Canadian securities regulatory authority or regulator (the "Decision Maker") in each of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Nova Scotia and Newfoundland (the "Jurisdictions") has received an application (the "Application") from HSBC Investment Funds (Canada) Inc. (the "Filer"), the manager of HSBC Global Equity RSP Fund (the "Global Equity RSP Fund") and HSBC U.S. Equity RSP Fund (the "U.S. Equity RSP Fund") (collectively the "RSP Funds"), and HSBC Global Equity Fund (the "Global Equity Fund") and HSBC U.S. Equity Fund (the "U.S. Equity Fund") (collectively the "Underlying Funds") for a decision pursuant to the securities legislation of the Jurisdictions (the "Legislation") that:

1. the requirements contained in the Legislation requiring an offeror to issue a news release and file a report where its aggregate holdings of securities of a reporting issuer exceed 10% of the outstanding securities of the reporting issuer and refrain from purchasing additional securities of the reporting issuer for a specified period of time once its holdings exceed this 10% level, and before such holdings exceed the 20% level (the "Early Warning Requirements"), shall not apply to certain investments by the RSP Funds in the Underlying Funds;

2.a) the restrictions contained in the Legislation prohibiting a mutual fund from investing in a person who is a substantial security holder of the mutual fund, its manager or distributor shall not apply to investments by the RSP Funds in forward contracts (the "Forward Contracts") with the HSBC Bank Canada (the "Bank") as counterparty;

b) the restrictions contained in the Legislation prohibiting a mutual fund from knowingly making an investment in a person or company in which the mutual fund, alone or together with one or more related mutual funds, is a substantial securityholder shall not apply to certain investments by the RSP Funds in the Underlying Funds; and

c) the restrictions contained in the Legislation prohibiting a mutual fund from investing in an issuer in which a person who is a substantial security holder of the

mutual fund, its manager or distributor has a significant interest shall not apply to certain investments by the RSP Funds in the Underlying Funds;

(collectively, the "Substantial Securityholder Investment Prohibitions");

3. the requirements contained in the Legislation for a mutual fund manager to file a report relating to a purchase or sale of securities between the mutual fund and any related person or company, or any transaction in which, by arrangement other than an arrangement relating to insider trading in portfolio securities, the mutual fund is a joint participant with one or more of its related persons or companies (the "Management Reporting Requirements"), shall not apply in relation to certain investments by the RSP Funds in the Underlying Funds or in Forward Contracts with the Bank as counterparty;

4. the requirements contained in the Legislation prohibiting a mutual fund or responsible person from knowingly causing a mutual fund to invest in any issuer in which a responsible person is an officer or director unless the specific fact is disclosed to the client and, if applicable, the written consent of the client to the investment is obtained before the purchase (the "Responsible Person Investment Prohibitions") shall not apply to certain investments to be made by the RSP Funds in the Underlying Funds; and

5. the Early Warning Requirements shall not apply to investments by counterparties to Forward Contracts, including the Bank (the "Counterparties") in units of the Underlying Funds;

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

AND WHEREAS the Filer has represented to the Decision Makers that:

1. the Filer is amalgamated under the laws of Canada, has its head office in Vancouver, British Columbia, is not a reporting issuer or the equivalent under the Legislation, and is registered under the Legislation in the category of mutual fund dealer;

2. the Filer is the manager-trustee, principal distributor and promoter of the HSBC Mutual Funds and is a wholly-owned subsidiary of HSBC Asset Management (Canada) Ltd. ("HAMC"); HAMC is a wholly-owned subsidiary of the Bank, a Schedule II chartered bank under the Canada *Bank Act*;

3. the HSBC Mutual Funds currently comprise 14 open-end mutual fund trusts, including the Underlying Funds, each of which was established under the laws of British Columbia or Ontario pursuant to a separate declaration of trust and each of which is qualified for distribution in the Jurisdictions (and the other provinces of Canada, except Prince Edward Island) by means of a simplified prospectus and annual information form;

4. the Filer proposes to establish the RSP Funds, which will be open-end mutual fund trusts established under the laws of British Columbia or Ontario and each of which will be qualified for

distribution in the Jurisdictions by means of the simplified prospectus and annual information form for the other HSBC Mutual Funds;

