

2005 BCSECCOM 503

July 22, 2005

Headnote

Mutual Reliance Review System for Exemptive Relief Applications - Securities Act s. 91 Financial Statements & Report - Exemption from the filing and delivery requirements for interim financial statements - An issuer wants relief from the requirements to file and deliver interim financial statements for a particular period - The issuer's securities will not be publicly traded; the issuer is an investment fund; the purchasers do not expect to receive these financial statements; relief is for a limited time

Applicable British Columbia Provisions

Securities Act, R.S.B.C. 1996, c. 418, s. 91

Securities Rules, B.C. Regulation 194/97, ss. 144 and 149

In the Matter of
the Securities Legislation
of British Columbia, Alberta, Saskatchewan, Ontario and Nova Scotia
(the "Jurisdictions")

and

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

and

In the Matter of
Mavrix Resource Fund 2005 – I Limited Partnership (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"):

1. that the requirements contained in the Legislation that the Filer file with the Decision Makers and send to its securityholders (the "Limited Partners") its interim financial statements for the third quarter of the Filer's first financial year (the "Third Quarter Interim Financials") shall not apply to the Filer.

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

- (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

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

1. The Filer is a limited partnership formed pursuant to the *Limited Partnership Act* (Ontario) on January 11, 2005. The first financial year end of the Filer is December 31, 2005.
2. The principal place of business and registered office of the Filer is located at Suite 400, 36 Lombard Street, Toronto, Ontario M5C 2X3.
3. Mavrix Resource Fund 2005 – I Management Limited is the general partner (the “General Partner”) of the Filer, and is responsible for the management of the Filer in accordance with the terms and conditions of an amended and restated limited partnership agreement dated February 16, 2005 (the “Partnership Agreement”).
4. The Filer was formed for the purpose of raising funds to invest in flow-through shares (“Flow-Through Shares”) of Canadian resource issuers engaged primarily in oil and gas and mineral exploration in Canada (“Resource Issuers”) pursuant to flow-through agreements (“Flow-Through Agreements”) between the Filer and the relevant Resource Issuer.
5. Under the terms of each Flow-Through Agreement, the Filer subscribes for Flow-Through Shares of the Resource Issuer and the Resource Issuer agrees to incur and renounce to the Filer, in amounts equal to the subscription price of the Flow-Through Shares, expenditures in respect of resource exploration and development which are qualified Canadian Exploration Expenses (as such term is defined in the *Income Tax Act* (Canada)).
6. On February 18, 2005, the Decision Makers, issued a final receipt under the System for the final prospectus of the Filer dated February 16, 2005 (the “Prospectus”) relating to an initial public offering of a maximum 5,000,000

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units of the Filer (the “Units”). The Filer issued a total of 2,134,753 Units pursuant to three closings, the last of which occurred on April 26, 2005.

7. The purchasers of the Units are the Limited Partners of the Filer.
8. The Units are not and will not be listed or quoted for trading on any stock exchange or market.
9. On or about June 30, 2007, the Filer will be liquidated and the Limited Partners will receive their *pro rata* share of the net assets of the Filer, unless the Filer completes a rollover transaction before that time. It is the current intention of the General Partner prior to such time that the Filer exchange its assets for securities of a mutual fund corporation and distribute such securities to the Limited Partners on a *pro rata* basis.
10. Since its formation on January 11, 2005, the Filer’s activities primarily included or will include (i) collecting the subscriptions from the Limited Partners, (ii) investing the available Partnership funds in Flow-Through Shares of Resource Issuers, and (iii) incurring expenses to maintain the fund.
11. In accordance with the requirements of the Legislation, the Filer is required to file and deliver quarterly interim financial statements in respect of its first financial year. Further to the coming into force of National Instrument 81-106 – *Investment Fund Continuous Disclosure* (“NI 81-106”) on June 1, 2005, the Filer will be required to file interim financial statements on only a semi-annual as opposed to quarterly basis for its second financial year which begins on January 1, 2006. Consistent with the reporting frequency prescribed by NI 81-106, the Filer wishes not to be required to file Third Quarter Interim Financials for its first financial year.
12. In light of the limited range of business activities carried on by the Filer and in light of the fact that the Filer intends to dissolve on or about June 30, 2007, or effect a rollover transaction before that date, the provision by the Filer of the Third Quarter Interim Financials will not be of significant benefit to the Limited Partners and may impose a material financial burden on the Filer.
13. Unless a material change takes place in the business and affairs of the Filer on or before September 30, 2005, the Limited Partners will obtain adequate financial and other information concerning the Filer from the following documents:
 - (i) the semi-annual financial statements as at June 30, 2005, filed and delivered in accordance with the Legislation;

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- (ii) the audited annual financial statements and the annual management report of fund performance as at December 31, 2005 filed and delivered in accordance with NI 81-106; and
 - (iii) the annual information form as at December 31, 2005 filed in accordance with NI 81-106.
14. The Prospectus and the semi-annual financial statements of the Filer as at June 30, 2005 provide sufficient background materials and the explanations necessary for a Limited Partner to understand the Filer's business, its financial position and its future plans.
15. Each of the Limited Partners has, by subscribing for the Units offered by the Filer in accordance with the Prospectus, agreed to the irrevocable power of attorney contained in the Partnership Agreement filed with the Prospectus and has thereby, in effect, consented to the making of this application for the exemption requested herein.

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 requirements contained in the Legislation to file and send to the Limited Partners its Third Quarter Interim Financials shall not apply to the Filer in respect of its first financial year provided that this exemption shall terminate upon the occurrence of a material change in the affairs of the Filer on or before September 30, 2005 unless the Filer satisfies the Decision Makers that the exemptions should continue, which satisfaction shall be evidenced in writing.

Paul Moore
Vice Chair
Ontario Securities Commission

Robert L. Shirriff
Commissioner
Ontario Securities Commission