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November 2, 2006

Headnote

National Instrument 51-102 *Continuous Disclosure Obligations*, s. 13.1 – all continuous disclosure requirements - General - An issuer wants an exemption from having to file continuous disclosure documents to permit it to rely on the continuous disclosure documents of its parent issuer - The issuer is an exchangeable share issuer that complies with all of the conditions for continuous disclosure relief in section 13.3 of National Instrument 51-102 Continuous Disclosure Obligations except that its parent issuer is not an SEC issuer; the parent issuer is a Canadian reporting issuer that will send copies of all of its documents to the securityholders of the exchangeable share issuer and explain the reasons the information sent to them relates to the parent, rather than the exchangeable share issuer; the exchangeable share issuer will remain a subsidiary of the parent issuer, and will not issue any securities other than exchangeable shares or debt instruments to certain parties

Multilateral Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings*, s. 4.5 – certification of annual and interim f/s – An issuer wants relief from the requirements in Parts 2 and 3 of MI 52-109 to file annual and interim certificates – The issuer has applied for and received an exemption from filing interim and annual financial statements

Applicable British Columbia Provisions

National Instrument 51-102, s. 13.1

Multilateral Instrument 52-109, Parts 2 and 3, s. 4.5

In the Matter of
the Securities Legislation of
British Columbia, Alberta, Saskatchewan, Quebec and Nova Scotia
(the Jurisdictions)

and

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

and

In the Matter of
Enerflex Holdings Limited Partnership
(the Filer)

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MRRS Decision Document

Background

1. 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 each of the Jurisdictions (the Legislation) that:

- 1.1 the requirements contained in National Instrument 51-102 *Continuous Disclosure Obligations* (NI 51-102) and any comparable continuous disclosure requirements under the Legislation that have not yet been repealed or otherwise rendered ineffective since the adoption of NI 51-102 in each of the Jurisdictions shall not apply to the Filer (the Continuous Disclosure Relief); and
- 1.2 the requirements contained in Multilateral Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings* (MI 52-109) shall not apply to the Filer (the Certification Relief),

in each case provided that certain conditions are satisfied.

2. Under the Mutual Reliance Review System for Exemptive Relief Applications:
 - 2.1 the Alberta Securities Commission is the principal regulator for this application; and
 - 2.2 this MRRS decision document evidences the decision of each Decision Maker.

Interpretation

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

Representations

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

Enerflex Systems Income Fund

- 4.1 Enerflex Systems Income Fund (the Fund) is an unincorporated open-ended mutual fund trust governed by the laws of the Province of Alberta and created pursuant to a deed of trust dated August 22, 2006.

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- 4.2 The head office of the Fund is located in Calgary, Alberta.
- 4.3 The Fund is authorized to issue an unlimited number of trust units (Trust Units) and an unlimited number of special voting units (Special Voting Units).
- 4.4 The Fund became a reporting issuer in each of the Jurisdictions on completion of an arrangement involving, among others, the Fund, the Filer and Enerflex Systems Ltd. (Enerflex) that became effective on October 2, 2006 (the Arrangement). The Fund also became a reporting issuer in Ontario on the Trust Units becoming listed and posted for trading on the Toronto Stock Exchange (the TSX).

Enerflex Holdings Limited Partnership

- 4.5 The Filer is a limited partnership formed under the laws of the Province of Alberta.
- 4.6 The head office of the Filer is located in Calgary, Alberta.
- 4.7 The Filer is authorized to issue two different classes of limited partnership interests, which are described and designated as Class A limited partnership units (Ordinary LP Units) and Class B limited partnership units (Exchangeable LP Units).
- 4.8 All of the outstanding Ordinary LP Units are indirectly held by the Fund.
- 4.9 The general partner of the Filer is Enerflex Holdings General Partner Ltd., which is a wholly-owned subsidiary of the Fund and, as general partner, has the authority to manage the business and affairs of the Filer.
- 4.10 The Filer became a reporting issuer in each of the Jurisdictions on completion of the Arrangement.

Exchange of Securities under the Arrangement

- 4.11 Pursuant to the Arrangement, holders of common shares of Enerflex (Enerflex Shares) ultimately exchanged their Enerflex Shares for either:
 - (i) Trust Units; (ii) Exchangeable LP Units and Special Voting Units; or
 - (iii) a combination thereof.

