

2006 BCSECCOM 722

November 20, 2006

Headnote

Mutual Reliance Review System for Exemptive Relief Applications - National Instrument 81-106, s.17.1 - Continuous Disclosure Requirements for Investment Funds - A fund wants relief from subsection 9.2 of NI 81-106 that requires a fund that does not have a current prospectus as at its financial year end to prepare an annual information form - The fund is a labour-sponsored or venture capital fund with multiple classes or series of shares; the information that NI 81-106 would require the fund to include in an AIF for a class or series that is no longer in distribution is included in the current prospectus for the classes or series that the fund is still distributing; the fund will post a notice on SEDAR about the exemption and will provide a copy of the current prospectus to any holder of the discontinued class or series who requests a copy

Applicable British Columbia Provisions

National Instrument 81-106, ss. 9.2, 9.3, and 17.1

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

and

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

and

In the Matter of
Growthworks Commercialization Fund Ltd.
and Growthworks WV Management Ltd.
(the Filers)

MRRS Decision Document

Background

The local securities regulatory authority or regulator (the Decision Makers) in each of the Jurisdictions has received an application from the Filers for a decision under section 17.1 of National Instrument 81-106 *Investment Fund Continuous Disclosure* (NI 81-106), that GrowthWorks Commercialization Fund Ltd. (the

2006 BCSECCOM 722

Fund) be exempt from the requirement in sections 9.2 and 9.3 of NI 81-106 to prepare and file an annual information form (AIF) for the 05 Series Shares (as defined below), the 06 Series Shares (as defined below) and any Future Commercialization Shares (as defined below) for this and all subsequent financial years (the Requested Relief).

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

- (a) The Ontario Securities Commission is the principal regulator of this application; and
- (b) This MMRS decision document evidences the decision of each Decision Maker.

Representations

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

The Fund

1. The Fund is incorporated under the *Canada Business Corporation Act*.
2. The Fund is a registered labour sponsored investment fund corporation under the *Community Small Business Investment Funds Act (Ontario)*. The Fund is also a labour-sponsored venture capital corporation registered under the *Income Tax Act (Canada)*. The Fund is an approved fund under the *Labour-sponsored Venture Capital Corporations Act (Saskatchewan)*. The Fund's investment objectives and redemptions are affected by provisions under this legislation (together, the RVC Legislation).
3. GrowthWorks WV Management Ltd. (GrowthWorks) is the manager for the Fund and its head office is in Toronto, Ontario.
4. The Fund invests in small and medium sized businesses with the objective of obtaining long term capital appreciation. As the Fund is a labour-sponsored investment fund that offers its shares under a prospectus to retail investors (also known as a retail venture capital fund or "RVC"), its investment objectives and restrictions are governed by the RVC Legislation.
5. The Fund is an investment fund in the Jurisdictions for the purposes of NI 81-106. The Fund is deemed to be a mutual fund in all of the Participating Jurisdictions.

2006 BCSECCOM 722

AIF Requirements

6. The Fund's prospectus dated January 12, 2005 (Previous Prospectus) qualified one series of Class A shares, namely Class A Shares, Series 1 (05 Series Shares). Since this series of shares was offered under a current prospectus as of the August 31, 2005 financial year end of the Fund, the Fund did not have an obligation to file an AIF pursuant to sections 9.2 and 9.3 of NI 81-106 in respect of these shares.
7. The Fund's prospectus dated December 14, 2005 (Current Prospectus) qualifies a new series of Class A shares for sale to the public: the Class A Shares, 06 series (06 Series Shares). Since sales of the 05 Series Shares were suspended by the Fund, and the Fund is now offering 06 Series Shares in lieu of the 05 Series Shares under its Current Prospectus, the Fund did not have a current prospectus for the 05 Series Shares as of its August 31, 2006 financial year end.
8. The Fund is a labour sponsored investment fund and, therefore, is subject to the provisions of NI 81-106. Under the provisions of sections 9.2 and 9.3 of NI 81-106, the Fund is required to file an annual information form on or before November 29, 2006 with respect to those "investment funds" (as defined in NI 81-106) that are no longer offered under a current prospectus as of the financial year end of the Fund.
9. As indicated above, the 05 Series Shares were no longer offered under a current prospectus as at the Fund's year end of August 31, 2006. Furthermore, the Fund currently offers the 06 Series Shares which, upon filing the Renewal Prospectus, will no longer be offered, and anticipates that it will create and offer Future Commercialization Shares under Future Prospectuses. In the absence of exemptive relief, the Fund would be required to file an annual information form in respect of the 05 Series Shares, the 06 Series Shares and the Future Commercialization Shares this year and for each financial year thereafter.

