

2006 BCSECCOM 174

February 24, 2006

Headnote

Mutual Reliance Review System for Exemptive Relief Applications - National Instrument 81-106, s.17.1 - Continuous Disclosure Requirements for Investment Funds - An investment fund wants relief from the requirement in s. 14.2(3)(b) of National Instrument 81-106 to calculate its net asset value at least once every business day - The fund is a closed-end investment fund that allows redemptions or retractions no more frequently than once per month; units of the fund are listed on a stock exchange and unitholders can buy or sell units of the fund through the exchange; the fund calculates its net asset value on a regular basis and makes that calculation available to the public on request

Applicable British Columbia Provisions

National Instrument 81-106, s. 14.2(3)(b) and 17.1

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

and

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

and

In the Matter of
BluMont Man Alternative Yield Fund (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) for an exemption from the daily calculation of net asset value requirement of 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

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- (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.

In this decision

“BluMont Man Yield Fund Ltd.” means a newly created investment entity to be established under the laws of Bermuda;

“Business Day” means any day, other than a Saturday or a Sunday or a day on which commercial banks in Toronto, Ontario, New York, New York or Hamilton, Bermuda are required or authorized by law to remain closed;

“Common Share Portfolio” means a portfolio of common shares of Canadian public companies;

“Counterparty” means the Canadian Imperial Bank of Commerce or an affiliate thereof;

“Forward Agreement” means a forward purchase and sale agreement between the Counterparty and the Filer which will provide the Filer with exposure to the returns of a leveraged investment portfolio;

“Investment Advisor” means Man Investments Limited, the investment advisor to BluMont Man Yield Fund Ltd.;

“Investment Portfolio” means a portfolio consisting of income producing securities including Canadian business income trusts, real estate investment trusts, utility income trusts, corporate bonds and convertible bonds;

“Manager” means BluMont Capital Corporation, the manager of the Filer;

“NI 81-106” means National Instrument 81-106 – Investment Fund Continuous Disclosure;

“Notice Period” means the month of May, commencing May 2007, of any year during which the Unitholders may surrender their respective Units to be redeemed as of the applicable Redemption Date during such year;

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“Preliminary Prospectus” means the preliminary prospectus of the Filer dated December 16, 2005;

“Redemption Date” means the last Business Day in June of each year (commencing in June 2007);

“Redemption Payment Date” means the date on or about the 45th day following the Redemption Date in any year in respect of which the applicable Unit redemption price is determined;

“Termination Date” means a date that is approximately ten years from the closing date of the offering of Units under the final prospectus of the Filer;

“TSX” means the Toronto Stock Exchange;

“Units” means the units of the Filer; and

“Unitholders” means the holders of Units.

Representations

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

1. The Filer will be an investment trust established under the laws of Ontario by a trust agreement between the Manager and Computershare Trust Company of Canada as trustee.
2. The Filer’s investment objectives are: (i) to provide Unitholders with a stable stream of tax-efficient monthly cash distributions targeted to be \$0.05 per Unit (representing a yield of approximately 6% per annum on the issue price of \$10.00 per Unit); and (ii) to preserve capital and to achieve growth over the term of the Filer, which is expected to run until the Termination Date.
3. The Filer will make an offering to the public, on a best efforts basis, of Units pursuant to a final prospectus that will be filed in February, 2006 with the securities regulatory authorities in each of the provinces of Canada.
4. The Filer will invest the net proceeds of the offering of Units in the Common Share Portfolio.
5. The Filer will enter into the Forward Agreement with the Counterparty, which will provide the Filer with exposure to the Investment Portfolio which will consist of allocations to two investment programmes managed by the Investment Advisor or one of its affiliates: the Glenwood Portfolio and the

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AHL Diversified Programme. The Investment Portfolio will be constructed to provide an initial exposure of approximately 75% to the Glenwood Portfolio and approximately 25% exposure to the AHL Diversified Programme, and is expected to be rebalanced from time to time by the Investment Advisor to maintain such approximate exposure allocations between the investment programmes. The allocations between the investment programmes may be varied at the discretion of the Investment Advisor in accordance with prevailing market conditions.

6. The Glenwood Portfolio is a fund of investment hedge funds managed by managers which are not affiliated with the Investment Advisor. There is no published market for the securities of these hedge funds. The managers of these underlying hedge funds provide financial reports to the Investment Advisor no more frequently than monthly.
7. The Investment Portfolio will be held by BluMont Man Yield Fund Ltd., a Bermuda company.
8. The Filer will partially settle the Forward Agreement to the extent required to facilitate the payment of monthly distributions to Unitholders of \$0.05 per Unit.
9. The Manager is the promoter of the Filer and has been retained to act as manager for the Filer. The Manager will be responsible for providing or arranging for the provision of administrative services required by the Filer.
10. The Manager will appoint a custodian to act as custodian of the assets of the Filer.
11. The Units are expected to be listed and posted for trading on the TSX. An application requesting conditional listing approval has been made on behalf of the Trust to the TSX.
12. Commencing in 2007, Units may be surrendered for redemption during any Notice Period. Units surrendered for redemption during the Notice Period will be redeemed as of the Redemption Date. Unitholders will receive a redemption price per Unit equal to the NAV per Unit, determined as at the Redemption Date on or about the Redemption Payment Date. Any redemption of Units or payment of redemption proceeds is subject to the Manager's right to suspend such redemption of Units or the payment of redemption proceeds in certain circumstances. The NAV per Unit will vary depending on the performance of the Investment Portfolio by virtue of the Forward Agreement.

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13. As a result, the Filer will not be a “mutual fund” under applicable securities legislation, but will be a “non-redeemable investment fund” for purposes of NI 81-106.
14. The NAV per Unit reflects, by virtue of the Forward Agreement, the value of the Investment Portfolio. The Glenwood Portfolio, which will represent initially 75% of the investment exposure of the Investment Portfolio, is valued monthly based on reports from the managers of the underlying hedge funds, a process which takes up to 30 Business Days from the receipt of the reports to complete. As a result, the Manager will calculate the NAV per Unit on a monthly basis. The Manager will post the NAV per Unit on its website.
15. The Preliminary Prospectus contains, and the final prospectus of the Filer will contain, disclosure with respect to leverage arrangements as well as securities lending by the Filer.

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 provided that the final prospectus of the Filer discloses:

- (i) that the net asset value calculation of the Filer is available to the public upon request; and
 - (ii) a website that the public can access for this purpose
- for so long as:
- (iii) the Units are listed on the TSX;
 - (iv) the Filer calculates its net asset value at least monthly; and
 - (v) if a sufficient number of the underlying hedge fund managers provide financial reports to the Filer more frequently than once monthly to enable the Fund to do so, the Filer must calculate its net asset value at least bi-weekly.

Leslie Byberg
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Investment Funds Branch, Ontario Securities Commission