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May 5, 2005

Headnote

Mutual Reliance Review System for Exemptive Relief Applications

NI 51-102, s. 13.1 Continuous Disclosure Obligations - Securities Act s. 119 - Proxies/Information Circular Requirements - An issuer wants relief from the requirement to include prospectus-level disclosure in an information circular to be circulated in connection with an arrangement, reorganization, acquisition or amalgamation - The required financial statements do not exist and the financial information to prepare full financial statements is not available; alternate financial information will be provided; information will be provided sufficient for shareholders to assess the transaction as a whole

NI 44-101 s. 15.1 Short Form Prospectus Distributions - An issuer requires relief from the requirement to include certain financial statements of an acquired business in a short form prospectus - The required financial statements do not exist and the financial information to prepare full financial statements is not available; alternate financial information will be provided; information will be provided sufficient for the market to assess the transactions

Applicable British Columbia Provisions

Securities Act, R.S.B.C. 1996, c. 418, ss. 117 and 119

National Instrument 51-102 *Continuous Disclosure Obligations*, ss. 9.1 and 13.1
Form 51-102F5, Item 14.2

National Instrument 44-101 *Short Form Prospectus Distributions*, Part 4 and s. 15.1

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

and

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

and

In The Matter of
Calloway Real Estate Investment Trust (the “Filer”)

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MRRS Decision Document

Background

The local securities regulatory authority or regulator (collectively, the “Decision Makers”) in each of the Jurisdictions has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the “Legislation”) that:

- (a) In British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Quebec, Nova Scotia, New Brunswick and Newfoundland and Labrador, the requirements contained in the Legislation for the Filer:

- (i) to include financial statements for certain previously completed significant acquisitions (the “Prior Acquisitions”) of the Filer in the prescribed form and for the prescribed periods; and
- (ii) to include financial statements for certain proposed significant probable acquisitions (the “Proposed Acquisitions”) of the Filer in the prescribed form and for the prescribed periods;

(the foregoing collectively referred to herein as the “Information Circular Acquisition Requirements”) shall not apply for the information circular (the “Information Circular”) of the Filer to be forwarded to the unitholders of the Filer prior to the unitholder meeting upon which the unitholders of the Filer are to vote for or against the completion of the Proposed Acquisitions, provided that the Filer includes in the Information Circular operating statements for the Prior Acquisitions and the Proposed Acquisitions in an acceptable alternative form (the “Information Circular Requested Relief”);

- (b) In each of the Jurisdictions, the requirements contained in the Legislation pursuant to Part 4 of National Instrument 44-101 for the Filer:

- (i) to include financial statements for the Prior Acquisitions in the prescribed form and for the prescribed periods; and
- (ii) to include financial statements for the Proposed Acquisitions in the prescribed form and for the prescribed periods;

(the foregoing collectively referred to herein as the “Prospectus Acquisition Requirements”) shall not apply for the preliminary and final short form prospectus (each referred to herein as the “Prospectus”) of the Filer to be filed to raise proceeds to partially finance the Proposed

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Acquisitions provided that the Filer includes in the Prospectus operating statements for the Prior Acquisitions and the Proposed Acquisitions in an acceptable alternative form (the “Prospectus Requested Relief”); and

- (c) In Alberta, Saskatchewan, Manitoba, Ontario, Quebec, Nova Scotia, New Brunswick and Newfoundland and Labrador, the requirements contained in the Legislation pursuant to Part 8 of National Instrument 51-102 for the Filer to file a business acquisition report (the “BAR Requirements”) shall not apply to the Filer for the Proposed Acquisitions provided that the Filer includes in the aforementioned Information Circular operating statements for such Proposed Acquisitions in the form required by the decision of the Decision Makers with respect to the Information Circular Requested Relief, as well as the required pro forma financial statements (the “BAR Requested Relief”).

Under the Mutual Reliance Review System for Exemptive Relief Applications (the “System”):

- (a) the Alberta Securities Commission is the principal regulator for the 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

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

1. The Filer is an unincorporated closed-end real estate trust established under the laws of the Province of Alberta by a declaration of trust dated December 4, 2001, as amended and restated as of October 24, 2002, October 31, 2003 and January 16, 2004.
2. The Filer’s head office is located at 310, 855 – 8th Avenue SW, Calgary, Alberta T2P 3P1.
3. The Filer is a reporting issuer in all Jurisdictions where such status exists and, to the best of its knowledge, is currently not in default of any applicable requirements under the Legislation.