5. a preliminary and pro-forma simplified prospectus (the "Prospectus") and annual information form (the "AIF") for the HSBC Mutual Funds was filed with the Decision Makers on August 12, 1999; the Prospectus and AIF were "preliminary" with respect to the RSP Funds and "pro forma" with respect to the other HSBC Mutual Funds;

6. the RSP Funds are intended to allow investors to maximize their exposure to foreign equity markets while ensuring that the units of the RSP Funds will not be "foreign property" for the purposes of the Canada Income Tax Act (the "Tax Act") and will also be "qualified investments" under the Tax Act for registered retirement savings plans and other tax deferred plans ("Registered Plans"); in the opinion of tax counsel to the RSP Funds, units of the RSP Funds will be "qualified investments" for Registered Plans;

7. the RSP Funds will invest in Forward Contracts issued by Counterparties which are either Schedule I or II banks to which the Canada *Bank Act* applies, or registered as dealers, other than limited dealers, under the Legislation ("Registered Dealers"); the underlying interest in the Forward Contracts will be the cash value of an investment in the Global Equity Fund (in the case of Forward Contracts purchased by the Global Equity RSP Fund) or the U.S. Equity Fund (in the case of Forward Contracts purchased by the U.S. Equity RSP Fund); under the terms of the Forward Contracts, the RSP Funds will purchase from the Counterparties the right to receive at a future date the cash equivalent of the increase in the net asset value per Unit of the Underlying Funds from the date of purchase of the Forward Contract to that future date, less the Counterparty's transaction costs; all payments under the Forward Contracts will be made only in cash and the RSP Funds will have no entitlement or right to units of the Underlying Funds;

8. due to the relatively small initial market capitalizations of the RSP Funds and of the HSBC Mutual Funds generally, the Filer has been unable to identify a suitable Counterparty that is unrelated to the RSP Funds and the Filer; as a result, the Bank will be the initial Counterparty to the Forward Contracts, although this arrangement may change as the market capitalization of the RSP Funds increase in size and other suitable Counterparties are identified;

9. the Counterparties may, from time to time, invest directly in units of the Underlying Funds as a hedge against their obligations under the Forward Contracts;

10. the Prospectus and the AIF qualifying the distribution of units of the RSP Funds will disclose the relationship between the Bank, the Filer, and the RSP Funds, and the approximate anticipated percentage difference between the investment return of each RSP Fund and its corresponding Underlying Fund; the Prospectus and AIF will also disclose that the Counterparties may invest in units of the Underlying Funds for hedging purposes;

11. the Filer will monitor the competitiveness of the terms and pricing of Forward Contracts entered into between the RSP Funds and the Bank (or any other Counterparty related to the Filer) by having the auditors of the HSBC Mutual Funds complete a semi-annual review of the terms and pricing of such Forward Contracts to determine whether such terms and pricing are

comparable to the terms and pricing of forward contracts entered into by similar mutual funds with non-related counterparties, and if such terms and pricing are not comparable, to determine the pricing and terms available to the RSP Funds from non-related counterparties; after completing this review, the auditors will be required to present their findings and the basis therefor to the board of directors of the Filer; if the findings are that the terms and pricing of the Forward Contracts are not comparable to those then available to the RSP Funds from non-related counterparties, the Filer will request that the Bank (or the other related Counterparty) provide the Forward Contracts to the RSP Funds on the comparable terms and pricing, and if the Bank (or the other related Counterparty) is not willing to do so, as soon as reasonably practicable after such determination cause the RSP Funds to terminate their Forward Contract arrangements with the Bank (or the other related Counterparty) and enter into Forward Contract or other derivative transactions with a Counterparty or Counterparties unrelated to the Filer;

12. in addition to investing in Forward Contracts, each RSP Fund may also directly invest a portion of its net assets in units of the corresponding Underlying Fund, up to the maximum foreign property limit prescribed for Registered Plans under the Tax Act (the "Permitted Limit");

