

# 2007 BCSECCOM 258

April 4, 2007

## **Headnote**

National Instrument 81-105 s. 9.1 - Mutual Fund Sales Practices - Mutual fund organization seeks relief from the requirement in s 8.2(1) to disclose in the mutual fund prospectuses the equity interest held by the mutual fund organization in the participating dealer on acquiring indirect control of the participating dealer further to take over bid; and the requirement on a participating dealer in subsection 8.2(4) to obtain the prior written consent of a client to trades in funds offered by the mutual fund organization - The relief from the requirement in s 8.2(1) is short-term until the next annual renewal of filing of funds prospectuses. The participating dealer will provide its existing clients an alternative disclosure on the change of control through a conflict point of sale disclosure under s. 8.2(3); the participating dealer will add a statement to the conflict point of sale disclosure as an alternative to the disclosure under s 8.2(4), reminding the pre authorized trade clients, that they can terminate their participation in the pre-authorized trade program if they wish after reading the disclosure.

## **Applicable Legislative Provisions**

Exemptions from s. 8.2(1)(a) and s. 8.2(4) of National Instrument 81-105 *Mutual Fund Sales Practices* (NI 81-105)

Relief under s. 9.1 of NI 81-105

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

**and**

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

**and**

**In the Matter of  
the Mutual Funds Listed In Appendix “A” Hereto  
(the Funds)**

**and**

**CI Investments Inc., United Financial Corporation and  
Blackmont Capital Inc. (the Filers)**

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## MRRS Decision Document

### Background

¶ 1 The local securities regulatory authority or regulator (the Decision Maker) in each of the Jurisdictions has received an application on behalf of the Filers for a decision under section 9.1 of National Instrument 81-105 – Mutual Fund Sales Practices (the Legislation) that:

- (a) exempts each Fund until July 31, 2007 from the requirement in paragraph 8.2(1)(a) of the Legislation to disclose in its prospectus the equity interests of Canadian International LP (CI LP) and CI Financial Income Fund (CI Financial) in Blackmont Capital Inc. (Blackmont); and
- (b) exempts Blackmont from the requirement in subsection 8.2(4) of the Legislation to obtain the prior written consent of each client of Blackmont (the Blackmont Clients) before completing the purchase of additional securities of a Fund for such Blackmont Client pursuant to a Pre-Authorized Trade (as defined below),

collectively, the Requested Relief.

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

- (c) the Ontario Securities Commission is the principal regulator for this application; and
- (d) this MRRS decision document evidences the decision of each Decision Maker.

### Interpretation

¶ 2 Defined terms contained in National Instrument 14-101 - *Definitions* have the same meaning in this decision unless they are defined in this decision.

### Representations

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

1. CI Investments Inc. and United Financial Corporation (the CI Managers) are the managers of the Funds; the head office of each of the CI Managers is located in the province of Ontario;
2. Securities of the Funds currently are offered for sale in all the provinces and territories of Canada pursuant to simplified prospectuses and annual

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information forms dated July 28, 2006 and November 22, 2006, as amended from time to time, (the Prospectuses); the Legislation applies to the distribution of securities by each Fund;

3. each CI Manager is a wholly-owned subsidiary of CI LP. CI LP, in turn, is controlled by CI Financial; therefore, each of CI LP and CI Financial is a “member of the organization” of each Fund for purposes of the Legislation;
4. on February 22, 2007, CI Financial, through CI LP, made an offer (the Offer) by way of take-over bid to acquire all of the outstanding shares of Rockwater Capital Corporation (Rockwater); if the Offer is accepted by a sufficient number of shareholders of Rockwater and the other conditions of the Offer are either satisfied or waived, CI LP, and indirectly CI Financial, will acquire control of Rockwater (the Change of Control); the Change of Control is expected to occur on April 2, 2007;
5. Blackmont is a registered dealer under the securities legislation of all the provinces and territories of Canada and is an indirect, wholly-owned subsidiary of Rockwater; Blackmont has in the past, and may in the future, sell securities of some or all of the Funds; Blackmont therefore is a “participating dealer” of the Funds for purposes of the Legislation;
6. upon the Change of Control, CI LP and CI Financial will acquire indirect control of Blackmont; this will result in CI LP and CI Financial each holding an “equity interest” in Blackmont for purposes of the Legislation;
7. after the Change of Control, Blackmont may sell additional securities of the Funds to Blackmont Clients; in some cases, the purchases will be made based on new instructions received from Blackmont Clients (New Trades); in other cases, the purchases will be made based on standing instructions received from Blackmont Clients prior to the Change of Control (Pre-Authorized Trades); Pre-Authorized Trades will arise in the following circumstances:
  - (a) pre-authorized purchase programs: the Funds offer investors the opportunity to enrol in programs pursuant to which investors provide their instructions to purchase a specified dollar amount of securities of one or more Funds on a regular basis selected by the investor; cash to pay for the purchase are debited electronically from the investor’s account at a financial institution until the investor changes his or her instructions;
  - (b) systematic transfer program: the Funds offer investors the opportunity to enrol in programs pursuant to which investors provide their instructions to transfer a predetermined dollar amount of investment from one Fund

