

# 2005 BCSECCOM 698

November 28, 2005

## **Headnote**

Mutual Reliance Review System for Exemptive Relief Application – Multilateral Instrument 33-109, s.7.1 - Registration Information - A registrant wants relief from the filing and notification requirements to permit a bulk transfer of business locations and individuals following an amalgamation or reorganization - The applicant is acquiring a significant number of business locations and individuals from another registered dealer in the same jurisdiction; the application includes the information required in Appendix A to MI 33-109.CP Registration Information

## **Applicable British Columbia Provisions**

Multilateral Instrument 33-109 *Registration Information*

**In the Matter of the Securities Legislation  
of British Columbia, Alberta, Saskatchewan, Ontario, Québec,  
New Brunswick, Nova Scotia (the Jurisdictions)**

**and**

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

**and**

**In the Matter of Sprott Securities Inc. (Sprott Inc.) and Sprott Securities L.P.  
(Sprott L.P., together with Sprott Inc., the Filers)**

## **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 Filers for a decision pursuant to Part 7 of Multilateral Instrument 33-109 - *Registration Information* (the Legislation), exempting the Filers from requirements of the Legislation so as to permit Sprott Inc. to bulk transfer to Sprott L.P. the registered and non-registered individuals that are associated on the National Registration Database (NRD) with the branch office locations involved in a restructuring arrangement (the Restructuring Arrangement) whereby Sprott Inc. will be converting its corporate structure to Sprott L.P., a limited partnership structure (the Requested Relief):

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Under the Mutual Reliance Review System for Exemptive Relief Applications:

- (a) the Ontario Securities Commission is the principal regulator for this application, and
- (b) the MRRS decision document evidences the decision of each Decision Maker.

### **Interpretation**

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

### **Representations**

1. Sprott Inc. is incorporated under the laws of Ontario and its head office is located in Toronto, Ontario with branch offices in Calgary, Alberta and Montreal, Québec. Sprott Inc. is a member of the Investment Dealers Association of Canada (the IDA) and is currently registered as an investment dealer (or equivalent) under the Legislation of each of the Jurisdictions.
2. Sprott L.P. is a limited partnership organized under the laws of Manitoba and its head office is located in Toronto, Ontario. Sprott L.P. has applied for membership in the IDA and for registration as an investment dealer (or equivalent) under the Legislation of each of the Jurisdictions.
3. Sprott L.P. will be owned indirectly by an income trust which will operate under the name "Sprott Securities Income Trust" (the Income Trust). This is a tax efficient structure which will allow the units of the Income Trust to be eligible for investment by RRSP's.
4. Sprott Inc. is an investment dealer whose business is focused on small to mid-size capitalization companies for institutional investors in Canada. Sprott Inc. has approximately 42 employees, including 11 trading officers and 15 registered directors that are registered under the Legislation of one or more of the Jurisdictions.
5. Sprott Inc. to the best of its knowledge, is not in default of any of the requirements of the Legislation of any of the Jurisdictions.
6. The details of the Restructuring Arrangement are as follows:
  - (i) Current shareholders of Sprott Inc. as well as certain other parties wishing to have an ongoing interest in the business of Sprott L.P. will do so through the Income Trust. The sole asset of the Income Trust

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will be units of Sprott Securities Commercial Trust (the Holding Trust).

- (ii) Shareholders of Sprott Inc. will sell their shares to the Income Trust. The Income Trust will sell units of the Income Trust (Income Units) to former shareholders of Sprott Inc. and other members of the public (including associates of former Sprott Inc. shareholders) pursuant to an offering memorandum;
  - (iii) The Income Trust will sell the Sprott Inc. shares that it acquires to the Holding Trust in exchange for units of the Holding Trust (Holding Units);
  - (iv) The Holding Trust will sell the Sprott Inc. shares that it acquires to Sprott L.P. in exchange for limited partnership units (the Sprott L.P. Units);
  - (v) Sprott L.P. will transfer the Sprott Inc. shares to a newly-formed corporation (Newco) under the *Business Corporations Act* (Ontario) in exchange for common shares in the capital of Newco;
  - (vi) Sprott Inc. will either be wound-up into Newco or will amalgamate with Newco;
  - (vii) Newco (or the resulting amalgamated corporation) will distribute all or substantially all of its assets (including cash) to Sprott L.P. as a return of capital;
  - (viii) Sprott L.P. will apply for registration as an investment dealer (or the equivalent) under the Legislation of all the Jurisdictions and will make the necessary applications to replicate the registration and membership status presently held by Sprott Inc. in each of the Jurisdictions and with the IDA; and
  - (ix) This Restructuring Arrangement is to be effective on or about December 31, 2005 the Closing Date). There will be no interruption in the ability of the Applicants to service their clients.
7. Sprott L.P. will carry on all of the active brokerage business of Sprott Inc. in a substantially similar manner with the same registered and non-registered individuals of Sprott Inc. For this reason, many of the concerns regarding notifications and registrations which the Legislation was intended to address are not applicable in the case of the Restructuring Arrangement.

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8. Given the multiple business locations and the large number of employees of Sprott Inc. it would be very difficult and time-consuming to transfer each individual to Sprott L.P., as per the requirements set out in the Legislation. Moreover, it is imperative that the transfer of the relevant individuals occur on the same date, in order to ensure that there is no break in registration. It would be unduly onerous to transfer each individual associated with the Filers in accordance with the requirements set out in the Legislation having regard to the fact that there should be no change to their employment or responsibilities and each individual will be transferred under the same category.
9. The restructuring of Sprott inc. is not contrary to the public interest and will have no negative consequences on the ability of the Filers to comply with all applicable regulatory requirements or the ability to satisfy any obligations to clients of the Filers.
10. Within two months of the Closing Date, the Filers will complete the bulk transfer of all affected individuals and locations.

### **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 pursuant to the Legislation is that the Requested Relief is granted, and that in respect of the registered and non-registered individuals that will be bulk transferred from Sprott Inc. to Sprott L.P., the following requirements of the Legislation shall not apply to the Filers:

- a. the requirement to submit a notice regarding the termination of each employment, partner or agency relationship under section 4.3 of the Legislation;
- b. the requirement to submit a notice regarding each individual who ceases to be a non-registered individual under section 5.2 of the Legislation;
- c. the requirement to submit a registration application for each individual applying to become a registered individual under section 2.2 of the Legislation;
- d. the requirement to submit a Form 33-109F4 for each non-registered individual under section 3.3. of the Legislation; and

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- e. the requirement under section 3.1 of the Legislation to notify the regulator of a change to the business location information in Form 33-109F3.

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Ontario Securities Commission