

THE COMMODITY FUTURES ACT)

Order No. 7496

Subsection 66(1))

December 18, 2019

**BLACKROCK ASSET MANAGEMENT CANADA LIMITED
and BLACKROCK FINANCIAL MANAGEMENT, INC.**

WHEREAS:

- (A) BlackRock Asset Management Canada Limited (the **Principal Adviser**) and BlackRock Financial Management, Inc. (**Sub-Adviser** and, collectively with the Principal Adviser, the **Applicants**) have applied to The Manitoba Securities Commission (the **Commission**) for an order, pursuant to subsection 66(1) of *The Commodity Futures Act* (Manitoba) (the **CFA**), exempting the Sub-Adviser from the adviser registration requirement set forth in section 24(2) of the CFA (the **Adviser Registration Requirement**) allowing the Sub-Adviser, and any individual engaging in or holding himself or herself out as engaging in, the business of advising others as to trading in commodity futures contracts (collectively, the **Contracts**) on the Sub-Adviser's behalf (a **Representative**) to act as a sub-adviser to the Principal Adviser as to trading in Contracts in the Province of Manitoba subject to certain terms and conditions (the **Application**);
- (B) the Applicants have represented to the Commission that:
1. The Principal Adviser is a corporation amalgamated under the laws of Ontario, with its head office located in Toronto, Ontario, Canada.
 2. The Principal Adviser is registered as a portfolio manager, investment fund manager and exempt market dealer in each of the provinces and territories of Canada and as an adviser under the CFA in Manitoba and a commodity trading manager under the *Commodity Futures Act* (Ontario) in Ontario.
 3. The Principal Adviser is a wholly owned subsidiary of BlackRock Inc., a publicly traded company.
 4. The Sub-Adviser is a corporation incorporated under the laws of Delaware, with its head office located in New York, United States.
 5. The Sub-Adviser is also a wholly-owned subsidiary of BlackRock, Inc.
 6. The Sub-Adviser and the Principal Adviser are each controlled by BlackRock, Inc. and are therefore affiliates, as defined in *The Securities Act* (Manitoba) (the **MSA**).
 7. The Sub-Adviser is registered as an investment adviser with the United States Securities and Exchange Commission, its primary regulator. The Sub-Adviser is also registered in the United States with the Commodity Futures Trading Commission as a commodity trading operator and commodity trading adviser and is a member of the National Futures Association.

8. The Sub-Adviser is registered in a category of registration under the commodity futures or other applicable legislation of the United States that permit it to carry on the activities in the United States that registration as an adviser under the CFA would permit it to carry on in Manitoba. As such, the Sub-Adviser is authorized and permitted to carry on the Sub-Advisory Services (as defined below) in the United States.
9. The Sub-Adviser is not registered in any capacity under the CFA or the MSA, nor is the Sub-Adviser registered in any capacity under the securities law, commodity futures law, or derivatives law of any other jurisdiction of Canada.
10. The Sub-Adviser may rely on the international investment fund manager exemption in Ontario, Quebec and Newfoundland & Labrador. The Sub-Adviser may also rely on the international adviser exemption in all provinces and territories of Canada. However, in Manitoba, and with respect to its relationship with the Principal Adviser, the Sub-Adviser intends to also act in reliance on the exemption from the requirement to register as an adviser (the "international sub-adviser" exemption) under the MSA pursuant to section 8.26.1 of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**NI 31-103**).
11. The Sub-Adviser engages in the business of an adviser in respect of commodity futures contracts, commodity futures options and related products traded on commodity futures exchanges (**Contracts**) in the United States.
12. The Sub-Adviser is not a resident of any province or territory of Canada.
13. The Principal Adviser and Sub-Adviser are not in default of securities legislation, commodity futures legislation or derivatives legislation in any jurisdiction of Canada.
14. The Sub-Adviser is in compliance in all material respects with the securities laws, commodity futures laws and derivatives laws in the United States.
15. The Principal Adviser provides, or may provide, investment advice and/or discretionary portfolio management services in Manitoba to the following clients (each referred to individually as a **Client** and collectively as the **Clients**):
 - (a) investment funds, the securities of which are qualified by prospectus for distribution to the public in Manitoba and/or certain other provinces and territories of Canada (the **Investment Funds**);
 - (b) pooled funds, the securities of which are sold on a private placement basis in Manitoba and/or certain other provinces and territories of Canada pursuant to prospectus exemptions contained in National Instrument 45-106 *Prospectus Exemptions* (the **Pooled Funds**);
 - (c) clients resident in Manitoba who have entered into investment management agreements with the Principal Adviser to establish managed accounts (the **Managed Account Clients**); and