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4. The units of the Filer (“Units”) are listed and posted on the Toronto Stock Exchange under the symbol CWT.UN. As at April 13, 2005, the Filer had 36,714,479 Units issued and outstanding.
5. Certain of the Prior Acquisitions of the Filer were “significant acquisitions” of the Filer at the time of acquisition for the purposes of National Instrument 44-101 (“NI 44-101”).
6. The Filer filed a prospectus in each of the Jurisdictions, and received a receipt therefore, on January 27, 2004 (the “First Prior Prospectus”). The Filer also filed a prospectus in each of the Jurisdictions (other than the Yukon, the Northwest Territories and Nunavut), and received a receipt therefore, on April 30, 2004 (the “Second Prior Prospectus and collectively with the First Prior Prospectus, the “Prior Prospectuses”).
7. For each of the Prior Prospectuses, the Filer filed an application seeking, and received relief from the Decisions Makers in the Jurisdictions in which the applicable Prior Prospectus was filed, from the requirement to include in the applicable Prior Prospectus financial statements in the prescribed form for each of the Prior Acquisitions for which financial statements were required to be included in the applicable Prior Prospectus on the condition that the Filer include in the applicable Prior Prospectus operating statements for such Prior Acquisitions in the form of statements of net operations (the “Prospectus Operating Statements”), in each case as approved by the Decision Makers.
8. Further, for its most recent Prior Acquisitions which occurred after the implementation of National Instrument 51-102 (“NI 51-102”), the Filer filed an application seeking, and received relief from the Decision Makers in the applicable Jurisdictions in a decision document dated January 7, 2005 (the “BAR Decision Document”), from the requirement to include in the applicable business acquisition report to be filed under NI 51-102 financial statements in the prescribed form for each of the Prior Acquisitions for which financial statements were required to be included in a business acquisition report on the condition that the Filer include in the applicable business acquisition reports operating statements for such Prior Acquisitions in the form of statements of net operations (the “BAR Operating Statements”, and together with the Prospectus Operating Statements referred to herein as the “Prior Acquisition Operating Statements), in each case as approved by the Decision Makers.
9. The Filer filed a business acquisition report for the acquisition it completed in November 2004 on February 11, 2005 with such business acquisition report containing operating statements for the applicable Prior Acquisition in the form of statements of net operations in compliance with the BAR Decision

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Document. The Filer anticipates filing a business acquisition report for the acquisition it completed in March 2005 on or before the date of mailing of the Information Circular with such business acquisition report to contain operating statements for the applicable Prior Acquisition in the form of statements of net operations in compliance with the BAR Decision Document.

10. On April 8, 2005 the Filer concluded preliminary negotiations for the Proposed Acquisitions which consist of interests in thirty-six retail properties owned by retail mall developers and 10 parcels of vacant land for approximately \$1,207,000,000 which acquisitions are expected to close in two simultaneous transactions. The first transaction is in regards to interests in 8 retail properties in consideration for approximately \$285,000,000 of aggregate purchase price. The second transaction is in regards to interests in 28 retail properties and 10 parcels of vacant land in consideration for approximately \$922,000,000 of aggregate purchase price. Both are expected to close in June of 2005.
11. The Filer intends to finance the Proposed Acquisitions through a combination of mortgage financing, vendor take-back mortgage financing, securities of the Filer issued to one of the vendors and cash generated from the issuance of new units of the Filer from treasury pursuant to either an exempt distribution or a prospectus offering.
12. The Proposed Acquisitions collectively may be considered "acquisitions of related businesses" pursuant to section 8.1 of NI 52-101 and section 1.1 of NI 44-101 and therefore collectively constitute a "significant acquisition" of the Filer for the purposes of each of NI 51-102 and NI 44-101, with significance at the 50% or greater threshold of the significance test as determined in accordance with section 8.3 of NI 52-101 and section 1.2 of NI 44-101.
13. Completion of the Proposed Acquisitions requires the prior approval of the unitholders of the Filer. As such, the Filer anticipates holding a meeting of its unitholders on June 3, 2005 and mailing the requisite the Information Circular to its unitholders on or before May 6, 2005.
14. The Filer anticipates filing the Prospectus in early June 2005.
15. It is impractical to obtain the information required to prepare the financial statements required by the Legislation in respect of the Information Circular Acquisition Requirements, the Prospectus Acquisition Requirements and the BAR Requirements.

Decision

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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.

