



EXECUTIVE DIRECTOR

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

February 17, 2004

Jerry A. Isenberg, Esq.  
LeClair Ryan  
1701 Pennsylvania Avenue, Suite 1045  
Washington, D.C. 20006

**Re: Raymond James Financial Services, Inc.—Waiver Request under Regulation A and Rule 505 of Regulation D**

Dear Mr. Isenberg:

This is in response to your letter dated today, written on behalf of Raymond James Financial Services, Inc. (the "Firm"), a registered broker-dealer, and constituting an application for relief under Rule 262 of Regulation A and Rule 505(b)(2)(iii)(C) of Regulation D under the Securities Act of 1933. You requested relief from disqualifications from exemptions available under Regulation A and Rule 505 of Regulation D that arise by virtue of the entry of a Commission order under Section 15(b) of the Securities Exchange Act of 1934 on February 12, 2004 naming the Firm as respondent (the "Order").

For purposes of this letter, we have assumed as facts the representations set forth in your letter. We also have assumed that the Firm will comply with the Order.

On the basis of your letter, the Commission, pursuant to delegated authority, has determined that you have made a showing of good cause under Rule 262 and Rule 505(b)(2)(iii)(C) that it is not necessary under the circumstances to deny the exemptions available under Regulation A and Rule 505 of Regulation D by reason of the entry of the Order. Accordingly, the relief described above from the disqualifying provisions of Regulation A and Rule 505 of Regulation D is hereby granted.

Sincerely,

A handwritten signature in black ink that reads "Gerald J. Laporte".

Gerald J. Laporte  
Chief, Office of Small Business Policy

ALEXANDRIA OFFICE:  
TELEPHONE: (703) 684-8007

BLACKSBURG OFFICE:  
TELEPHONE: (540) 961-2762

CHARLOTTESVILLE OFFICE:  
TELEPHONE: (804) 971-7771

JERRY A. ISENBERG  
(202) 659-6701  
[JISENBERG@LECLAIRRYAN.COM](mailto:JISENBERG@LECLAIRRYAN.COM)

# LECLAIR RYAN

A PROFESSIONAL CORPORATION  
ATTORNEYS AT LAW  
1701 PENNSYLVANIA AVENUE  
SUITE 1045  
WASHINGTON, D.C. 20006  
TELEPHONE: (202) 659-4140  
FACSIMILE: (202) 659-4130  
[WWW.LECLAIRRYAN.COM](http://WWW.LECLAIRRYAN.COM)

INNSBROOK OFFICE:  
TELEPHONE: (804) 270-0070

NORFOLK OFFICE:  
TELEPHONE: (757) 624-1454

RICHMOND OFFICE:  
TELEPHONE: (804) 783-2003

ROANOKE OFFICE:  
TELEPHONE: (540) 777-6900

February 17, 2004

## **BY HAND**

Gerald J. Laporte, Esquire  
Chief, Office of Small Business Policy  
Division of Corporation Finance  
U.S. Securities and Exchange Commission  
450 Fifth Street, N.W., Room 3501  
Washington, D.C. 20549-0310

Re: **In the Matter of Certain Mutual Fund Breakpoint Discounts  
(MHO-9791)**

Dear Mr. Laporte:

We submit this letter on behalf our client, Raymond James Financial Services, Inc. ("RJFS"), in connection with a settlement agreement (the "Settlement") arising out of an investigation by the Division of Enforcement of the Securities and Exchange Commission (the "Commission"). RJFS below requests, pursuant to Rule 262 of Regulation A and Rule 505(b)(2)(iii)(C) of Regulation D of the Commission promulgated under the Securities Act of 1933 (the "Securities Act"), a waiver of any disqualification from exemptions under Regulation A and Rule 505 of Regulation D that may be applicable to RJFS and any of its affiliates as a result of the entry of the Commission order described below. RJFS also requests that these waivers be granted effective upon the entry of the Commission order. It is our understanding that the Division of Enforcement does not object to the grant of the requested waivers.

## **BACKGROUND**

On February 12, 2004 the Commission issued an Order of the Commission pursuant to Section 8A of the Securities Act and Section 15(b)(4) of the Securities Exchange Act of 1934 ("Exchange Act") (the "Order"). In connection with such proceeding RJFS submitted an offer of settlement. In the offer of settlement, solely for the purpose of proceedings brought by or on behalf of the Commission or in which the Commission is a party, RJFS consented to the entry of the Order without admitting or denying the matters set forth therein (other than those relating to the jurisdiction of the Commission).

The Order states that during 2001 and 2002 (the "relevant period"), RJFS, a registered broker-dealer, sold shares issued by mutual funds without providing certain customers with the

reduction in the front-end loads, or sales charges, also known as "breakpoint" discounts, described in the prospectuses of the funds. According to the Order, RJFS is estimated to have failed to give certain customers breakpoint discounts totaling approximately \$2.6 million during the relevant period.

Under the terms of the Order, the Commission found, without admission or denial by RJFS, that by failing to disclose to certain customers that they were not receiving the benefit of applicable breakpoint discounts, RJFS violated Section 17(a)(2) of the Securities Act. Based on these findings, the Order censures RJFS, requires RJFS to cease and desist from committing any violations and any future violations of Section 17(a)(2) of the Securities Act, requires RJFS to pay a civil penalty in the amount of \$1,297,564 to the United States Treasury, requires RJFS to pay disgorgement and prejudgment interest thereon, which obligation shall be satisfied by compliance with the customer refund program summarized in the Order, and requires RJFS' chief executive officer to certify in writing to the Commission staff not later than 6 months after the date of the Order that RJFS has implemented procedures, and a system for applying such procedures, that can reasonably be expected to prevent and detect failures by RJFS to provide appropriate breakpoint discounts for which customers are eligible on purchases of front-end load mutual funds, based on information reasonably ascertainable by RJFS.