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to another Fund with a frequency selected by the investor; these transfers are effected by redeeming securities from one Fund and immediately investing the redemption proceeds in securities of the next Fund until the investor changes his or her instructions;

- (c) account rebalancing programs: the Funds offer investors the opportunity to enrol in programs pursuant to which investors provide their target allocations among Funds in their account, together with the frequency with which they would like the current values of their holdings to be compared to their target allocations, and their range of permitted deviation from the target allocations; if, on the scheduled date selected by the investor, the current value of any individual holding deviates from its target allocation by more than the permitted deviation, redemption and purchase trades are effected to rebalance the investor's holdings to their target allocations; these rebalancing trades continue until the investor changes his or her instructions; and
  - (d) distribution/dividend reinvestment programs: unless investors instruct the CI Manager otherwise, all distributions and dividends paid by the Funds are immediately reinvested in additional securities of the Fund that paid the distribution or dividend.
- 8. there currently are Blackmont Clients enrolled in each type of Pre-Authorized Trade program described above with respect to one or more Funds;
  - 9. following the Change of Control, Pre-Authorized Trades by Blackmont Clients will continue unless the Applicants disregard the standing instructions from Blackmont Clients for such Pre-Authorized Trades;
  - 10. each Pre-Authorized Trade constitutes a distribution of additional securities of a Fund to which the Legislation applies;
  - 11. New Trades made by Blackmont for Blackmont Clients will comply with the requirements of section 8.2(3) and 8.2(4) of the Legislation;
  - 12. Pre-Authorized Trades by Blackmont for Blackmont Clients will be made after Blackmont Clients have received the disclosure contemplated by section 8.2(3) of the Legislation; such disclosure will include a statement reminding Blackmont Clients that they are permitted to provide instructions to terminate their participation in a Pre-Authorized Trade program;
  - 13. it is not feasible for Blackmont to obtain the prior written consent of each Blackmont Client contemplated by section 8.2(4) of the Legislation prior to

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completing the next Pre-Authorized Trade for each Blackmont Client since many Blackmont Clients are likely to disregard the request to sign and return the consent form in a timely manner; consequently, if the Requested Relief is not granted, Blackmont will be required to seek cancellation of all Pre-Authorized Trade instructions from Blackmont Clients until it is able to comply with subsection 8.2(4);

14. Blackmont Clients have enrolled in Pre-Authorized Trade programs prior to CI LP and CI Financial acquiring an equity interest in Blackmont; accordingly, there was no actual or perceived conflict of interest at the time that Blackmont advised Blackmont Clients with respect to their investments in the Funds, including their enrolment in Pre-Authorized Trade programs; as the interests of Blackmont Clients were adequately protected from conflicts of interest at the time they decided to enrol in Pre-Authorized Trade programs, there is no conflict of interest with permitting such Pre-Authorized Trades to continue following the Change of Control;
15. following the Change of Control, registered personnel of Blackmont who sell securities of the Funds will remain subject to the requirements in Canadian securities legislation to recommend to Blackmont Clients only investments which are suitable for them; and
16. the information prescribed by paragraph 8.2(1)(a) of the Legislation will be included in the next annual renewal of the Prospectuses, which the CI Managers currently intend to complete by July 31, 2007.

### **Decision**

- ¶ 4 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.

Wendell S. Wigle  
Commissioner  
Ontario Securities Commission

David L. Knight  
Commissioner  
Ontario Securities Commission

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### Appendix “A”