13. except to the extent permitted by this MRRS Decision Document and specific approvals granted by the Canadian securities administrators pursuant to National Policy Statement No. 39 ("NP 39"), the investments by the RSP Funds in the Underlying Funds have been structured to comply with the investment restrictions of the Legislation and NP 39;

14. the investments by the RSP Funds in the Underlying Funds will trigger the Early Warning Requirements if an RSP Fund owns more than 10% of the units of an Underlying Fund;

15. relief from the Substantial Security Holder Investment Prohibitions is needed because:

(a) the Bank is a "substantial security holder" of the Filer, as defined in the Legislation, and under the definitions of "security" and "futures contract" under the Legislation of certain of the Jurisdictions, the entering into of Forward Contracts by the RSP Funds with the Bank may be considered to be an investment in the Bank;

(b) the RSP Funds, either alone or in combination with other HSBC Mutual Funds, may own more than 20% of the units of an Underlying Fund;

(c) the Bank will be a "substantial security holder", as defined in the Legislation, of the RSP Funds at the time of creation of the RSP Funds because it will directly or indirectly hold 100% of the issued voting securities of the RSP Funds; also, the Bank, the RSP Funds and certain other HSBC Mutual Funds may simultaneously hold a "significant interest", as such term is defined the Legislation, in an Underlying Fund if individually they hold more than 10% of the outstanding voting securities of an Underlying Fund, or any or all of them collectively hold more than 50% of the outstanding voting securities of an Underlying Fund;

16. relief from the Management Reporting Requirement is needed with respect of each of the trades to which the Substantial Security Holder Investment Restrictions apply;

17. relief from the Responsible Person Investment Prohibitions is needed because of certain cross-directorships between the Filer and the Bank; and

18. an investment by a Counterparty in an Underlying Fund will trigger the Early Warning Requirements if the Counterparty owns more than 10% of the units of the Underlying Fund;

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 are 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:

1. the Early Warning Requirements, Substantial Securityholder Investment Prohibitions, Management Reporting Requirements and Responsible Person Investment Prohibitions shall not apply to the RSP Funds or the Filer in connection with the investments by the RSP Funds in Forward Contracts where the Bank is the Counterparty or in units of the Underlying Funds, provided that:

(a) the investment by the RSP Funds in the Underlying Funds is compatible with the fundamental investment objective of the RSP Funds;

(b) the RSP Funds and the Underlying Funds are under common management and the Underlying Funds' securities are offered for sale in the jurisdiction of the Decision Maker pursuant to a prospectus which has been filed with and accepted by the Decision Maker;

(c) except as provided in condition (f) below, each of the RSP Funds invests and remains invested in the corresponding Underlying Fund a percentage of its assets that is below the Permitted Limit (the "Proposed Investments");

(d) the Prospectus describes the Proposed Investments by the RSP Funds in the Underlying Funds;

(e) the RSP Funds may not change the Underlying Funds they invest in unless the Prospectus is amended or a new prospectus is filed and the security holders of the RSP Funds have been given at least 60 days written notice of the change;

(f) if at any time, the assets of the RSP Funds that are invested in the Underlying Funds exceed the Permitted Limit, the necessary changes are made in the RSP Funds' investment portfolio as at the next valuation date of the RSP Funds in

order to bring the RSP Funds' investment portfolio into conformity with the aforesaid amount;

(g) there are compatible dates for the calculation of the net asset value of the RSP Funds and the Underlying Funds for the purposes of the issue and redemption of the securities of such mutual funds;

(h) in the event of the provision of any notice to securityholders of the Underlying Funds as required by the constating documents of the Underlying Funds or by the laws applicable to the Underlying Funds, such notice will also be delivered to the securityholders of the RSP Funds; all voting rights attached to the securities of the Underlying Funds which are owned by the RSP Funds will be passed through to the securityholders of the RSP Funds; in the event that a securityholders' meeting is called for the Underlying Funds, all of the disclosure and notice material prepared in connection with such meeting will be provided to the securityholders of the RSP Funds and such securityholders will be entitled to direct a representative of the RSP Funds to vote that RSP Funds' holding in the Underlying Funds in accordance with their direction; the representative of the RSP Funds will not be permitted to vote the RSP Funds' holdings in the Underlying Funds except to the extent the securityholders of the RSP Funds so direct;

