

2007 BCSECCOM 706

October 31, 2007

Headnote

Mutual Reliance Review System for Exemptive Relief Applications - Securities Act s. 130 - Relief from certain self-dealing restrictions in Part 15 of the Act - A mutual fund wants relief from s. 127(1)(b) of the Act so that it can sell the securities of an issuer to the account of a responsible person - The fund manager manages funds that invested in ABCP that did, at the time of the investment, and does as of the date of the application, comply with the investment restrictions in NI 81-102; market conditions for the ABCP have deteriorated rapidly and unexpectedly, which is adversely affecting the liquidity of the ABCP; the fund manager is concerned that continuing to hold the ABCP may impact the confidence of investors in the funds and may result in excessive redemption requests; the fund manager or an affiliate of the fund manager wants to purchase the ABCP from the funds at a price equal to the cost plus accrued interest; this is the same value used for other commercial paper investments held by the funds; an independent review committee (IRC) has been appointed but the committee is not yet fully compliant with NI 81-107 *Independent Review Committee for Investment Funds*; although the IRC is not operational and is unable to review the transaction, the IRC members have represented in the decision document that the sales are in the best interests of the Fund

Applicable British Columbia Provisions

Securities Act, R.S.B.C. 1996, c. 418, ss. 127(1)(b) and 130

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

and

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

and

In the Matter of
Ethical Funds Inc.
(the Filer)

and

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In the Matter of
Credential Money Market Fund
(the Fund)

MRRS Decision Document

Background

The local securities regulatory authority or regulator (Decision Maker) in each of the Jurisdictions has received an application (the Application) from the Filer on behalf of the Filer and Central Financial Corporation (1989) Ltd. (CFC) for relief from the prohibition in the securities legislation of the Jurisdictions that prohibits a portfolio manager or a responsible person (depending on the Jurisdiction) from causing a portfolio managed by it or a mutual fund (depending on the Jurisdiction) to purchase or sell securities of any issuer from or to the account of a responsible person, an associate of a responsible person, or to the portfolio manager, in order to permit the sale of all or any of the asset-backed commercial paper (ABCP), issued by the issuer listed in Schedule A and owned by the Fund on the date of the Application, to CFC;

Under the Mutual Reliance Review System (MRRS)

- (a) the British Columbia Securities Commission is the principal regulator for the Application; and
- (b) this MRRS decision document evidences the decision of each of the Decision Makers.

Interpretation

Defined terms contained in National Instrument 14-101 – *Definitions* and in NI 81-102 have the same meaning in this MRRS decision document unless they are otherwise defined in this decision.

Representations

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

1. the Filer is a corporation incorporated under the federal laws of Canada, with a head office in Vancouver, British Columbia;
2. the Filer is the manager and trustee of the Fund;

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3. CFC is the portfolio manager of the Fund. CFC is a wholly-owned subsidiary of Credit Union Central of British Columbia, which also owns 35.3% of the common shares of the Filer;
4. the Filer calculates the net asset value of the Fund;
5. the Fund is a reporting issuer in each of the Jurisdictions;
6. the Fund owns ABCP issued by the conduit issuers listed in Schedule A; as of the date of the Application, the face value of the ABCP held by the Fund was approximately \$4,010,000;
7. ABCP is short-term commercial paper with a term to maturity typically between 90 and 180 days;
8. the ABCP owned by the Fund has a term to maturity of 91 days and matured on August 13, 2007;
9. the ABCP owned by the Fund had, when acquired, and continued to have, as of the date of the Application, an approved credit rating within the meaning of NI 81-102;
10. the Filer has determined that the appropriate method to value the ABCP owned by the Fund is cost plus accrued interest which is the valuation methodology used in respect of other commercial paper investments held by the Fund;
11. the Filer has determined that the ABCP owned by the Fund is appropriately valued at cost plus accrued interest;
12. the Filer has determined that current liquidity problems affecting the ABCP market may have an impact on the confidence of investors in the Fund and may result in unusual levels of redemption requests by investors in the Fund;
13. the Filer wishes to ensure that the Fund is able to meet any redemption requests received by the Fund;
14. in order to ensure an appropriate level of confidence of investors in the Fund, if CFC determines that a sale of all or any of the ABCP held by the Fund to CFC is in the best interests of the Fund, CFC will acquire all, or such lesser portion as CFC may determine, of the ABCP held by the Fund as of the date of the Application and issued by the issuers listed on Schedule A, at a price per security equal to cost plus accrued interest as of the date the transaction

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occurs; CFC proposes to acquire the ABCP by payment in cash and the proceeds of the sale will be invested in eligible securities for the Fund; such transactions may occur during the period between the date the Requested Relief is granted and October 31, 2007;

15. the Filer has appointed the initial members of the Fund's independent review committee (IRC) in accordance with National Instrument 81-107 – *Independent Review Committee for Investment Funds*, but as of the date of this Application, the IRC is not operational; and
16. the members of the IRC, as an *ad hoc* committee, have approved the making of the Application on behalf of the Fund and the completion of the transaction contemplated therein as being in the best interests of the Fund.

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 in respect of the Fund on the condition that:

- (a) CFC determines that the sale is in the best interests of the Fund;
- (b) the sale occurs during the period between the date hereof and October 31, 2007; and
- (c) the price per security is equal to cost plus accrued interest.

Martin Eady, CA
Director, Corporate Finance
British Columbia Securities Commission

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Schedule A

THIRD PARTY ABCP CONDUITS

Rocket Trust