



April 26, 2005

Reference number: IFA 2005-0002

XXX

Dear XXX:

Re: *International Financial Activity Act* ("IFA Act")

This letter responds to requests for interpretation of the provisions of the IFA Act with respect to certain of the activities of XXX, made on your behalf by XXX of the XXX and XXX of XXX. I regret the delay in responding.

FACTS

You are requesting our interpretation on the application of the provisions of the IFA Act in respect of the activities of XXX, as described below.

Our understanding of the facts is as follows:

1. XXX is in the business of lending money to non-residents XXX;
2. XXX earns interest on loans to non-residents and realizes foreign exchange gains and losses on the payments made under these loans;
3. XXX purchases foreign exchange contracts to hedge its foreign currency risks on loan payments receivable and realizes gains and losses on the hedge contracts; and
4. XXX deposits its surplus cash (liquidity reserves) in the form of term deposits with Canadian financial institutions and earns interest on these deposits.

.../2

LEGISLATION

The listing of qualifying international financial activities is contained in section 2 of the IFA Act. The listing includes:

- making deposits in any currency with a non-resident person, or in respect of a prescribed business with a person carrying on the business (section 2(2)(b));
- making loans in any currency to a non-resident person or in respect of a prescribed business to a person carrying on the business (section 2(2)(c)); and
- if the corporation is not a securities corporation, acting as principal in making or offering to make with a non-resident person an agreement for acquiring or disposing of securities for a prescribed purpose (section 2(2)(g)(ii)).

The International Financial Activity Regulation (“Regulation”) provides, among other things, that:

- for the purposes of section 2(2)(b) and (c) of the IFA Act, a prescribed business includes an international financial business of any other registered corporation, and
- for the purposes of section 2(2)(g)(ii) of the IFA Act, a prescribed purpose is the managing of a financial risk of a non-resident person, other than a risk with respect to the change in value of a commodity.

INTERPRETATION

We are providing the following interpretations of the IFA Act and Regulation with respect to the facts set out above:

A. XXX lending activities (referred to in fact 1 above) constitute international financial activities for the purposes of the IFA Act, but its hedging activities (referred to in fact 3 above) do not. Although the hedging activities relate to the business of lending to non-resident persons, the listing in section 2 of the IFA Act does not extend to the activity of managing the financial risk of a resident corporation, even though the corporation is carrying on an international financial business. In particular, you will note that the provisions of section 2(2)(g)(ii) and the Regulation do not extend to such an activity. We have advised the Ministry of Finance of this result and understand that they are prepared to recommend an amendment to the Regulation to address this situation.

B. While XXX activities of making deposits (referred to in fact 4 above) do not constitute international financial activities, we note that the provisions of the Regulation contemplate that such deposits could be made with another corporation carrying on an international financial business and registered under the IFA Act.

This interpretation is intended to provide assistance in understanding the IFA legislation. It is not intended to replace the legislation. Where there is a conflict between this interpretation and the legislation, the legislation shall prevail.

I trust that the above information is of assistance to you. If you require any further clarification in this matter, please contact me at 250 953-3091.

Yours truly,

Jeffrey S. Krasnick
A/Director
Provincial Federal Management Issues
Income Taxation Branch