

**IN THE MATTER OF THE SECURITIES LEGISLATION OF
BRITISH COLUMBIA, ALBERTA, SASKATCHEWAN,
MANITOBA, ONTARIO, NOVA SCOTIA, NEWFOUNDLAND,
NEW BRUNSWICK, PRINCE EDWARD ISLAND,
NORTHWEST TERRITORIES, YUKON TERRITORY AND NUNAVUT**

AND

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

AND

**IN THE MATTER OF TD INVESTMENT MANAGEMENT INC. AND TD ASSET
MANAGEMENT INC.**

MRRS DECISION DOCUMENT

Background

On October 27, 2000 the local securities regulatory authority or regulator (the "Decision maker") in each of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Nova Scotia, Newfoundland, New Brunswick, Prince Edward Island, Northwest Territories, and Yukon Territory (the "Original Jurisdictions") made a decision (the "Original Decision") pursuant to the securities legislation of the Original Jurisdictions (the "Legislation") that TD Investment Management Inc. (named at the time of the Original Decision as CT Investment Counsel (U.S.) Inc. and herein referred to as "TDIM") and TD Asset Management Inc. ("TDAM") and certain individuals who engage in securities-related advisory activities on behalf TDIM are not subject to the following requirement (the "Applicable Requirement") contained in the Legislation:

no person or company shall act as an advisor unless the person or company is registered as an advisor, or is registered as a partner or officer of a registered advisor and is acting on behalf of the advisor, and the registration has been made in accordance with the Legislation and the person or company has received written notice of such registration and, where the registration is subject to terms and conditions, the person or company complies with such terms and conditions;

TDIM and TDAM (sometimes referred to as the "Filers") wish to vary the Original Decision to permit TDIM and certain individuals who engage in securities related advisory activities on behalf of TDIM to be exempt from the Applicable Requirement.

In order to vary the Original Decision TDIM and TDAM have made an application (the "Application") for an order revoking the Original Decision and restating it to provide that the Applicable Requirement does not apply to TDIM or the Registered Counsellors (as defined below) acting on its behalf in respect of advising U.S. clients (as defined below), subject to the conditions set forth below (the "Requested Relief").

TDIM and TDAM wish to make this Application in the Original Jurisdictions and Nunavut (collectively, the "Jurisdictions").

Under the Mutual Reliance Review System for Exemptive Relief Applications (the "System"):

(a) the Ontario Securities Commission is the principal regulator for this Application;

(b) this MRRS decision document evidences the decision of each Decision Maker.

Interpretation

Defined terms contained in National Instrument 14-101 Definitions have the same meaning in this decision unless they are defined in this decision.

Representations

This decision is based on the following facts represented by the Filers:

1. TDIM is a corporation duly incorporated under the laws of Canada. It is a wholly-owned subsidiary of The Toronto-Dominion Bank ("TD Bank").
2. TDIM conducts an investment management business offering its services to residents of the United States. TDIM currently has assets under management of approximately U.S. \$300 million. TDIM is registered as an investment adviser under the U.S. Investment Advisers Act of 1940. TDIM is not registered under the securities legislation of any Jurisdiction.
3. TDAM is a corporation incorporated under the Business Corporations Act (Ontario) and is a wholly-owned subsidiary of TD Bank, a bank listed in Schedule I to the Bank Act (Canada).
4. TDAM conducts an investment management business offering passive, quantitative, enhanced and active portfolio management services to a large and diversified client base. TDAM currently has assets under management of approximately \$100 billion. TDAM is registered as an investment counsel and portfolio manager or their equivalent in all provinces and territories in Canada, as a limited market dealer under the Securities Act (Ontario) and the Securities Act (Newfoundland and Labrador), as a mutual fund dealer under the Securities Act (Québec), and as a commodity trading manager under the Commodity Futures Act (Ontario).
5. As a U.S. registered investment adviser, TDIM regularly advises U.S. residents ("U.S. Clients") but conducts such advice from the Jurisdictions and consequently may be construed as carrying on business as an adviser in the Jurisdictions. However, because TDIM does not provide advice to Canadian residents it did not want to become registered as an adviser in the Jurisdictions. Accordingly, TDIM sought relief from the adviser registration requirement in the Jurisdictions on the basis that:
 - (a) investment counselors employed by TDAM, who are registered in the appropriate advisor category under the Legislation of each relevant Jurisdiction (the "TDAM Registrants"), act on behalf of TDIM from time to time out of the

offices of either TDIM or TDAM that are located in the relevant Jurisdictions, in respect of advising U.S. Clients;

