

# 2007 BCSECCOM 252

May 2, 2007

## **Headnote**

Mutual Reliance Review System for Exemptive Relief Applications - National Instrument 81-106, s.17.1 - Continuous Disclosure Requirements for Investment Funds - AIF requirement - A fund wants relief from subsection 9.2 of NI 81-106 that requires a fund that does not have a current prospectus as at its financial year end to prepare an annual information form - The issuer is a short-term vehicle formed solely to invest its available funds in flow-through shares of resource issuers; the issuer's securities are not redeemable and there is no secondary trading in the issuer's securities; the issuer's other continuous disclosure documents will provide all relevant information necessary for investors to understand the issuer's business, financial position and future plans

## **Applicable British Columbia Provisions**

National Instrument 81-106, ss. 9.2, 10.3, 10.4 and 17.1

In the Matter of  
the Securities Legislation of  
British Columbia, Alberta, Ontario and Québec  
(the "Jurisdictions")

and

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

and

In the Matter of  
Mavrix Explore Québec 2006 FT Limited Partnership ("Mavrix 2006 LP")  
and  
Mavrix Explore Québec 2007-1 FT Limited Partnership ("Mavrix 2007-1 LP")  
(collectively, the "Filers")

## **MRRS Decision Document**

## **Background**

The local securities regulatory authority or regulator (the "Decision Maker") in each of the Jurisdictions has received an application from the Filers for a decision under the securities legislation of the Jurisdictions (the "Legislation") for an exemption from the annual information form ("AIF") filing requirement in section

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9.2 of National Instrument 81-106 - Investment Funds Continuous Disclosure pursuant to section 17.1 thereof (the “Requested Relief”).

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 Filers:

1. Mavrix 2006 LP is a limited partnership formed pursuant to the provisions of the *Limited Partnerships Act* (Ontario) on August 22, 2006. Mavrix 2006 LP filed a final prospectus dated September 22, 2006 (the “2006 Final Prospectus”) relating to the initial public offering of its units with the securities regulators in each of the Jurisdictions and was issued a final mutual reliance review system decision document dated September 26, 2006 by the OSC, as the principal regulator under National Policy 43-201 – Mutual Reliance Review System for Prospectuses (the “MRRS Policy”).
2. Mavrix 2007-1 LP is a limited partnership formed pursuant to the provisions of the *Limited Partnerships Act* (Ontario) on December 18, 2006. Mavrix 2007-1 LP filed a final prospectus dated January 19, 2007 (the “2007-1 Final Prospectus”, and together with the 2006 Final Prospectus, the “Final Prospectuses”) relating to the initial public offering of its units with the securities regulators in the Jurisdictions and was issued a final mutual reliance review system decision document dated January 19, 2007 by the OSC, as the principal regulator under the MRRS Policy.
3. On November 1, 2006, Mavrix 2006 LP completed the issue of all its units offered under the 2006 Final Prospectus. On February 27, 2007, Mavrix 2007-1 LP completed the issue of all its units offered under the 2007-1 Final Prospectus. No additional units have been or may be issued by the Filers. The units have not been and will not be listed or quoted for trading on any stock exchange or market. Units of the Filers are also not redeemable by the limited partners.

4. As a result of the issuance of the final decision documents as described above, the Filers are reporting issuers in the Jurisdictions. The head office of each of the Filers is located in Toronto, Ontario.
5. The Filers were formed with the primary investment objective of investing in flow-through shares (“Flow-Through Shares”) of resource issuers engaged in mineral or oil and gas exploration primarily in the Province of Québec, with a view to maximizing the tax benefit of an investment in units of the Filers, preserving capital and achieving capital appreciation for their limited partners. Flow-Through Shares are common shares purchased from the treasury of a resource issuer under an agreement which provides that, in addition to issuing common shares, the resource issuer agrees to incur and renounce Qualified Canadian Exploration Expenses (as defined in the Final Prospectuses) to the Filers in an amount equal to the subscription price of the Flow-Through Shares.
6. The general partner of the Filers has been authorized to implement an exchange transaction under which the Filers would transfer their respective assets to an open-end mutual fund corporation, on a tax deferred basis, in exchange for mutual fund shares (the “Mutual Fund Rollover Transaction”), all as disclosed in the respective Final Prospectus of the Filers. Mavrix 2006 LP and Mavrix 2007-1 LP will be dissolved on or about June 30, 2008 and May 31, 2009, respectively, if the Mutual Fund Rollover Transaction is not commenced by March 31, 2008 and February 28, 2009, respectively. Prior to such dissolution, the manager of the Filers will, in its discretion, take steps to convert all or any part of the net assets of the Filers to cash and cause any liabilities of the Filers to be paid. Upon dissolution, the respective net assets of the Filers will be distributed *pro rata* to the respective Filers’ limited partners.
7. Since their formation, the Filers’ activities have been limited to (i) completing the issue of the units under their respective Final Prospectus, (ii) investing their available funds in accordance with their investment objectives, and (iii) incurring expenses as described in their respective Final Prospectus.
8. The Final Prospectus, financial statements and management reports of fund performance of each Filer provide sufficient information necessary for a limited partner to understand the Filer’s business, its financial position and its future plans, including the Mutual Fund Rollover Transaction. Upon the occurrence of a material change to a Filer, limited partners of the Filer will receive all relevant information from the material change report the Filer is required to file in the Jurisdictions.

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9. In light of the foregoing, the limited range of business activities to be conducted by the Filers, the nature of the investment of the limited partners in the Filers and the fact that the Filers intend to dissolve approximately 2 years after their respective formation, the requirement to file an AIF may impose a material financial burden on the Filers without producing a corresponding benefit to their limited partners.

### **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 Requested Relief is granted.

Leslie Byberg  
Manager, Investment Funds Branch  
Ontario Securities Commission