

July 13, 2011

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  
Wellington West Asset Management Inc. ("**WWAM**")

and

In the Matter of  
NxT EQ 35 Income & Growth Fund, NxT EQ 60 Balanced Fund, NxT EQ 75 Balanced Growth  
Fund and NxT Short Term Income Fund (the "**NxT Funds**" and collectively with WWAM, the  
"**Filers**")

## **DECISION**

### **BACKGROUND**

The securities regulatory authority or regulator in each of the Jurisdictions ("**Decision Maker**") has received an application from the Filers for a decision under the securities legislation of the Jurisdictions (the "**Legislation**") for:

- (a) approval of the Decision Makers of the change of control of WWAM (the "**Change of Control**") in accordance with subsection 5.5(2) of National Instrument 81-102 – *Mutual Funds* ("**NI 81-102**") (the "**Change of Control Approval**"); and
- (b) a decision of the Decision Makers abridging the 60 day notice requirement in clause 5.8(1)(a) of NI 81-102 to 35 days (the "**Notice Requirement**") (the "**Requested Abridgement**").

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 Filers have provided notice that section 4.7(a) of Multilateral Instrument 11-102 *Passport System* ("**MI 11-102**") is intended to be relied upon in British Columbia, Alberta, Saskatchewan, New Brunswick, Nova Scotia, Prince Edward Island, Newfoundland and Labrador, the Northwest Territories, Nunavut and the Yukon Territory, 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* have the same meaning if used in this decision, unless otherwise defined in this decision.

## REPRESENTATIONS

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

1. WWAM is a private issuer incorporated under *The Corporations Act* (Manitoba) (the "MCA") on July 10, 2008.
2. The authorized capital of WWAM is comprised of an unlimited number of common shares. All of the issued and outstanding common shares are owned by Wellington West Holdings Inc. ("WWHI").
3. The principal shareholders of WWHI are National Bank Financial & Co. Inc., which owns approximately 18.5% of the issued and outstanding common shares of WWHI and Charles Spiring and/or entities controlled by him, which own or control approximately 19.25% of WWHI. The remaining common shares of WWHI are owned primarily by the directors and officers of WWHI and its affiliates and the investment advisors and employees of WWHI and its affiliates, and entities owned and/or controlled by them.
4. WWAM is registered as an investment fund manager in the Province of Manitoba and is registered as a portfolio manager in the Provinces of Manitoba and Ontario.
5. WWAM is the manager of the NxT Funds for the purposes of NI 81-102. Units of the NxT Funds are currently qualified for distribution to the public in all jurisdictions of Canada (other than the Province of Quebec) pursuant to a simplified prospectus and annual information form each dated July 15, 2010.
6. NBC is a Schedule 1 bank under the *Bank Act* (Canada) that owns or controls a number of subsidiaries which carry on business in the financial services sector, including nationally registered investment dealers, mutual fund dealers and advisory firms. The common shares of NBC and certain classes of preferred shares of NBC are listed on the Toronto Stock Exchange.
7. Additional information regarding NBC is available in NBC's public disclosure documents available at [www.sedar.com](http://www.sedar.com).
8. NBC and WWHI are parties to the arrangement agreement dated May 25, 2011, as amended on June 8, 2011 (the "**Arrangement Agreement**") pursuant to which NBC will indirectly acquire all of the issued and outstanding shares of WWHI pursuant to a statutory plan of arrangement under section 185 of the MCA (the "**Arrangement**") which will be carried out pursuant to the terms of an order of the Court of Queens Bench of Manitoba. The proposed acquisition of WWHI by NBC was publicly announced pursuant to a press release issued by NBC on May 26, 2011.

9. Assuming that the Arrangement is completed, it will result in a change of control of WWAM, with WWAM being an indirect wholly-owned subsidiary of NBC.
10. WWAM mailed the Change of Control Notice to the securityholders of the NxT Funds on June 9, 2011 (the "Notice Date").
11. The closing of the Arrangement is scheduled for July 15, 2011, 36 days after the Notice Date.
12. Assuming that the Arrangement is completed, the entity acquiring control of WWAM will be NBC (indirectly through a newly created corporation and through its indirect subsidiary, National Bank Financial & Co. Inc., which currently owns approximately 18.5% of WWHI). NBC has considerable experience in the financial services industry, including the mutual fund industry. NBC and its affiliates manage over \$13.9 billion of assets of public mutual funds governed by NI 81-102.
13. In respect of the impact of the Change of Control on the management and the administration of the NxT Funds:
  - (a) NBC has confirmed that there are no current plans:
    - (i) to amalgamate or merge WWAM with another investment fund manager;
    - (ii) immediately following the closing of the Arrangement, to change the manager of the NxT Funds to either NBC or an affiliate of NBC;
    - (iii) within a foreseeable period of time, to change the manager of the NxT Funds to either NBC or an affiliate of NBC;
  - (b) NBC intends to maintain the NxT Funds as a separate family of funds for some period of time after the closing of the Arrangement;
  - (c) there is no current intention to increase the management fees that the NxT Funds pay or the operating expenses borne by the NxT Funds;
  - (d) although there is a current intention to change two directors of WWAM in connection with the closing of the Arrangement, there are no current plans to change the portfolio manager of the NxT Funds, WWAM, or the individual portfolio managers of WWAM who currently manage the investment portfolios of the NxT Funds within a foreseeable period following the closing of the Arrangement. The proposed two new directors of WWAM are senior officers of National Bank Financial Inc. who are either registered or permitted individuals; and
  - (e) the Change of Control is not expected to materially affect the management of the NxT Funds and will not affect the financial stability of WWAM or its ability to fulfill its regulatory obligations.
14. To the extent to which any changes are made on, or following, the change of control of WWAM which constitute a material change within the meaning of National Instrument

81-106 – *Investment Fund Continuous Disclosure* ("NI 81-106"), the NxT Funds will comply with the continuous disclosure obligations set out in section 11.2 of NI 81-106.

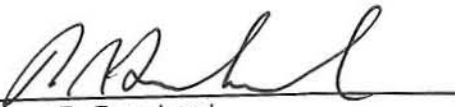
15. The Filers are not in default of securities legislation in any jurisdiction.
16. The Filers respectfully submit that it would not be prejudicial to the securityholders of the NxT Funds to abridge the notice period prescribed by clause 5.8(1)(a) of NI 81-102 from 60 days to not less than 35 days for the following reasons:
  - (a) while the Arrangement will result in the Change of Control, as noted above, there is not expected to be any change in how WWAM administers or manages the NxT Funds;
  - (b) the Arrangement will not have any impact on the securityholders' interests in the NxT Funds;
  - (c) the securityholders of the NxT Funds will still be able to redeem their securities of the NxT Funds prior to the closing of the Arrangement; and
  - (d) the Arrangement has been well publicized since May 26, 2011 such that most securityholders of the NxT Funds are probably already aware of the Arrangement.

## 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:

- (a) the Change of Control Approval is granted; and
- (b) the Requested Abridgement is granted provided that:
  - i. the securityholders of the Funds are given at least 35 days notice of the Change of Control; and
  - ii. no material changes will be made to the management, operations or portfolio management of the NxT Funds for at least 60 days following the Notice Date.



Robert B. Bouchard  
Director – Corporate Finance  
The Manitoba Securities Commission