

2005 BCSECCOM 581

August 22, 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 financial statements, annual reports, and quarterly reports - Interim financial statements - An issuer wants relief from the requirements to file and deliver interim financial statements for a particular period - 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. Reg. 194/97, s. 144

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

and

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

and

In the Matter of
MRF 2005 Resource Limited Partnership (the "Filer")

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 Filer for a decision under the securities legislation of the Jurisdictions (the "Legislation") that the requirements contained in the Legislation that the Filer file with the Decision Makers and send to its securityholders (the "Limited Partners") its interim financial statements for the third quarter of the Filer's first financial year (the "Third Quarter Interim Financials") shall not apply to the Filer.

Under the Mutual Reliance Review System for Exemptive Relief Applications

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- (a) the Ontario Securities Commission 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 *Limited Partnerships Act* (Ontario) on January 18, 2005. The first financial year end of the Filer is December 31, 2005.
2. The principal office of the Filer is located at 1 First Canadian Place, 58th Floor, P.O. Box 192, Toronto, Ontario, M5X 1A6. MRF 2005 Resource Management Limited (the “General Partner”) is the general partner of the Filer and has co-ordinated the organization and registration of the Filer.
3. The Filer was formed to invest in certain flow-through shares (“Flow-Through Shares”) of Canadian companies involved primarily in oil and gas, mining or renewable energy exploration and development (“Resource Companies”).
4. The Filer will enter into agreements to subscribe for Flow-Through Shares or any other agreements to otherwise invest in or purchase Flow-Through Shares, including via a trade made through the facilities of a stock exchange or other market (“Resource Agreements”) with Resource Companies. Under the terms of each Resource Agreement, the Filer will subscribe for Flow-Through Shares of the Resource Company and the Resource Company will incur and renounce to the Filer, in amounts equal to the subscription price of the Flow-Through Shares, expenditures in respect of resource exploration and development which qualify as Canadian exploration expense or as Canadian development expense which may be renounced as Canadian exploration expense to the Filer.
5. On February 28, 2005, the Decision Makers, together with the securities regulatory authority or regulator for Manitoba, Quebec, Prince Edward Island and the Yukon Territory (in which jurisdictions no legislative requirement exists to file third quarter interim financial statements), issued a receipt under

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the Mutual Reliance Review System for the prospectus of the Filer dated February 28, 2005 (the "Prospectus") relating to an offering of up to 4,000,000 units of the Filer (the "Partnership Units").

6. The Partnership Units will not be listed or quoted for trading on any stock exchange or market.
7. On or about May 31, 2007, the Filer will be liquidated and the Limited Partners will receive their *pro rata* share of the net assets of the Filer. It is the current intention of the General Partner of the Filer that the Filer enter into an agreement with Middlefield Mutual Funds Limited (the "Mutual Fund"), an open end mutual fund, whereby assets of the Filer would be exchanged for shares of the Growth Class of the Mutual Fund on or about April 12, 2007. Upon dissolution, Limited Partners would then receive their *pro rata* share of the shares of the Growth Class of the Mutual Fund.
8. Since its formation on January 18, 2005, the Filer's activities primarily included (i) collecting the subscriptions from the Limited Partners, (ii) investing the available funds in Flow-Through Shares of Resource Companies, and (iii) incurring expenses to maintain the fund.
9. In accordance with the requirements of the Legislation, the Filer is required to file and deliver quarterly interim financial statements in respect of its first financial year. Further to the coming into force of National Instrument 81-106 – *Investment Fund Continuous Disclosure* ("NI 81-106") on June 1, 2005, the Filer will be required to file interim financial statements on only a semi-annual as opposed to quarterly basis for its second financial year which begins on January 1, 2006. Consistent with the reporting frequency prescribed by NI 81-106, the Filer wishes not to be required to file Third Quarter Interim Financials for its first financial year.
10. Unless a material change takes place in the business and affairs of the Filer on or before September 30, 2005, the Limited Partners will obtain adequate financial information concerning the Filer from the following documents:
 - (a) the semi-annual financial statements as at June 30, 2005, filed and delivered in accordance with the Legislation; and
 - (b) the audited annual financial statements as at December 31, 2005 filed and delivered in accordance with NI 81-106.
11. Given the limited range of business activities to be conducted by the Filer, the nature of the investment of the Limited Partners in the Filer, and the fact that

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the Filer intends to dissolve by no later than May 31, 2007, the provision by the Filer of the Third Quarter Interim Financials will not be of significant benefit to the Limited Partners and may impose a material financial burden on the Filer.

12. It is disclosed in the Prospectus that the General Partner will apply on behalf of the Filer for relief from, among others, the requirements to send to Limited Partners the Third Quarter Interim Financials.
13. Each of the Limited Partners has, by subscribing for the units offered by the Filer in accordance with the Prospectus, agreed to the irrevocable power of attorney contained in Article XIX of the Amended and Restated Limited Partnership Agreement scheduled to the Prospectus and has thereby consented to the making of this application for the exemption requested herein.

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 requirements contained in the Legislation to file and send to the Limited Partners the Filer's Third Quarter Interim Financials shall not apply to the Filer in respect of its first financial year provided that this exemption shall terminate upon the occurrence of a material change in the affairs of the Filer on or before September 30, 2005, unless the Filer satisfies the Decision Makers that the exemptions should continue, which satisfaction shall be evidenced in writing.

Paul M. Moore
Vice-Chair
Ontario Securities Commission

Robert W. Davis
Commissioner
Ontario Securities Commission