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November 9, 2007

Headnote

Mutual Reliance Review System for Exemptive Relief Applications – *Securities Act* s. 48, 76 Business Associates Trades in securities to partners, and their trusts, corporations, and family members - Exemption from s. 34(1)(a) requirement to be registered as a dealer in connection with a trade and s. 61 requirement to file a prospectus in connection with a distribution to a business associate or partner - Trades in securities to partners, and their trusts, corporations, and family members - The trades are in securities of entities related to a business; the trades will only be to and among partners of the business, and a partner's spouse, corporation and trust; the trades are structured as such to permit partners to finance the business on a tax advantaged basis

Applicable British Columbia Provisions

Securities Act, R.S.B.C. 1996, c. 418, ss. 34(1)(a), 48, 61 and 76

In the Matter of
the Securities Legislation of
British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Québec, Nova
Scotia, New Brunswick, Prince Edward Island, Newfoundland and Labrador,
Northwest Territories, Nunavut and Yukon
(the Jurisdictions)

and

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

and

In the Matter of
Ernst & Young Management Services LP
(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 on behalf of the Filer for a decision under the securities legislation of the Jurisdictions (the Legislation) that the proposed distribution, from time to time, of limited partnership units (LP Units) of Ernst & Young Management Services LP (EY MSLP) to specified investors (as

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set out below) will not be subject to the Registration Requirement and the Prospectus Requirement (as defined in National Instrument 14-101 *Definitions*) contained in the Legislation (the Requested Relief).

Under the Mutual Reliance Review System for Exemptive Relief Applications:

- (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

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

1. Ernst & Young LLP is a limited liability partnership established under the laws of Ontario with offices located in the provinces of British Columbia, Alberta, Manitoba, Ontario, Québec, New Brunswick, Nova Scotia and Newfoundland and Labrador. Ernst & Young LLP may in the future have offices in the other provinces and territories of Canada in which this application is being made.
2. The partners of Ernst & Young LLP (EYLLP Partners) are approximately 274 chartered accountants or their professional corporations.
3. Ernst & Young L.P. is a limited partnership established under the laws of Manitoba.
4. The general partner of Ernst & Young L.P. is EYGP Inc., a wholly-owned subsidiary of Ernst & Young LLP. The limited partners of Ernst & Young L.P. (EYL.P. Partners) are approximately 42 professionals who do not require the chartered accountant designation to carry on their practices or their professional corporations or other holding corporations.
5. All:
 - (a) EYLLP Partners and EYL.P. Partners who are individuals, and

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(b) in the case of the remainder of the EYLLP Partners and EYL.P. Partners that are corporations or professional corporations, their respective sole shareholders and sole directors,

also comprise the partners (EY Services Partners) of Ernst & Young Services (EY Services), a general partnership established under the laws of the Province of Ontario.

6. A professional corporation is a corporation incorporated under the laws of one of the provinces of Canada, which holds, where required, a valid permit or license to practice its profession in such province and all of the shares of which are owned by and the only director of which is an EY Services Partner.
7. EY MSLP is a limited partnership established under the laws of Manitoba on October 30, 2007 which will carry on the business of providing support and ancillary services to Ernst & Young LLP and potentially other entities associated with Ernst & Young LLP. These services will be provided pursuant to one or more services agreements to be entered into by EY MSLP and, initially, Ernst & Young LLP.
8. EY MSLP is not, and has no present intention that it will become, a reporting issuer in any of the Jurisdictions.
9. The general partner of EY MSLP is Clarkson Gordon Services Ltd. (the General Partner), a corporation incorporated under the *Business Corporations Act* (Ontario), all of the issued and outstanding shares of which are beneficially owned by Ernst & Young LLP.
10. EY MSLP will issue LP Units from time to time only to Qualified Persons. A Qualified Person is a family trust that is resident in Ontario for tax purposes (a Family Trust), the beneficiaries of which are limited to any one or more of the following (such beneficiaries being Permitted Beneficiaries):
 - (a) an EY Services Partner;
 - (b) the spouse of an individual named in (a);
 - (c) the issue of an individual named in (a) or (b);
 - (d) the spouse of an individual named in (c);
 - (e) the parents or grandparents of an individual named in (a) or (b);