(i) no sales charges are payable by the RSP Funds in relation to their purchases of securities of the Underlying Funds;

(j) no redemption fees or other charges are charged by the Underlying Funds in respect of the redemption by the RSP Funds of securities of the Underlying Funds owned by the RSP Funds;

(k) no fees and charges of any sort are paid by an RSP Fund or by an Underlying Fund or by the manager or principal distributor of an RSP Fund or an Underlying Fund or by any affiliate or associate of any of the foregoing entities to anyone in respect of a RSP Fund's purchase, holding, or redemption of the securities of the Underlying Fund, other than the management fees as addressed in (l) below;

(l) the arrangements between or in respect of the RSP Funds and the Underlying Funds are such as to avoid the duplication of management fees;

(m) in addition to receiving the annual and, upon request, the semi-annual financial statements of the RSP Funds, securityholders of the RSP Funds will receive the annual and, upon request, the semi-annual financial statements of the Underlying Funds in either a combined report, containing both the RSP Funds' and Underlying Funds' financial statements, or in a separate report containing the Underlying Funds's financial statements;

(n) to the extent that the RSP Funds and the Underlying Funds do not use a combined simplified prospectus and annual information form and financial statements containing disclosure about the RSP Funds and the Underlying Funds, copies of the simplified prospectus and annual and semi-annual financial statements relating to the Underlying Funds may be obtained upon request by a securityholder of the RSP Funds; and

(o) section 1 of the operative portion of this Decision, as it relates to the jurisdiction of a Decision Maker, will terminate one year after the publication in final form of any legislation or rule of that Decision Maker dealing with the matters addressed in section 2.04(4)(b) of NP 39; and

2. the Early Warning Requirements shall not apply to an investment by a Counterparty in units of the Underlying Funds for hedging purposes, provided that:

(a) the Counterparty complies with the alternative monthly early warning reporting system for "eligible institutional investors" set out in sections 1.1, 4.5 to 4.8 and 5.1 to 5.3 of Proposed National Instrument 62-103, as published at [1998] 35 B.C.S.C. Weekly Summary 21 ("NI 62-103"), with respect to their investments in units of the Underlying Funds, with the following modifications:

(i) for the purposes of this MRRS Decision Document, a Counterparty that is a Registered Dealer will be treated as if it falls within the definition of "eligible institutional investor" in section 1.1 of NI 62-103;

(ii) for the purpose of calculating a Counterparty's security holding percentage for the purposes of section 4.5 of NI 62-103, any securities held by the Counterparty as a pledgee or otherwise as a secured party or in the capacity of underwriter during the underwriting period shall be excluded;

(iii) for greater certainty, a Counterparty is not required to file a report in the circumstances described in sections 6.1(1) and (2) of NI 62-103;

(iv) for the purposes of item 1(i) of Appendix G to NI 62-103, a Counterparty shall state that it is relying on this MRRS Decision Document in filing the report; and

(b) section 2 of the operative portion of this MRRS Decision Document shall cease to be operative 30 days following the entry into force of a rule or policy of the Jurisdictions relating to alternative early warning reporting and related matters (the 30th day being the "Lapse Date"), without prejudice to a Counterparty's ability to treat reports made pursuant to this Decision prior to such Lapse Date as having been made under that rule or policy.

DATED November 23, 1999

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Headnote

Mutual Reliance Review System for Exemptive Relief Applications – relief from the early warning and self-dealing provisions of the legislation with respect to investments by RSP-eligible mutual funds in other non-RSP-eligible mutual funds and in forward contracts which will approximate the performance of the non-RSP-eligible funds - relief from the early warning provisions of the legislation in accordance with proposed National Instrument 62-103 for investments by the counterparty to the above-mentioned forward contracts in the non-RSP-eligible funds for hedging purposes

Applicable British Columbia Provisions

Securities Act, R.S.B.C. 1996, c. 418, ss. 111, 114(2)(c), 121(2), 126, 127(1)(a), 130(b)