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April 12, 2007

Headnote

Mutual Reliance Review System for Exemptive Relief Applications – National Instrument 81-106, s.17.1 - Continuous Disclosure Requirements for Investment Funds

Portfolio disclosure - An investment fund wants relief from the requirement in section 3.5(1)5 of NI 81-106 to include the current value of a portfolio asset in its statement of investment portfolio and from the requirement in item 5(2)(b), Part B of Form 81-106F1, to disclose the percentage of net assets of the fund represented by each of the top 25 positions of the fund - The portfolio of the fund is invested in private companies and in private equity funds about which information is not publicly available; the fund will provide meaningful alternative disclosure

NAV calculation - 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; the fund will offer unitholders annual redemption of their units starting at a later date; the fund calculates its net asset value on a regular basis and makes that calculation available to the public on request; the fund invests primarily in private companies and private equity funds about which information is not publicly available; the fund invests and will operate in a manner similar to labour sponsored funds and venture capital fund, which do not generally value their securities daily and which have investments that are similar to the fund

Applicable British Columbia Provisions

National Instrument 81-106, ss. 3.5(1)5, 14.2(3)(a), 17.1
Form 81-106F1, Part B, item 5(2)(b)

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

and

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

and

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In the Matter of
Kensington Capital Partners Limited (the Filer) and
Kensington Global Private Equity Fund (the Fund)

MRRS Decision Document

Background

The local securities regulatory authority or regulator (the Decision Maker) in each of the Jurisdictions has received an application (the Application) from the Filer for a decision under National Instrument 81-106 *Investment Fund Continuous Disclosure* (NI 81-106 or the Legislation) for an exemption from the following provisions of NI 81-106 (the Requested Relief):

- (a) the requirement in paragraph 3.5(1)5 of NI 81-106 to include in the statement of investment portfolio for the Fund the current value of the portfolio asset;
- (b) with respect to the preparation of management reports of fund performance under Part 4 of NI 81-106 and quarterly portfolio disclosure under Part 6 of NI 81-106, both required to be prepared in accordance with Form 81-106F1 or parts thereof, the requirement in Item 5(2)(b), Part B of Form 81-106F1 to disclose, in respect of the top 25 positions of the Fund, the percentage of net assets of the Fund represented by each;
- ((a) and (b), collectively, the Disclosure Relief), and
- (c) the requirement in paragraph 14.2(3)(b) of NI 81-106 to calculate the net asset value (NAV) of the Fund daily (the NAV Calculation Relief).

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

- (a) the Ontario Securities Commission is the principal regulator for this 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

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

The Fund

1. The Fund will be established under the laws of Ontario pursuant to a declaration of trust. The head office of the Fund will be located in Toronto, Ontario.
2. The Filer will be the manager and trustee of the Fund. The head office of the Filer is located in Toronto, Ontario.

The Offering

3. The Fund has filed a preliminary prospectus (the Preliminary Prospectus) dated February 2, 2007 in each of the Jurisdictions under SEDAR #1048586.
4. It is expected that the Fund will become a reporting issuer in those Jurisdictions whose securities legislation contemplates such status and will be a non-redeemable investment fund.
5. The Fund proposes to issue transferable units (the Units) at a price of \$20.00 per Unit (the Offering), represented by instalment receipts (the Instalment Receipts) to public investors (Unitholders). The subscription price of \$20.00 per Unit is payable in two instalments. The first instalment of \$10.00 (the First Instalment) is payable upon the closing of the Offering. The second instalment of \$10.00 (the Second Instalment) is payable on or before December 5, 2007. Until Units are fully paid by making the Second Instalment, beneficial ownership of the Units will be evidenced by Instalment Receipts, and the Units will be pledged to the Fund to secure the obligation to pay the Second Instalment. Units may be fully paid at the closing of the Offering, in which case such Units will not be represented by Instalment Receipts.
6. The Fund's investment objective is to maximize long-term total returns for Unitholders through distributions of net income and net realized capital gains from Underlying Investments (as defined below).
7. The Fund will invest the net proceeds of the Offering in (i) private equity funds and in funds of private equity funds (collectively, the Underlying Funds), and (ii) directly in private companies typically by co-investing alongside a private equity fund (together with the Underlying Funds, the Underlying Investments). To the extent proceeds are not invested in Underlying Investments, they will be invested in liquid securities (Liquid Investments). All investment decisions regarding Underlying Investments and

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Liquid Investments will be made by the Fund's investment adviser, Kensington Investment Management Inc., which is registered under the *Securities Act* (Ontario) as an investment counsel and portfolio manager.

8. The Instalment Receipts and the Units of the Fund will not be listed on the Toronto Stock Exchange (TSX) on the closing of the Offering. If the Fund does not obtain a listing of the Units, the Fund's distribution policy will require the Fund to return invested capital as its Underlying Investments are realized and to wind up the Fund within a period of eight years.
9. The Fund will offer investors annual redemption rights beginning in December 2007. The redemption price will be 90% of NAV per Unit for so long as the Units of the Fund are not listed. Upon listing of the Units, the redemption price will increase to 95% of NAV per Unit.