(b) the U.S. Clients of TDIM include clients of TDAM and its affiliates who have left Canada and are currently U.S. residents. They also include U.S. residents who are neither former Canadian residents nor former clients of TDAM or its affiliates;

(c) each potential U.S. Client of TDIM is identified from a review of the TDAM records and is asked to enter into a new advisory agreement with TDIM. Written disclosure is provided indicating that the U.S. Client is no longer under the responsibility of TDAM. The U.S. Client also receives the Form ADV, a form mandated under applicable U.S. securities laws, which explains the relationship between TDIM and TDAM. TDAM Registrants who are acting or will act in an advisory capacity on behalf of TDIM has business cards and letterhead which will identify them to the U.S. Clients as working on behalf of TDIM;

(d) the investment counsellors who act on behalf of TDIM are the TDAM Registrants. Such registrants may, at the same time, carry on advisory activities on behalf of TDAM and its affiliates, in respect of clients who are resident in the relevant Jurisdictions;

(e) neither TDIM nor any individual acting on its behalf who is not registered under the legislation of each relevant Jurisdiction will at any time advise clients resident in such Jurisdiction. U.S. Clients are advised at the time they enter into an advisory agreement with TDIM (and periodically thereafter) that, if they return to Canada, their accounts must be transferred to TDAM or any other adviser registered under the legislation of each relevant Jurisdiction;

(f) all TDAM Registrants acting on behalf of TDIM comply with the registration and other requirements of applicable U.S. securities laws when advising U.S. Clients.

6. The applicable Canadian securities administrators granted such relief in the form of the Original Decision.

7. In particular, the Original Decision provided TDIM and registered investment counsellors of TDAM ("TDAM Advising Personnel") acting on TDIM's behalf relief from the adviser registration requirement in a Jurisdiction provided:

(a) TDIM and the TDAM Advising Personnel acting on its behalf comply with the applicable registration and other requirements of U.S. securities laws; and

(b) neither TDIM nor any individual acting on its behalf who is not registered under the relevant legislation of each relevant Jurisdiction will at any time engage

in securities related advisory activities in respect of clients resident in such Jurisdiction.

8. As part of the overall re-branding strategy for TD Bank's wealth management businesses, TDAM proposes to transfer (the "TDAM Restructuring") its PIC division to TD Waterhouse Private Investment Counsel Inc. ("TDWPIC"). The TDAM Restructuring is the first step of a re-branding strategy that is intended to bring all of the wealth management businesses of TD Bank under the TD Waterhouse banner.

9. TDWPIC is a corporation incorporated under the Canada Business Corporations Act on August 13, 2004 and is a wholly-owned subsidiary of TDAM. TDWPIC is in the process of applying to the Canadian securities regulatory authorities to become registered as an investment counsel and portfolio manager or their equivalent in all provinces and territories of Canada, and as limited market dealer in Ontario and Newfoundland and Labrador.

10. Upon completion of the TDAM Restructuring, some registered investment counsellors of TDAM will become registered investment counsellors of TDWPIC. Some of these investment counsellors provide advice to U.S. Clients on behalf of TDIM pursuant to the Original Decision. For this reason TDIM and TDAM would like to vary the Original Decision to permit TDIM and any registered investment counsellors employed by an affiliate of TDIM including TDWPIC and acting on behalf of TDIM (a "Registered Counsellor") to provide advice to U.S. residents exempt from the Applicable Requirement.

Decision

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.

It is the decision of the Decision Makers pursuant to the Legislation that:

1. the Original Decision is revoked; and
2. the Applicable Requirement does not apply to TDIM or the Registered Counsellors acting on its behalf in respect of advising U.S. Clients, provided that:
 - (a) TDIM and the Registered Counsellors acting on its behalf comply with the applicable registration and other requirements of U.S. Securities Laws; and
 - (b) neither TDIM nor any individual acting on its behalf who is not registered under the legislation of each relevant Jurisdiction will at any time engage in securities related advising activities in respect of clients resident in such Jurisdiction.

October 28, 2004.

Robert L. Shirriff Paul M. Moore

