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March 19, 2009

Headnote

Multilateral Instrument 11-102 *Passport System* and National Policy 11-203
Process for Exemptive Relief Applications in Multiple Jurisdictions – 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 issuers are short-term vehicles formed solely to invest their available funds in flow-through shares of resource issuers; the issuers' securities are not redeemable and there is no secondary trading in the issuers' securities; the issuers' other continuous disclosure documents will provide all relevant information necessary for investors to understand the issuers' business, financial position and future plans

Proxy voting record - A fund wants relief from subsections 10.3 and 10.4 of NI 81-106 that requires a fund to maintain a proxy voting record and annually to post the proxy voting record on its website - The issuers are short-term vehicles formed solely to invest their available funds in flow-through shares of resource issuers; the issuers' securities are not redeemable and there is no secondary trading in the issuers' securities; the issuers' other continuous disclosure documents will provide all relevant information necessary for investors to understand the issuers' business, financial position and future plans

Applicable British Columbia Provisions

National Instrument 81-106 *Investment Fund Continuous Disclosure*, sections 9.2, 10.3, 10.4 and 17.1

In the Matter of
the Securities Legislation of
British Columbia and Ontario
(the Jurisdictions)

and

In the Matter of
the Process for Exemptive Relief Applications in Multiple Jurisdictions

and

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In the Matter of
Qwest Energy 2007 Flow-Through Limited Partnership (Qwest 2007 Partnership),
Qwest Energy 2007-II Flow-Through Limited Partnership (Qwest 2007-II
Partnership),
Qwest Energy 2008 Flow-Through Limited Partnership (Qwest 2008 Partnership)
and
Qwest Energy 2008-II Flow-Through Limited Partnership (Qwest 2008-II
Partnership)
(collectively, the Partnerships)

and

Qwest Investment Management Corp. (the Promoter)
(together with the Partnerships, the Filers)

Decision

Background

- ¶ 1 The securities regulatory authority or regulator in each of the Jurisdictions (Decision Maker) has received an application from the Filers on behalf of the Partnerships and each future limited partnership promoted by the Promoter or its affiliates that is identical to the Partnership in all respects which are material to this decision (Future Partnerships, and together with the Partnerships, the LPs) for a decision under the securities legislation of the Jurisdictions (the Legislation) for exemptive relief from the requirements to:
- (a) prepare and file an annual information form (AIF) pursuant to section 9.2 of National Instrument 81-106 – *Investment Fund Continuous Disclosure* (NI 81-106) for each financial year;
 - (b) maintain a proxy voting record (Proxy Voting Record) pursuant to section 10.3 of NI 81-106; and
 - (c) prepare the Proxy Voting Record on an annual basis for the period ending on June 30 of each year, post the Proxy Voting Record on the LPs' website no later than August 31 of each year and send the Proxy Voting Record to the limited partners of the LPs (Limited Partners) upon request, pursuant to section 10.4 of NI 81-106
- (collectively, the Requested Relief).

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Under the Process for Exemptive Relief Applications in Multiple Jurisdictions (for a dual application):

- (a) the British Columbia Securities Commission is the principal regulator for this application;
- (b) the Filers have provided notice that Section 4.7(1) of Multilateral Instrument 11-102 – *Passport System* (MI 11-102) is intended to be relied upon in Alberta, Saskatchewan, Manitoba, Quebec, New Brunswick, Nova Scotia, Newfoundland and Labrador, Prince Edward Island, the Northwest Territories, Nunavut and Yukon; and
- (c) this decision is the decision of the principal regulator and evidences the decision of the securities regulatory authority or regulator in Ontario.

Interpretation

¶ 2 Terms defined in National Instrument 14-101 – *Definitions* and MI 11-102 have the same meaning in this decision, unless otherwise defined.

Representations

¶ 3 This decision is based on the following facts represented by the Filers:

1. the Qwest 2007 Partnership, Qwest 2007-II Partnership, Qwest 2008 Partnership and Qwest 2008-II Partnership were each formed pursuant to the provisions of the *Partnership Act* (British Columbia) on December 29, 2005, December 28, 2006, December 19, 2007 and August 19, 2008, respectively;
2. the Qwest 2007 Partnership, Qwest 2007-II Partnership, Qwest 2008 Partnership and Qwest 2008-II Partnership filed a final prospectus relating to its initial public offering in each of the provinces and territories of Canada on January 30, 2007, September 27, 2007, February 28, 2008 and September 24, 2008, respectively, and became a reporting issuer in each of the provinces and territories of Canada; any Future Partnership is expected to be a reporting issuer in each of the provinces and territories of Canada;
3. Qwest Energy 2007 Flow-Through Management Corp., Qwest Energy 2007-II Flow-Through Management Corp., Qwest Energy 2008 Flow-Through Management Corp. and Qwest Energy 2008-II Flow-Through Management Corp. are the general partners (collectively, the General Partners) of the Qwest 2007 Partnership, Qwest 2007-II Partnership, Qwest 2008 Partnership and Qwest 2008-II Partnership, respectively;

