

2005 BCSECCOM 633

September 26, 2005

Headnote

Mutual Reliance Review System for Exemptive Relief Applications - Securities Act s. 91 Financial Statements & Report - Exemption from the filing and delivery requirements for interim financial statements - Interim financial statements - An issuer wants relief from the requirements to file and deliver interim financial statements for all first and third quarters - the issuer's securities will not be publicly traded; the issuer is an investment fund; the purchasers do not expect to receive first and third quarter financial statements; relief is for a limited time

Applicable British Columbia Provisions

Securities Act, R.S.B.C. 1996, c. 418, s. 91

Securities Rules, B.C. Regulation 194/97, ss. 144 and 149

In the Matter of
the Securities Legislation
of Ontario, British Columbia, Alberta, Saskatchewan, Nova Scotia, New
Brunswick and Newfoundland and Labrador

and

In the Matter of
the Mutual Reliance Review System for Exemptive Relief Applications

and

In the Matter of
AGS Energy 2005-1 Limited Partnership (the "Filer")

MRRS Decision Document

Background

The local securities regulatory authority or regulator (the "Decision Maker") in each of Ontario, British Columbia, Alberta, Saskatchewan, Nova Scotia, New Brunswick and Newfoundland and Labrador (the "Jurisdictions") has received an application from the Filer for a decision pursuant to the securities legislation of the Jurisdictions (the "Legislation") that the requirement under the Legislation that the Filer file with the Decision Makers and send to its securityholders (the "Limited Partners") its third quarter interim financial statements for September 30, 2005 (the "Third Quarter Interim Financial Statements") shall not apply to the Filer.

2005 BCSECCOM 633

Under the Mutual Reliance Review System for Exemptive Relief Applications

- (a) the Ontario Securities Commission (the “OSC”) is the principal regulator for this application, and
- (b) this MRRS decision document evidences the decision of each Decision Maker.

Interpretation

Defined terms contained in National Instrument 14-101 Definitions have the same meaning in this decision unless they are defined in this decision.

Representations

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

1. The Filer is a limited partnership formed pursuant to the provisions of the *Limited Partnerships Act* (Ontario) on January 17, 2005.
2. The principal place of business and the registered office of the Filer is Suite 1500, York Street, Toronto, Ontario, M5J 1S9.
3. The Filer’s financial year-end is December 31.
4. The Filer was formed to provide for a tax-assisted investment in a diversified portfolio of equity securities, comprised principally of flow through shares (“Flow-Through Shares”), of companies engaged primarily in oil and gas exploration and development and, to a lesser extent, mining exploration (the “Resource Companies”) with a view to achieving capital appreciation and maximizing tax benefits for Limited Partners.
5. The Filer was granted a decision document, dated February 28, 2005, by the OSC in its capacity as principal regulator under National Policy 43-201 Mutual Reliance Review System for Prospectuses and Annual Information Forms on behalf of the Decision Makers and on behalf of the securities regulatory authority or regulator for the provinces of Québec, and Prince Edward Island, which decision document evidences the issue of final receipts for the Filer’s prospectus (the “Prospectus”) dated February 28, 2005 relating to an offering of up to 1,200,000 limited partnership units (“Partnership Units”).
6. The Partnership Units have not been and will not be listed or quoted for trading on any stock exchange or market.

2005 BCSECCOM 633

7. It is the current intention of the Filer that on or about February 28, 2007, AGS Resource 2005-1 GP Inc. as general partner of the Filer (the “General Partner”) will propose to the Limited Partners at a special meeting of securityholders of the Filer to consider a liquidity alternative including, without limitation, a mutual fund rollover transaction pursuant to which assets of the Filer would be transferred to an open-ended mutual fund corporation (the “Mutual Fund”) managed by the General Partner (or an affiliate of the General Partner to be determined by the General Partner in its sole discretion) on a tax deferred basis in exchange for redeemable shares of the Mutual Fund. Within 60 days after such transfer, such shares of the Mutual Fund will be distributed to the partners (including the Limited Partners) pro rata, on a tax-deferred basis upon the dissolution of the Filer. There is no assurance that the General Partner will propose any liquidity alternative to the Limited Partners. As well, the completion of a liquidity alternative is subject, inter alia, to all necessary regulatory approvals and approval by the Limited Partners. In the event that a liquidity alternative is not completed by April 30, 2007, the Filer will be terminated by May 1, 2007 and the partners (including the Limited Partners) will receive a pro rata share of the net assets of the Filer.
8. Since its formation on January 17, 2005, the Filer’s activities primarily included (i) collecting subscriptions from the Limited Partners, (ii) investing the available funds of the Filer in Flow-Through Shares of Resource Companies, and (iii) incurring expenses as part of its ongoing administration.
9. Unless a material change takes place in the business and affairs of the Filer, the Limited Partners will obtain adequate financial information concerning the Filer from the semi-annual financial statements and the annual report containing audited financial statements of the Filer together with the auditors’ report thereon distributed to the Limited Partners. The Prospectus and the semi-annual financial statements provide sufficient background materials and the explanations necessary for a Limited Partner to understand the Filer’s business, its financial position and its future plans, including dissolution on or before May 1, 2007.
10. In light of the limited range of business activities to be conducted by the Filer and the nature of the investment of the Limited Partners in the Filer, the requirement to file and send the Third Quarter Interim Financial Statements to the Limited Partners may impose a material financial burden on the Filer without producing a corresponding benefit to the Limited Partners.

2005 BCSECCOM 633

11. The Prospectus discloses that by purchasing Partnership Units, each Limited Partner acknowledges and agrees that he or she has given to AGS Resource 2005-1 GP Inc., the general partner of the Filer, the irrevocable power of attorney contained in Article 18 of the Amended and Restated Limited Partnership Agreement dated as of February 28, 2005, attached to and forming part of the Prospectus, and has thereby, in effect, consented to the making of this application for exemption from the reporting obligation under the Legislation to file and send the Filer's Third Quarter Interim Financial Statements.

Decision

Each of the Decision Makers is satisfied that the test contained in the Legislation that provides the Decision Maker with the jurisdiction to make the decision has been met.

The decision of the Decision Makers under the Legislation is that the requirement contained in the Legislation to file and send to the Limited Partners the Filer's Third Quarter Interim Financial Statements shall not apply to the Filer provided that this exemption shall terminate upon the occurrence of a material change in the affairs of the Filer unless the Filer satisfies the Decision Makers that the exemption should continue, which satisfaction shall be evidenced in writing.

Paul Moore
Vice Chair
Ontario Securities Commission

Suresh Thakrar
Commissioner
Ontario Securities Commission