The Underlying Investments

10. The Underlying Investments will be comprised of investments in issuers that are private and generally not subject to any continuous disclosure requirements in any jurisdiction.
11. Paragraph 3.5(1)5 of NI 81-106 requires the Fund to include the current value of each portfolio asset in its statement of investment portfolio (the Statement of Investment Portfolio).
12. Item 5, Part B of Form 81-106F1 requires the Fund to prepare a summary of portfolio investment (the Summary of Portfolio Investment) which statement includes the Fund's top 25 positions and the percentage of net assets of the Fund represented by each position. The disclosure of the percentage of net assets of the Fund represented by each position would effectively disclose the current value for each Underlying Investment since a reasonable person could derive the current value by taking the percentage and multiplying it by the NAV of the Fund which would be disclosed in the financial statements of the Fund.
13. The Fund will be required to enter into confidentiality agreements with the various managers of the Underlying Investments as a condition of investment. These confidentiality agreements may provide for non-disclosure of current values and other financial information related to the Underlying Investments.
14. Disclosure of the current value of the Underlying Investments would be contrary to the interests of the Fund and its Unitholders because some investment opportunities may not be offered to the Fund if it is required to

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make disclosure that other potential investors need not make. If the Fund is unduly restricted by disclosure requirements, the Filer believes that the Fund will become a non-preferred investor and lose access to many investment opportunities, leading to lower returns for Unitholders.

15. The Fund believes that providing the current value of the Underlying Investments according to industry class and geographic region would be more useful to Unitholders than providing the current value of each portfolio asset since information about the Underlying Investments, which are private investments, is less readily available relative to public investments whereas investment and economic information regarding industries and geographic regions is generally publicly available.
16. The Fund believes that providing Unitholders with the current value of the Underlying Investments according to industry class and geographic region rather than the current value of each portfolio asset would not be prejudicial to the interests of Unitholders and balances the interests of the Unitholders, who require adequate financial disclosure to make investment decisions, and the interests of the issuers of the Underlying Investments who are concerned with keeping certain financial information with respect to their investments or businesses confidential.
17. The Fund intends to treat all Unitholders equally with respect to the disclosure of financial information regarding the Underlying Investments. The Fund will not provide current values of individual Underlying Investments to some investors to the exclusion of other investors.

NAV Calculation

18. Under paragraph 14.2(3)(b) of NI 81-106, an investment fund that is a reporting issuer that uses or holds specified derivatives, as the Fund may do, must calculate its NAV daily.
19. The Fund intends to calculate its NAV twice monthly, (i) on the 15th day of each month, or if the 15th day is not a business day, on the preceding business day, and (ii) on the last business day of each month.
20. The Preliminary Prospectus discloses and the final prospectus of the Fund will disclose that the NAV calculation of the Fund will be available to the public on the Filer's website at www.kpcl.ca and will be available to the public upon request.

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21. NAV calculation on a daily basis is not necessary for redemption purposes because the Fund only allows investors to redeem annually, thus the Filer believes it would not be prejudicial to investors to allow the Fund to calculate its NAV twice monthly.

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:

1. In respect of the Disclosure Relief,
 - i. the Fund discloses in its Statement of Investment Portfolio,
 - (a) the cost amount for each Underlying Investment;
 - (b) the total aggregate cost of the Underlying Investments;
 - (c) the total adjustment from cost to current value for all Underlying Investments; and
 - (d) the total current value of the Underlying Investments;
 - ii. the Fund discloses in its Summary of Investment Portfolio, the top 25 positions of the Fund broken down as follows:
 - (a) the names of the Liquid Investments, the current value of each Liquid Investment expressed as a percentage of net assets of the Fund and the aggregate current value of the Liquid Investments expressed as a percentage of net assets of the Fund; and
 - (b) the names of the Underlying Investments and the aggregate current value of the Underlying Investments expressed as a percentage of net assets of the Fund;
 - iii. the Fund discloses in its Statement of Investment Portfolio the allocation of the Underlying Investments by industry class and by geographic region, in tabular form, including,

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- (a) the number of Underlying Investments in each industry class and geographic region;
- (b) the total cost and aggregate current value of the Underlying Investments in each industry class and geographic region; and
- (c) the total cost and aggregate current value of the Underlying Investments for each industry class and geographic region as a percentage of the NAV of the Fund; and

2. In respect of the NAV Calculation Relief, the Fund discloses in its prospectus:

- (a) that the NAV calculation of the Fund is available to the public upon request; and
- (b) a website that the public can access to obtain the NAV of the Fund;

for so long as:

- (c) the Fund calculates its NAV at least twice monthly, (i) on the 15th day of each month, or if the 15th is not a business day, on the preceding business day, and (ii) on the last business day of each month.

Leslie Byberg
Manager, Investment Funds Branch
Ontario Securities Commission