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- (f) the siblings and half-siblings of an individual named in (a) or (b);
 - (g) the spouses of the siblings and half-siblings of an individual named in (a) or (b);
 - (h) the nieces and nephews of an individual named in (a) or (b);
 - (i) the aunts and uncles of an individual named in (a) or (b); and
 - (j) a trust or trusts, all of the beneficiaries of which are any one or more of the persons named in (a), (b), (c), (d), (e), (f), (g), (h) or (i).
11. Each Qualified Person will pay an aggregate subscription amount of \$100 to EY MSLP for the LP Units to be issued to it.
12. No Qualified Person that holds an LP Unit (a Limited Partner) may sell, transfer, assign, pledge, encumber or otherwise dispose of any LP Unit held by such Limited Partner, except:
- (a) for changes in legal (but not beneficial) ownership arising as a result of substitution of the trustee of a Limited Partner with a new trustee; or
 - (b) upon redemption of the LP Unit.
13. As the LP Units are not transferable, except as described above, no market has developed or will develop for the LP Units.
14. If (i) a Limited Partner ceases to be a Qualified Person (including because the EY Services Partner whose Family Trust is the Limited Partner ceases to be an EY Services Partner for any reason), (ii) the Limited Partner purports to sell, transfer, assign, gift, exchange, mortgage, pledge, charge or otherwise dispose of or encumber or deal with its LP Units (other than as permitted in the circumstances described in paragraph 12 above), or (iii) such Limited Partner becomes insolvent or bankrupt or makes a filing or gives a notice of intention to make a proposal or assignment, such Limited Partner will cease to be a Limited Partner and will be entitled to receive from EY MSLP, the amount of \$100 (or such other amount then in the Limited Partner's capital account) in respect of each LP Unit held and the amount of all allocations on such LP Unit that have not yet been distributed, at the point in time which the Limited Partner ceases to be a Limited Partner.
15. EY MSLP may also issue special partnership units (GP Special Units) to the General Partner in consideration for the transfer of certain property presently

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owned by the General Partner and which is necessary or desirable for the conduct of the business of EY MSLP. Such GP Special Units will be entitled to a non-cumulative return of a fixed percentage per annum and will be redeemable at the option of the General Partner for an amount equal to the fair market value of the property transferred to the Partnership in consideration for the issue of such GP Special Units. The GP Special Units are not transferable, except to a new general partner of EY MSLP.

16. After payment of the return on the GP Special Units, profits and losses of EY MSLP will be allocated as follows: 0.01% to the General Partner and 99.99% to the Limited Partners.
17. Within 120 days of the end of every financial year, the General Partner will prepare and submit, or cause to be prepared and submitted, to the Limited Partners unaudited financial statements comprised of a balance sheet as at the financial year end and a statement of income and a statement of cash flow of EY MSLP for the year then ended.
18. No beneficiary of a Family Trust, other than an EY Services Partner, will directly or indirectly contribute money or other assets to the Family Trust in order to finance the acquisition of LP Units, or will be liable for any loan or other financing obtained by the Family Trust for that purpose. No beneficiary of a Family Trust, other than an EY Services Partner and any other beneficiary who is also a trustee, will be involved in the making of any investment decision of the Family Trust.
19. Although it is expected that each Family Trust will be resident in the Province of Ontario, the Permitted Beneficiaries may be resident in any province or territory of Canada and may receive beneficial interest in the LP Units. Accordingly, the distribution of the LP Units to the Qualified Persons may entail trades in each province and territory of Canada.
20. EY Services Partners have not been and will not be induced to purchase LP Units by expectation of status or continued status as a partner of EY Services, Ernst & Young LLP or Ernst & Young L.P.
21. Prior to the issuance of LP Units to a Qualified Person, EY MSLP will obtain a written statement (a Statement) from the Qualified Person acknowledging receipt of a copy of the decision (the Decision Document) and further acknowledging the subscriber's understanding that the right to receive continuous disclosure is not available to a Qualified Person in respect of the LP Units.

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Decision

Each of the Decision Makers being satisfied that they have jurisdiction to make this decision and that the relevant test contained under the Legislation has been met, the Requested Relief is granted provided that:

- (a) prior to the issuance of LP Units to a Qualified Person, EY MSLP will obtain a Statement from the Qualified Person acknowledging receipt of a copy of the Decision Document and further acknowledging the subscriber's understanding that the right to receive continuous disclosure is not available to a Qualified Person in respect of the LP Units; and
- (b) the first trade in LP Units shall be a distribution or primary distribution to the public under the Legislation of the Jurisdiction in which the trade takes place, unless such first trade is:
 - (i) a change in legal ownership arising as a result of a substitution of the trustee of a Limited Partner with a new trustee; or
 - (ii) to EY MSLP upon redemption.

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Ontario Securities Commission