CI American Equity Fund  
CI American Equity Corporate Class  
CI Alpine Growth Equity Fund  
CI American Managers<sup>®</sup> Corporate Class  
CI American Small Companies Fund  
CI American Small Companies Corporate Class  
CI American Value Fund  
CI American Value Corporate Class  
CI Can-Am Small Cap Corporate Class  
CI Canadian Investment Fund  
CI Canadian Investment Corporate Class  
CI Canadian Small/Mid Cap Fund  
CI Emerging Markets Fund  
CI Emerging Markets Corporate Class  
CI European Fund  
CI European Corporate Class  
CI Global Fund  
CI Global Corporate Class  
CI Global Biotechnology Corporate Class  
CI Global Consumer Products Corporate Class  
CI Global Energy Corporate Class  
CI Global Financial Services Corporate Class  
CI Global Health Sciences Corporate Class  
CI Global High Dividend Advantage Fund  
CI Global Managers<sup>®</sup> Corporate Class  
CI Global Small Companies Fund  
CI Global Small Companies Corporate Class  
CI Global Science & Technology Corporate Class  
CI Global Value Fund  
CI Global Value Corporate Class  
CI International Fund  
CI International Corporate Class  
CI International Value Fund  
CI International Value Corporate Class  
CI Japanese Corporate Class  
CI Pacific Fund  
CI Pacific Corporate Class  
CI Value Trust Corporate Class  
Harbour Fund  
Harbour Corporate Class  
Harbour Foreign Equity Corporate Class

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Signature Canadian Resource Fund  
Signature Canadian Resource Corporate Class  
Signature Select Canadian Fund  
Signature Select Canadian Corporate Class  
Synergy American Fund  
Synergy American Corporate Class  
Synergy Canadian Corporate Class  
Synergy Canadian Style Management Corporate Class  
Synergy Focus Canadian Equity Fund  
Synergy Focus Global Equity Fund  
Synergy Global Corporate Class  
Synergy Global Style Management Corporate Class

CI Canadian Asset Allocation Fund  
CI Global Balanced Corporate Class  
CI International Balanced Fund  
CI International Balanced Corporate Class  
Harbour Foreign Growth & Income Corporate Class  
Harbour Growth & Income Fund  
Harbour Growth & Income Corporate Class  
Signature Canadian Balanced Fund  
Signature Income & Growth Fund  
Signature Income & Growth Corporate Class  
Synergy Tactical Asset Allocation Fund

CI Canadian Bond Fund  
CI Canadian Bond Corporate Class  
CI Short-Term Bond Fund  
CI Long-Term Bond Fund  
CI Money Market Fund  
CI US Money Market Fund  
CI Short-Term Corporate Class  
CI Short-Term US\$ Corporate Class  
CI Global Bond Fund  
CI Global Bond Corporate Class  
CI Mortgage Fund  
Signature Corporate Bond Fund  
Signature Corporate Bond Corporate Class  
Signature Dividend Fund  
Signature Dividend Corporate Class  
Signature High Income Fund  
Signature High Income Corporate Class

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Portfolio Series Income Fund  
Portfolio Series Conservative Fund  
Portfolio Series Balanced Fund  
Portfolio Series Conservative Balanced Fund  
Portfolio Series Balanced Growth Fund  
Portfolio Series Growth Fund  
Portfolio Series Maximum Growth Fund

Select Income Managed Corporate Class  
Select Canadian Equity Managed Corporate Class  
Select U.S. Equity Managed Corporate Class  
Select International Equity Managed Corporate Class  
Select Staging Fund

Select 100i Managed Portfolio Corporate Class  
Select 80i20e Managed Portfolio Corporate Class  
Select 70i30e Managed Portfolio Corporate Class  
Select 60i40e Managed Portfolio Corporate Class  
Select 50i50e Managed Portfolio Corporate Class  
Select 40i60e Managed Portfolio Corporate Class  
Select 30i70e Managed Portfolio Corporate Class  
Select 20i80e Managed Portfolio Corporate Class  
Select 100e Managed Portfolio Corporate Class

Cash Management Pool  
Short Term Income Pool  
Canadian Fixed Income Pool  
Global Fixed Income Pool  
Enhanced Income Pool

Canadian Equity Value Pool  
Canadian Equity Diversified Pool  
Canadian Equity Growth Pool  
Canadian Equity Small Cap Pool

US Equity Value Pool  
US Equity Diversified Pool  
US Equity Growth Pool  
US Equity Small Cap Pool

International Equity Value Pool  
International Equity Diversified Pool  
International Equity Growth Pool



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Emerging Markets Equity Pool

Real Estate Investment Pool

Artisan Canadian T-Bill Portfolio

Artisan Most Conservative Portfolio

Artisan Conservative Portfolio

Artisan Moderate Portfolio

Artisan Growth Portfolio

Artisan High Growth Portfolio

Artisan Maximum Growth Portfolio

Artisan New Economy Portfolio

Institutional Managed Canadian Equity Pool

Institutional Managed US Equity Pool

Institutional Managed International Equity Pool

Institutional Managed Income Pool

CI Global High Dividend Advantage Corporate Class

Signature Global Income & Growth Fund

Signature Global Income & Growth Corporate Class