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Exchangeable LP Units

- 4.12 The Exchangeable LP Units, together with the Special Voting Units, are securities that, taken together, have economic and voting rights that are, as nearly as practicable, equivalent to those attached to the Trust Units.
- 4.13 In particular, each Exchangeable LP Unit:
 - 4.13.1 will be issued together with a Special Voting Unit of the Fund entitling the holder to voting rights that are, to the greatest extent practicable, equivalent to the voting rights attached to the Trust Units; and
 - 4.13.2 will be exchangeable at the option of the holder for a Trust Unit (subject to customary anti-dilution adjustments) after nine months from its date of issuance (or before such time with the consent of the board of directors of the Filer's general partner).
- 4.14 Except in limited circumstances, the holders of Exchangeable LP Units will not have any voting rights in respect of matters to be decided by the limited partners of the Filer.
- 4.15 The Exchangeable LP Units will not be listed on the TSX or any other exchange or quoted in any quotation and trade reporting system.
- 4.16 Following completion of the Arrangement, the Fund beneficially owns, directly or indirectly, all of the issued and outstanding securities of the Filer, other than the Exchangeable LP Units, and the consolidated financial results of the Fund include the financial results of the Filer.

Decision

- 5. Each of the Decision Makers is satisfied that the tests contained in the Legislation that provides the Decision Maker with the jurisdiction to make the decisions described herein have been met.
- 6. The decision of the Decision Makers under the Legislation is that the Continuous Disclosure Relief and the Certification Relief is granted for so long as:
 - 6.1 the Fund remains the direct or indirect beneficial owner of all of the issued and outstanding voting securities of the Filer, other than the Exchangeable LP Units;

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- 6.2 the Fund is a "reporting issuer" in at least one of the jurisdictions listed in Appendix B of National Instrument 45-102 Resale of Securities;
- 6.3 the Fund files all documents it is required to file under NI 51-102;
- 6.4 the Filer does not issue any securities other than: (i) Exchangeable LP Units; (ii) other exchangeable securities that provide the holders of the securities with economic and voting rights which are, as nearly as possible except for tax implications, equivalent to the Trust Units; (iii) securities issued to the Fund or any affiliate of the Fund; (iv) debt securities issued to banks, loan corporations, loan and investment corporations, savings companies, trust corporations, treasury branches, savings or credit unions, financial services cooperatives, insurance companies or other financial institutions; or (v) securities issued under the exemption from the prospectus requirement contained in section 2.35 of National Instrument 45-106 Prospectus and Registration Exemptions or a substantially equivalent exemption;
- 6.5 the Filer files in electronic format:
 - 6.5.1 a notice indicating that the Filer is relying on the continuous disclosure documents filed by the Fund and setting out where those documents can be found in electronic format; or
 - 6.5.2 copies of all documents the Fund is required to file under the Legislation, other than in connection with a distribution, at the same time as the filing by the Fund of those documents with the applicable Decision Makers;
- 6.6 the Filer concurrently sends, or causes to be sent, to all holders of Exchangeable LP Units all disclosure materials that are sent to holders of Trust Units in the manner and at the time required by the Legislation, if the Fund is a reporting issuer in one of the Jurisdictions;
- 6.7 the Fund complies with the requirements of the Legislation to immediately issue and file any news release that discloses any material change in its affairs;
- 6.8 the Filer complies with the requirements of the Legislation to issue a news release and file a material change report in accordance with Part 7 of NI 51-102 for all material changes in respect of the affairs of the Filer that are not also material changes in the affairs of the Fund; and

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- 6.9 the Fund includes in all mailings of proxy solicitation materials to holders of Exchangeable LP Units a clear and concise statement that:
 - 6.9.1 explains the reason the mailed material relates solely to the Fund;
 - 6.9.2 indicates that the Exchangeable LP Units are intended to be, to the extent possible, the economic equivalent of the Trust Units; and
 - 6.9.3 describes the voting rights associated with the Exchangeable LP Units.
- 7. This decision will terminate in any of the Jurisdictions 90 days after the effective date in that Jurisdiction of any amendments to Part 13 of NI 51-102 that provide the Filer with automatic relief from the requirements of NI 51-102 (and, by operation of Part 4 of MI 52-109, the requirements of MI 52-109) if the Filer satisfies conditions that are substantially equivalent to the conditions set forth in paragraph 6 of this decision document.

Blaine Young
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Alberta Securities Commission