

2008 BCSECCOM 30

August 21, 2007

Headnote

Mutual Reliance Review System for Exemptive Relief Applications - Securities Act, s. 130 - Relief from certain self-dealing restrictions in Part 15 of the Act - A mutual fund wants relief from s. 127(1)(b) of the Act so that it can sell the securities of an issuer to the account of a responsible person - The Filers manage a number of mutual funds that invested in ABCP that did, at the time of the investment, and does as of the date of the application, comply with the investment restrictions in NI 81-102; market conditions for the ABCP has deteriorated rapidly and unexpectedly, which is affecting the liquidity of the ABCP; the Filers are concerned that continuing to hold the ABCP may impact the confidence of investors in the Funds and may result in unusual levels of redemption requests; the Filers want to act in the best interests of the Funds' investors; a party affiliated with the Filers will buy the ABCP from a fund managed by a Filer, if a Filer in its discretion determines it would be in the best interests of the investors in that fund to sell some or all of the ABCP; a Filer will sell the ABCP at a price equal to the cost plus accrued interest value; this value is determined in accordance with GAAP and is the same value used for other commercial paper investments held by the funds

Applicable British Columbia Provisions

Securities Act, R.S.B.C. 1996, c. 418, s. 127(1), s. 130 BC Securities Act

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

and

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

and

In the Matter of
National Bank Securities Inc., Altamira Investment Services Inc.,
National Bank Trust Inc. and Natcan Investment Management Inc.
(the Filers)

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and

In the Matter of

National Bank Money Market Fund, National Bank Treasury Bill Plus Fund,
National Bank U.S. Money Market Fund, National Bank Corporate Cash
Management Fund, National Bank Treasury Management Fund, National Bank
Mortgage Fund, National Bank Bond Fund, National Bank Monthly Secure
Income Fund, Altamira Income Fund, Altamira Short Term Global Income Fund,
Altamira Short Term Canadian Income Fund, Altamira Precision U.S. RSP Index
Fund, Altamira Precision International RSP Index Fund, Altamira Precision
European RSP Index Fund, NBT Money Market Pooled Fund, NBT Canadian
Bond Pooled Fund, Natcan Money Market Fund
(each, a Fund and, collectively, the Funds)

MRRS Decision Document

Background

The local securities regulatory authority or regulator (Decision Maker) in each of the Jurisdictions has received an application (the Application) from the Filers on behalf of each Fund from the prohibition in the securities legislation of the Jurisdictions that prohibits a portfolio manager or a mutual fund (depending on the Jurisdiction) from causing the portfolio of the mutual fund to purchase or sell securities of any issuer from or to the account of a responsible person, any associate of a responsible person or the portfolio manager (the Requested Relief) in order to permit the sale to National Bank of Canada (the Bank) of all or any of the asset-backed commercial paper (ABCP) issued by an issuer listed in Schedule A and owned by a Fund on the date of the Application to National Bank of Canada (the Bank).

Under the MRRS :

- (i) the principal regulator for the Application is the Autorité des marchés financiers; and
- (ii) this MRRS decision document represents the decision of each of the Decision Makers.

Interpretation

Defined terms contained in National Instrument 14-101 – *Definitions* and in NI 81-102 have the same meaning in this MRRS Decision Document unless they are otherwise defined in this decision document.

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Representations

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

1. National Bank Securities Inc. (NBSI) is the manager of certain of the Funds, Altamira Investment Services Inc. (Altamira) is the manager of certain of the Funds, National Bank Trust Inc. ("NBTI), is the manager of certain of the Funds and Natcan Investment Management Inc. (Natcan) is the manager of certain of the Funds.
2. Natcan is the portfolio manager of each of the Funds.
3. NBTI calculates the net asset value of each of the Funds.
4. NBSI, Altamira, Natcan and NBTI are all affiliates of the Bank.
5. Each of the Funds managed by NBSI and Altamira is a reporting issuer in the Jurisdictions.
6. The Bank is governed by the *Bank Act* (Canada).
7. Each of the Funds owns ABCP issued by one or more of the conduit issuers listed in Schedule A.
8. ABCP is short-term commercial paper with terms to maturity of between 30 days and 90 days.
9. The ABCP owned by the Funds has a remaining term to maturity as of the date of the Application of between 2 and 63 days.
10. The ABCP owned by the Funds had, when acquired, and continued to have, as of the date of the Application, an approved credit rating.
11. NBTI has determined that the appropriate method to value the ABCP owned by the Funds is cost plus accrued interest which is the valuation methodology used in respect of other commercial paper investments held by the Funds.
12. The Bank has determined that the ABCP owned by the Funds is appropriately valued at cost plus accrued interest.
13. The Filers have determined that current liquidity problems affecting the ABCP market may have an impact on the confidence of investors in the Funds and may result in unusual levels of redemption requests.

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14. The Filers want to ensure that the Funds are able to meet any redemption requests received by the Funds.
15. The Filers and the Bank have agreed that, in order to ensure an appropriate level of confidence in the Funds, if Natcan determines that a sale of all or any of the ABCP held by the Funds to the Bank is in the best interests of the Funds, the Bank will acquire all, or such lesser portion as Natcan may determine, of the ABCP held by the Funds as of the date of the Application and issued by the issuers listed on Schedule A, at a price per security equal to cost plus accrued interest. Such transactions may occur during the period between the date the Requested Relief is granted and October 31, 2007.
16. The Bank may acquire the ABCP by payment in cash or *in specie* or partially in cash and partially *in specie*. If all or part of the payment is *in specie*, the securities transferred by the Bank will have a value equal to the value (on a cost plus accrued interest basis) of the ABCP acquired by the Bank for such payment and will be treasury bills issued by the Government of Canada or another similar highly liquid “government security” as defined in NI 81-102 (Government Securities). The Government Securities will be valued by a Fund on the same basis as if the Fund had paid cash to acquire them.

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 in respect of each Fund on the condition that :

- (a) Natcan determines that the sale is in the best interests of the Fund;
- (b) the sale occurs during the period between the date hereof and October 31, 2007;
- (c) the price per security is equal to cost plus accrued interest; and
- (d) if payment is made all or partially *in specie* the securities transferred by the Bank have a value equal to the value (on a cost plus accrued interest basis) of the ABCP acquired by the Bank for such payment and are Government Securities.

Josee Deslauriers
Directrice des marches des capitaux

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SCHEDULE A THIRD PARTY ABCP CONDUITS

Apollo Trust
Aurora Trust
Comet Trust
Encore Trust
Gemini Trust
MMAI-I Trust
Planet Trust
Rocket Trust
SLATE Trust
Structured Investment Trust III
Apsley Trust
Aria Trust
Devonshire Trust
Foundation Trust
Ironstone Trust
Opus Trust
Selkirk Funding Trust
Silverstone Trust
Skeena Capital Trust
Structured Asset Trust
Symphony Trust
Whitehall Trust
Newshore Canadian Trust
Great North Trust
Sitka Trust
CFI Trust
PURE Trust
SUMMIT Trust
Tierra Trust