



THE COMMODITY FUTURES ACT)
)
Section 66(1))

Order No. 7517

April 28, 2020

WELLINGTON MANAGEMENT CANADA ULC

WHEREAS:

- (A) Wellington Management Canada ULC (the **Principal Adviser**) and Wellington Management Company LLP (**WMC**), Wellington Management International Limited (**WMIL**), Wellington Management Hong Kong Limited (**WMHK**), Wellington Management Japan Pte. Ltd. (**WM Japan**) and Wellington Management Singapore Pte. Ltd. (**WM Singapore**) (each of WMC, WMIL, WMHK, WM Japan and WM Singapore, a **Sub-Adviser**, and collectively, 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 each Sub-Adviser from the adviser registration requirement set forth in section 24(2) of the CFA (the **Adviser Registration Requirement**) allowing such 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 and commodity futures options traded on commodity futures exchanges (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 **Relief Sought**).
- (B) The Applicants have represented to the Commission that:
1. The Principal Adviser is an unlimited liability company continued under the *Business Corporations Act* (British Columbia) with its head office located in Toronto, Ontario.
 2. The Principal Adviser:
 - (a) is registered as a portfolio manager and exempt market dealer under the *Securities Act* (Manitoba) (the **MSA**), as well as the respective securities acts of the remaining provinces of Canada;
 - (b) is registered as an adviser in the category of commodity trading manager under the CFA; and
 - (c) has filed an application to be registered as an adviser under the CFA.
 3. WMC is a limited liability partnership organized under the laws of the State of Delaware, with its principal place of business located in Boston, Massachusetts in the United States. WMC is registered with the Securities and Exchange Commission of the United States of America (the **SEC**) as an investment adviser and as a commodity trading adviser and swap firm with the United States Commodity Futures Trading Commission (**CFTC**). WMC is a member

firm of the National Futures Association in the United States. WMC is also registered as a Foreign Portfolio Investor (FPI) with the Securities Board of India. WMC's permitted activities pursuant to its registration with the CFTC include, among other things, advising on Contracts.

4. WMIL is a company organized under the laws of England and Wales with its principal place of business located in London, United Kingdom. WMIL is registered with the Financial Conduct Authority in the United Kingdom (the **FCA**) and as an investment adviser with the SEC. In addition, WMIL's German branch is regulated by the FCA and in respect of certain of its activities by the Bundesanstalt für Finanzdienstleistungsaufsicht. WMIL's Dublin branch is regulated by the FCA and in respect of certain of its activities by the Central Bank of Ireland. Finally, WMIL holds an RQFII license from the China Securities Regulatory Commission. WMIL's permitted activities pursuant to its registration with the FCA include, among other things, advising on Contracts.
5. WMHK is a company organized under the laws of Hong Kong with its principal place of business located in Hong Kong. WMHK is registered with the Securities and Futures Commission of Hong Kong (the **SFC**) and as an investment adviser with the SEC. WM Hong Kong has a branch representative office in Beijing (Wellington Management Hong Kong Ltd Beijing Representative Office) which is regulated by the China Securities Regulatory Commission. WM Hong Kong is also registered with the Korean Financial Services Commission to provide investment advisory and discretionary investment management services. WMHK's permitted activities pursuant to its registration with the SFC include, among other things, advising on Contracts.
6. WM Japan is a company organized under the laws of Singapore with its principal place of business located in Tokyo, Japan. WM Japan is registered with the Financial Services Agency (**FSA**) in Japan as a Financial Instruments Firm to conduct Investment Management Business, Investment Advisory and Agency Business, and Type II Financial Instruments Business. WM Japan is also registered as an investment adviser with the SEC. WM Japan's permitted activities pursuant to its registration with the FSA include, among other things, advising on Contracts.
7. WM Singapore is a company organized under the laws of Singapore with its principal place of business located in Singapore. WM Singapore is registered with the Monetary Authority of Singapore is Singapore (the **MAS**) as an adviser and as an investment adviser with the SEC. WM Singapore's permitted activities pursuant to its registration with the MAS include, among other things, advising on Contracts.
8. The Sub-Advisers and the Principal Adviser are affiliates, as defined in the MSA.
9. Each Sub-Adviser is registered in a category of registration, or operates under an exemption from registration, under the commodity futures or other applicable legislation of its principal jurisdiction 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. As such, each Sub-Adviser is authorized and permitted to carry on the Sub-Advisory Services (as defined below) in its respective principal jurisdiction.