- (d) other Investment Funds, Pooled Funds and Managed Account Clients that may be established or retained in the future in respect of which the Principal Adviser will engage the Sub-Adviser to provide portfolio advisory services (the **Future Clients**).
- 16. Certain of the Clients may, as part of their investment program, invest in Contracts. The Principal Adviser acts as an adviser in respect of certain Clients.
- 17. In connection with the Principal Adviser acting as an adviser to Clients in respect of the purchase or sale of Contracts, the Principal Adviser, pursuant to a written agreement made between the Principal Adviser and the Sub-Adviser, will retain the Sub-Adviser to act as a sub-adviser to the Principal Adviser in respect of Contracts in which that Sub-Adviser has experience and expertise by exercising discretionary investment authority on behalf of the Principal Adviser, in respect of all or a portion of the assets of the investment portfolio of the respective Client, including discretionary authority to buy or sell Contracts for the Client (the **Sub-Advisory Services**), provided that such investments are consistent with the investment objectives and strategies of the applicable Client.
- 18. Paragraph 24(2) of the CFA prohibits a person or company from acting as an adviser unless the person or company is registered as an adviser under the CFA, or is registered as a representative or as partner or an officer of a registered adviser and is acting on behalf of a registered adviser.
- 19. By providing the Sub-Advisory Services, the Sub-Adviser and its Representatives will be engaging in, or holding themselves out as engaging in, the business of advising others in respect of Contracts and, in the absence of being granted the Relief Sought, would be required to register as an adviser or a representative of an adviser, as the case may be, under the CFA.
- 20. There is presently no rule or regulation under the CFA that provides an exemption from the adviser registration requirement in paragraph 24(2) of the CFA that is similar to the exemption from the adviser registration requirement in paragraph 6(1)(b) of the MSA provided under section 8.26.1 of NI 31-103.
- 21. The relationship among the Principal Adviser, the Sub-Adviser and any Client will be consistent with the requirements of section 8.26.1 of NI 31-103.
- 22. The Sub-Adviser will only provide the Sub-Advisory Services to the Principal Adviser as long as the Principal Adviser is, and remains, registered under the CFA as an adviser.
- 23. As would be required under section 8.26.1 of NI 31-103:
 - (a) the obligations and duties of the Sub-Adviser will be set out in a written agreement with the Principal Adviser; and
 - (b) the Principal Adviser has entered into, or will enter into, a written contract with each Client, agreeing to be responsible for any loss that arises out of the failure of any Sub-Adviser:

- (i) to exercise the powers and discharge the duties of its office honestly, in good faith and in the best interests of the Principal Adviser and each Client; or
 - (ii) to exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in the circumstances (together with (i), the **Assumed Obligations**).
- 24. The written agreement between the Principal Adviser and the Sub-Adviser will set out the obligations and duties of each party in connection with the Sub-Advisory Services and will permit the Principal Adviser to exercise the degree of supervision and control it is required to exercise over the Sub-Adviser in respect of the Sub-Advisory Services.
- 25. The Principal Adviser will deliver to the Clients all required reports and statements under applicable securities, commodity futures and derivatives legislation.
- 26. The prospectus or other offering document (in either case, the **Offering Document**) of each Client that is an Investment Fund or a Pooled Fund and for which the Principal Adviser engages the Sub-Adviser to provide the Sub-Advisory Services includes, or will include, the following disclosure (the **Required Disclosure**):
 - (a) a statement that the Principal Adviser is responsible for any loss that arises out of the failure of any Sub-Adviser to meet the Assumed Obligations; and
 - (b) a statement that there may be difficulty in enforcing any legal rights against the Sub-Adviser (or any of its Representatives) because the Sub-Adviser is resident outside of Canada and all or substantially all of its assets are situated outside of Canada.
- 27. Prior to purchasing any securities of one or more of the Clients that are Investment Funds or Pooled Funds directly from the Principal Adviser, all investors in the Investment Funds or Pooled Funds who are Manitoba residents will receive, or have received, the Required Disclosure in writing (which may be in the form of an Offering Document).
- 28. Each Client that is a Managed Account Client for which the Principal Adviser engages the Sub-Adviser to provide the Sub-Advisory Services will receive the Required Disclosure in writing prior to the purchasing of any Contracts for such Client.

(C) Based on the foregoing, the Commission is of the opinion that it would not be prejudicial to the public interest for the Commission to grant the Relief Sought.

IT IS ORDERED:

1. **THAT**, under section 66(1) of the CFA, the Sub-Adviser and its Representatives are hereby exempt from the requirement to register as advisers under Section 24(2) of the CFA, provided that:

- (a) the Principal Adviser will remain registered under the CFA as an adviser;
- (b) the Sub-Adviser's head office or principal place of business is in a foreign jurisdiction;
- (c) the Sub-Adviser is registered in a category of registration, or operates under an exemption from registration, under the commodities futures or other applicable legislation of the foreign jurisdiction in which its head office or principal place of business is located, that permits it to carry on the activities in that jurisdiction that registration as an adviser under the CFA would permit it to carry on in Manitoba;
- (d) the Sub-Adviser is not registered under securities legislation or commodity futures legislation in any jurisdiction of Canada;
- (e) the Sub-Adviser engages in the business of an adviser in respect of in the foreign jurisdiction in which its head office or principal place of business is located;
- (f) the obligations and duties of the Sub-Adviser are set out in a written agreement with the Principal Adviser;
- (g) the Principal Adviser has entered into a written agreement with the Clients, agreeing to be responsible for any loss that arises out of any failure of the Sub-Adviser to meet the Assumed Obligations;
- (h) the prospectus or similar offering document for each Client that is an Investment Fund or a Pooled Fund and for which the Principal Adviser engages the Sub-Adviser to provide the Sub-Advisory Services will include a statement that the Principal Adviser is responsible for any loss that arises out of the failure of the Sub-Adviser to meet the Assumed Obligations; and
- (i) prior to purchasing any securities of one or more of the Clients that are Investments Funds or Pooled Funds directly from the Principal Adviser or entering into an investment management agreement with the Principal Adviser for a Managed Account Client, all investors of these Clients or the Client itself, as applicable will receive written disclosure that the Principal Adviser is responsible for any loss that arises out of the failure of the Sub-Adviser to meet the Assumed Obligations.

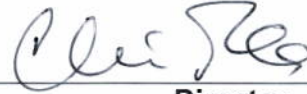
2. **THAT** this Order will terminate on the earliest of:

- (a) six months or the expiry of any transition period as may be provided by law, after the effective date of the repeal of the CFA;
- (b) six months, or such other transition period as may be provided by law, after the coming into force of any amendment to Manitoba commodity futures law or Manitoba securities law that affects the ability of the Sub-Adviser to act as sub-adviser to the Principal Adviser in respect of the Sub-Advisory Services; and

(c) five years after the date of this Order.

3. THAT the fee for this Order is \$650.

BY ORDER OF THE COMMISSION



Director