In British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Quebec, Nova Scotia, New Brunswick and Newfoundland and Labrador, the decision of the Decision Makers under the Legislation is that the Information Circular Requested Relief is granted provided that:

- (a) The Filer include in, or incorporate by reference into, the Information Circular the Prior Acquisition Operating Statements for any significant acquisition completed prior to the date of the Information Circular for which financial statements are required to be included in the Information Circular;
- (b) The Filer include in, or incorporate by reference into, the Information Circular operating statements in the form of statements of net operations (the "Proposed Acquisition Operating Statements") for the aggregate properties to be acquired in the Proposed Acquisitions, in form and content similar to the Prior Acquisition Operating Statements:
 - (i) for the each of the two most recently completed financial years of the Proposed Acquisitions ended more than 90 days before the date of the Information Circular, with the Proposed Acquisition Operating Statements for these periods to be audited; and
 - (ii) for the most recently completed interim period of the Proposed Acquisitions ended more than 45 days before the date of the Information Circular and for the comparable period in the preceding financial year, with the Proposed Acquisition Operating Statements for these periods to be unaudited;
- (c) The Proposed Acquisition Operating Statements contain, at a minimum, line items specifying amounts for Rental revenue, Expenses – Property operating costs, Amortization of deferred expenses, and Operating income and that the Proposed Acquisition Operating Statements contain accompanying notes; and
- (d) The Filer include in, or incorporate by reference into, the Information Circular:

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- (i) a description of the properties included in the Proposed Acquisitions including square footage, occupancy rate, square footage occupied by and duration of leases with anchor tenants; and
- (ii) disclosure of an estimated value of the Proposed Acquisitions prepared by an independent valuator, the material assumptions used in preparing the estimate, and the identity and relationship to the reporting issuer or the vendors of the person who prepared the estimates.

In each of the Jurisdictions, the decision of the Decision Makers under the Legislation is that the Prospectus Requested Relief is granted provided that:

- (a) The Filer include in, or incorporate by reference into, the Prospectus the Prior Acquisition Operating Statements for any significant acquisition completed prior to the date of the Prospectus for which financial statements would otherwise be required to be included in the Prospectus;
- (b) The Filer include in, or incorporate by reference into, the Prospectus operating statements in the form of statements of net operations (the “Proposed Acquisition Operating Statements”) for the aggregate properties to be acquired in the Proposed Acquisitions, in form and content similar to the Prior Acquisition Operating Statements:
 - (i) for the each of the two most recently completed financial years of the Proposed Acquisitions ended more than 90 days before the date of the Prospectus, with the Proposed Acquisition Operating Statements for these periods to be audited; and
 - (ii) for the most recently completed interim period of the Proposed Acquisitions ended more than 45 days before the date of the Prospectus and for the comparable period in the preceding financial year, with the Proposed Acquisition Operating Statements for these periods to be unaudited;
- (c) The Proposed Acquisition Operating Statements contain, at a minimum, line items specifying amounts for Rental revenue, Expenses – Property operating costs, Amortization of deferred expenses, and Operating income and that the Proposed Acquisition Operating Statements contain accompanying notes; and
- (d) The Filer include in, or incorporate by reference into, the Prospectus:

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- (i) a description of the properties included in the Proposed Acquisitions including square footage, occupancy rate, square footage occupied by and duration of leases with anchor tenants; and
- (ii) disclosure of an estimated value of the Proposed Acquisitions prepared by an independent valuator, the material assumptions used in preparing the estimate, and the identity and relationship to the reporting issuer or the vendors of the person who prepared the estimates.

In Alberta, Saskatchewan, Manitoba, Ontario, Quebec, Nova Scotia, New Brunswick and Newfoundland and Labrador, the decision of the Decision Makers under the Legislation is that the BAR Requested Relief is granted provided that:

- (a) The Filer includes in the Information Circular operating statements for the Proposed Acquisitions in the form required by the decision of the Decision Makers with respect to the Information Circular Requested Relief, along with the required pro forma financial statements;
- (b) The date of the acquisition of the Proposed Acquisitions is within 9 months of the date of the Information Circular; and
- (c) Between the date of the Information Circular and the date of the acquisition of the Proposed Acquisitions, there has been no material change in the terms of the Proposed Acquisitions from those disclosed in the Information Circular.

DATED at Calgary, Alberta on this 5th day of May, 2005.

Agnes Lau, CA
Deputy Director, Capital Markets