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4. the Promoter is the promoter of the Partnerships, and it or its affiliates will be the promoter of the Future Partnerships; the Promoter is the sole shareholder of the General Partners; the Promoter will be the sole shareholder of the general partner of any Future Partnerships;
5. the principal office address and the registered office address of the General Partners, as managers of the Partnerships, are located in Vancouver, British Columbia;
6. none of the Filers are in default of securities legislation in any of the provinces and territories of Canada;
7. the Partnerships were formed, and any Future Partnership will be formed, to invest in certain common shares (Flow-Through Shares) of companies that operate, as their principal business, in any of the precious metals, base metals, minerals, alternative energy or other resource-based industries (Resource Issuers) pursuant to agreements (Investment Agreements) between the applicable LP and the Resource Issuer; under the terms of each Investment Agreement, the LP will subscribe for Flow-Through Shares of the Resource Issuer and the Resource Issuer will agree to incur and renounce to the LP, in amounts equal to the subscription price of the Flow-Through Shares, expenditures in respect of resource exploration and development that qualify as Canadian exploration expense or as Canadian development expense that may be renounced as Canadian exploration expense to the LP;
8. the Qwest 2007 Partnership and Qwest 2007-II Partnership are structured in such a manner that they will be dissolved on or about December 31, 2009, and the Qwest 2008 Partnership and Qwest 2008-II Partnership are structured in such a manner that they will be dissolved on or about December 31, 2010; upon such dissolution, the Limited Partners of the respective Partnerships will receive their pro rata share of the net assets of the relevant Partnerships;
9. it is the current intention of the General Partners that each Partnership will transfer its assets to an open-end mutual fund corporation in exchange for shares of a class of shares of such mutual fund corporation; upon dissolution, the Limited Partners of each Partnership will receive their pro rata share of the shares of that mutual fund; any Future Partnership will be terminated within three years after it is formed on the same basis as the Partnerships;
10. the LPs are not, and will not be, operating businesses; rather, each LP is, or will be, a short-term special purpose vehicle that will be dissolved within approximately three years of its formation; the primary investment purpose of the LPs is not to achieve capital appreciation, although this is a secondary

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benefit, but rather to obtain for the Limited Partners the significant tax benefits that accrue when Resource Issuers renounce resource exploration and development expenditures to the LPs through Flow-Through Shares;

11. the units of the LPs (the Units) are not, and will not be, listed or quoted for trading on any stock exchange or market; the Units are not redeemable by the Limited Partners; generally, Units are not transferred by Limited Partners, since Limited Partners must be holders of the Units on the last day of each fiscal year of the LP in order to obtain the desired tax deduction;
12. it is, and will be, a term of the partnership agreement governing the LPs that the general partner of the particular LP has, and will have, the authority to manage, control, administer and operate the business and affairs of the LPs, including the authority to take all measures necessary or appropriate for the business, or ancillary thereto, and to ensure that the LPs comply with all necessary reporting and administrative requirements; the General Partner is responsible for providing all of the administrative services required by the Partnerships, and the Promoter will cause the general partner of any Future Partnership to be responsible for providing all of the administrative services required by the Future Partnership;
13. each of the Limited Partners of the LPs has, or will be expected to have, by subscribing for Units, agreed to the irrevocable power of attorney contained in the partnership agreement and has thereby, in effect, consented to the making of this application;
14. since their formation, the Partnerships' activities have been limited to (i) completing the issue of the Units under its respective prospectus, (ii) investing its available funds in accordance with its respective investment objectives, and (iii) incurring expenses as described in its respective prospectus; any Future Partnerships will be structured in a similar fashion;
15. given the limited range of business activities to be conducted by the LPs, the short duration of their existence and the nature of the investment of the Limited Partners, the preparation and distribution of an AIF by the LPs would not be of any benefit to the Limited Partners and may impose a material financial burden on the LPs; upon the occurrence of any material change to a LP, Limited Partners would receive all relevant information from the material change reports the LP is required to file in each of the provinces and territories of Canada;
16. as a result of the implementation of NI 81-106, investors purchasing Units of the LPs were, or will be, provided a prospectus containing written policies on

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how the Flow-Through Shares or other securities held by the LPs are voted (the Proxy Voting Policies), and had, or will have, the opportunity to review the Proxy Voting Policies before deciding whether to invest in Units;

17. generally, the Proxy Voting Policies require that the securities of companies held by a LP be voted in a manner most consistent with the economic interests of the Limited Partners of the LP;
18. given a LP's short lifespan, the production of a Proxy Voting Record would provide Limited Partners with very little opportunity for recourse if they disagreed with the manner in which the LP exercised or failed to exercise its proxy voting rights, as the LP would likely be dissolved by the time any potential change could materialize;
19. preparing and making available to the Limited Partners a Proxy Voting Record will not be of any benefit to the Limited Partners and may impose a material financial burden on the LPs; and
20. the Filers are of the view that the Requested Relief is not against the public interest, is in the best interests of the LPs and their Limited Partners and represents the business judgment of responsible persons uninfluenced by considerations other than the best interest of the LPs and their Limited Partners.

Decision

¶ 4 Each of the Decision Makers is satisfied that the decision meets the test set out in the Legislation for the Decision Maker to make the decision.

The decision of the Decision Makers under the Legislation is that the Requested Relief is granted.

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