#### DISCUSSION

RJFS understands that the entry of the Order may disqualify it and its affiliated entities from participating in certain offerings otherwise exempt under Regulation A and Rule 505 of Regulation D promulgated under the Securities Act, insofar as the Order will cause RJFS to be subject to an order of the Commission entered pursuant to Section 15(b) of the Exchange Act. The Commission has the authority to waive the Regulation A and Rule 505 of Regulation D exemption disqualifications upon a showing of good cause that such disqualifications are not necessary under the circumstances. See 17 C.F.R. §§ 230.262 and 230.505(b)(2)(iii)(C). RJFS requests that the Commission waive any disqualifying effects that the Order may have under Regulation A and Rule 505 of Regulation D with respect to RJFS or its affiliates on the following grounds:

1. RJFS' conduct addressed in the Order does not relate to offerings under Regulation A or D.
2. RJFS, pursuant to its Letter of Acceptance, Waiver and Consent ("AWC") submitted to the National Association of Securities Dealers, Inc. ("NASD") to resolve a related disciplinary action, has agreed to undertake certain remedial and corrective measures related to providing refunds to customers who did not receive appropriate breakpoint discounts. Such measures include: (a) providing written notification to each customer who purchased front-end load mutual fund shares through RJFS, for the period specified by the AWC, that RJFS experienced a problem delivering breakpoint discounts, and that, as a result, the customer may be entitled to a refund; (b) performing a trade-by-trade analysis of all front-end load mutual fund purchases of \$2,500 or more, for the period specified by the AWC, which review would encompass all other purchases during that same time period, regardless of dollar amount, by such

customers; (c) undertaking vigorous efforts to locate each customer so identified as entitled to a refund and promptly making refunds to all customers who did not receive all applicable breakpoint; and (d) providing a report on RJFS' refund program to NASD.

3. The disqualification of RJFS from the exemptions available under Regulation A and Rule 505 of Regulation D would, we believe, have an adverse impact on third parties that have retained RJFS and its affiliates in connection with transactions that rely on these exemptions.

4. The disqualification of RJFS from the exemptions available under Regulation A and Rule 505 of Regulation D would be unduly and disproportionately severe, given that: (i) the Order relates to activity which has already been addressed; and (ii) the Commission staff has negotiated a settlement with RJFS and reached a satisfactory conclusion to this matter that will require RJFS to pay a total penalty of \$2,595,129, one-half of which will be paid pursuant to NASD's order, in settlement of the matters addressed in the Order and to make the certification and comply with the customer refund program described above.

In light of the foregoing, we believe that disqualification is not necessary, in the public interest or for the protection of investors, and that RJFS has shown good cause that relief should be granted. Accordingly, we respectfully urge the Commission, pursuant to Rule 262 of Regulation A and Rule 505(b)(2)(iii)(c) of Regulation D, to waive, effective upon entry of the Order, the disqualification provisions in Regulation A and Rule 505 of Regulation D to the extent they may be applicable to RJFS and any of its affiliates as a result of the entry of the Order.<sup>1</sup>

If you have any questions regarding this request, please contact me at (202) 659-6701.

---

<sup>1</sup> We note in support of this request that the Commission has in other instances granted relief under Rule 262 of Regulation A and Rule 505(b)(2)(iii)(C) of Regulation D for similar reasons. *See, e.g.*, Citigroup Global Markets Inc., f/k/a/ Salomon Smith Barney Inc., S.E.C. No-Action Letter (Oct. 31, 2003); Morgan Stanley & Co. Incorporated, S.E.C. No-Action Letter (Oct. 31, 2003); Bear, Stearns & Co. Inc., S.E.C. No-Action Letter (Oct. 31, 2003); Lehman Brothers Inc., S.E.C. No-Action Letter (Oct. 31, 2003); J.P. Morgan Securities Inc., S.E.C. No-Action Letter (Oct. 31, 2003); Merrill, Lynch, Pierce, Fenner & Smith, Incorporated, S.E.C. No-Action Letter (Oct. 31, 2003); Goldman, Sachs & Co., S.E.C. No-Action Letter (Oct. 31, 2003); U.S. Bancorp Piper Jaffray Inc., S.E.C. No-Action Letter (Oct. 31, 2003); Prudential Securities Incorporated, S.E.C. No-Action Letter (Oct. 31, 2003); Merrill Lynch & Co, Inc., S.E.C. No-Action Letter (Oct. 31, 2003); Prudential Securities Incorporated, S.E.C. No-Action Letter (pub. avail. July 10, 2003); Credit Suisse First Boston Corporation, S.E.C. No-Action Letter (pub. avail. Jan. 29, 2002); Dain Rauscher, Incorporated, S.E.C. No-Action Letter (pub. avail. Sept. 27, 2001); Legg Mason Wood Walker, Incorporated, S.E.C. No-Action Letter (pub. avail. June 11, 2001); Prudential Securities, Inc., S.E.C. No-Action Letter (pub. avail. Jan. 29, 2001).

Gerald J. Laporte, Esquire  
February 17, 2004  
Page 4 of 4

Sincerely,

Jerry A. Isenberg