Future Series of Shares

10. The authorized capital of the Fund is as follows:
 - (i) an unlimited number of Class A shares issuable in series, which are widely held, of which there are currently 2 series issued, namely, the 05 Series Shares and the 06 Series Shares;

2006 BCSECCOM 722

- (ii) an unlimited number of Class B shares, all of which are held by the Canadian Federation of Labour, the sponsor of the Fund; and
 - (iii) an unlimited number of Class C shares, all of which are held by GrowthWorks to provide a “participating” or “carried” interest in the venture investments of the Fund.
11. Under its Current Prospectus, the Fund currently offers the 06 Series Shares.
 12. The Fund anticipates that it will offer future similar series of “commercialization shares” (Future Commercialization Shares) which will be created and offered on a similar basis as the 05 Series Shares and the 06 Series Shares.
 13. The key distinction between the various “commercialization series” of shares offered by the Fund is that, for a period of three years, assets are and will be allocated to each such series separately in accordance with the Fund’s rules on allocation of assets among series as set out in the Current Prospectus, and as will be set out in future renewal long form prospectuses of the Fund (Future Prospectuses). The Fund implements these asset allocation rules to enable the specific dividend policy associated with a particular series of “commercialization shares” to be more easily administered, to avoid dilution for earlier investors and to pool participation in commercialization venture investments to gain the benefits of diversification.
 14. Thus, each year (until determined otherwise by the Fund’s Board), the Fund will offer a new “commercialization series” of shares, and the venture and non-venture investments made with the capital raised from the sale of such series of shares will be allocated solely to that series during the period ending on March 1st of the third calendar year after the RSP season that such series was first offered in (Separate Pool End Date).
 15. Then, once the Separate Pool End Date has passed for a given “commercialization series” of shares, the venture and non-venture investments previously solely allocated to that particular series will be pooled with the assets of all other “commercialization series” of shares that have passed their Separate Pool End Dates and will be allocated among those series in proportion to their relative net asset values. As a result, while separate “commercialization series” of shares have separate asset pools for an initial three year period, after such three year period all such series of shares will be in the same asset pool.

2006 BCSECCOM 722

16. Under securities laws applicable to the Fund, each series of shares that is referable to a separate portfolio of assets is considered to be a separate mutual fund. The asset allocation rules referred to above provide for the initial allocation of assets on a series by series basis, therefore each series of “commercialization” shares may technically be considered to be a separate mutual fund under applicable securities laws.
17. Future Prospectuses will include substantially the same disclosure concerning the 05 Series Shares, the 06 Series Shares and concerning any Future Commercialization Shares as is required by NI 81-106 through the filing of an AIF.

Decision

Each of the Decision Makers is satisfied that the test contained in the legislation that provided the Decision Maker with the jurisdiction to make the decision has been met. The decision of the Decision Makers is that the Requested Relief is granted provided that:

- a. the Fund continues to have a current prospectus;
- b. the Fund’s prospectus contains, and any Future Prospectuses of the Fund contain, all disclosure required by NI 81-106 to be included in an annual information form for the 05 Series Shares, the 06 Series Shares and Future Commercialization Shares;
- c. the Fund files no later than November 29, 2006, and on an annual basis thereafter, on SEDAR a notice which includes the following:
 - (i) a statement that the Fund has received exemptive relief from the requirement to file an AIF in respect of the 05 Series Shares, the 06 Series Shares and Future Commercialization Shares; and
 - (ii) a direction to holders of the 05 Series Shares, the 06 Series Shares and Future Commercialization Shares that they should refer to the then current prospectus of the Fund, as it may be amended from time to time, for information concerning the 05 Series Shares, the 06 Series Shares and Future Commercialization Shares, as the case may be;
- d. if a holder of 05 Series Shares, 06 Series Shares, or Future Commercialization Shares requests a copy of the annual information form for the 05 Series Shares, the 06 Series Shares or the Future Commercialization Shares, the Fund sends, without charge, to the holder within 10 calendar days after the Fund receives the request, a copy of the

2006 BCSECCOM 722

most recent prospectus of the Fund, together with a clear and concise statement that indicates that the prospectus contains the information about the 05 Series Shares, the 06 Series Shares and the Future Commercialization Shares, as the case may be, that would otherwise be disclosed in an AIF.

- e. the Fund files and delivers its annual financial statements and management reports of fund performance in accordance with securities laws requirements; and
- f. the Fund files and delivers notices as required under all other continuous disclosure requirements as set out in securities legislation and NI 81-106.

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Ontario Securities Commission