10. None of the Sub-Advisers is registered in any capacity under the CFA or the MSA, nor is any Sub-Adviser registered in any capacity under the securities law, commodity futures law or derivatives law of any other jurisdiction of Canada.
11. In Manitoba, and with respect to its relationship with the Principal Adviser, each Sub-Adviser is currently availing itself, or will avail itself, of the sub-adviser registration exemption in section 8.26.1 of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations (NI 31-103)* (such exemption, the **International Sub-Adviser Exemption**).
12. Each Sub-Adviser engages in the business of an adviser in respect of Contracts in its principal jurisdiction.
13. None of the Sub-Advisers is a resident of any province or territory of Canada.
14. None of the Principal Adviser or a Sub-Adviser is in default of securities legislation, commodity futures legislation or derivatives legislation in any jurisdiction of Canada.
15. Each Sub-Adviser is in compliance in all material respects with the securities laws, commodity futures laws and derivatives laws in each jurisdiction in which its head office or principal place of business is located.
16. 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 one or more Sub-Adviser(s) to provide portfolio advisory services (the **Future Clients**).
17. 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.
18. 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 a Sub-Adviser, will retain such 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.

19. Subsection 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.
20. By providing the Sub-Advisory Services, a Sub-Adviser and its Representatives will be engaging in, or holding itself 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.
21. 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 the International Sub-Adviser Exemption.
22. The relationship among the Principal Adviser, a Sub-Adviser and a Client is, or will be, consistent with the requirements of the International Sub-Adviser Exemption.
23. A 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.
24. As would be required by the International Sub-Adviser Exemption:
 - (a) the obligations and duties of the relevant Sub-Adviser are, or 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 the relevant 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**).
25. The written agreement between the Principal Adviser and a Sub-Adviser sets out, or will set out, the obligations and duties of each party in connection with

the Sub-Advisory Services and permits, or 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.

26. The Principal Adviser will deliver to the Clients all required reports and statements under applicable securities, commodity futures and derivatives legislation.
27. 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 a 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 a 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.
28. 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 the Required Disclosure in writing (which may be in the form of an Offering Document).
29. Each Client that is a Managed Account for which the Principal Adviser engages a 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.
1. **THAT**, under subsection 66(1) of the CFA, each Sub-Adviser and its respective Representatives are hereby exempt from the requirement to register as advisers under subsection 24(2) of the CFA, provided that:
 - (a) the Principal Adviser is registered under the CFA as an adviser;
 - (b) the Sub-Adviser's head office or principal place of business is in a jurisdiction outside of Canada;
 - (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 Contracts 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 each Client, agreeing to be responsible for any loss that arises out of any failure of the Sub-Adviser to meet the Assumed Obligations;
- (h) the Offering Document of each Client that is an Investment Fund or Pooled Fund and for which the Principal Adviser engages a Sub-Adviser to provide the Sub-Advisory Services will include the Required Disclosure;
- (i) prior to purchasing any securities of a Client that is an Investment Fund or a Pooled Fund directly from the Principal Adviser, each investor in any of these Retail Funds or Pooled Funds has received the Required Disclosure in writing (which may be in the form of an Offering Document); and
- (j) each Client that is a Managed Account for which the Principal Adviser engages a Sub-Adviser to provide the Sub-Advisory Services has received the Required Disclosure in writing prior to the purchasing of any Contracts for such Client; and

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

- (a) six months after 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 securities legislation of Manitoba that affects the ability of a Sub-Adviser to act as a 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