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February 28, 2006

Headnote

Mutual Reliance Review System for Exemptive Relief Application

National Instrument 21-101, s. 15.1 - An alternative trading system (ATS) wants relief from the ATS rules in their entirety - The marketplace is significantly restricted in terms of its participants and the securities traded; the Filer has developed an alternate system to provide for transparency, best execution, market oversight, system safeguards and record-keeping.

National Instrument 23-101, s. 12.1 - An alternative trading system (ATS) wants relief from the ATS rules in their entirety - The ATS is significantly restricted in terms of its participants and the securities traded; the ATS has developed an alternate system to the Filer has developed an alternate system to provide for transparency, best execution, market oversight, system safeguards and record-keeping.

Applicable British Columbia Provisions

National Instrument 21-101 *Marketplace Operation*

National Instrument 23-101 *Trading Rules*

**In the Matter of
the Securities Legislation (the Legislation)
of 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 Agrifoods International Cooperative Ltd. (the Filer)

MRRS Decision Document

Background

1. 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) that:

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- 1.1 except in British Columbia, the prohibition in the Legislation on carrying on business as an exchange in the Jurisdictions unless recognized as an exchange does not apply to trades (the Exempted Trades) to or by Participants (defined below) in Investment Shares (defined below) on the Trading System (defined below) developed by the Filer;
- 1.2 the provisions of National Instrument 21-101 *Marketplace Operations* (NI 21-101) do not apply to the Trading System developed by the Filer;
- 1.3 the provisions of National Instrument 23-101 *Trading Rules* (NI 23-101) do not apply to the Filer in connection with the creation or operation of the Trading System; and
- 1.4 except in British Columbia, the registration requirements contained in the Legislation do not apply to the Filer, its directors, officers, employees or agents, in connection with the facilitation of Exempted Trades on the Trading System

(collectively, the Requested Relief).

2. Under the Mutual Reliance Review System for Exemptive Relief Applications:
 - 2.1 the Alberta Securities Commission is the principal regulator for this application; and
 - 2.2 this MRRS decision document evidences the decision of each Decision Maker.

Interpretation

3. Defined terms contained in National Instrument 14-101 *Definitions* have the same meaning in this decision unless they are defined in this decision.
 - 3.1 In this decision:
 - 3.1.1 “Auxiliary Members” means auxiliary members of the Filer, each of whom who is either:
 - 3.1.1.2 not active in dairy farming but have a continuing interest in the Filer in the form of either: (i) Members’ Loans that were made at times in the past when the

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Auxiliary Members were Members actively involved in dairy farming; or (ii) Investment Shares acquired on conversion of those Member Loans or from other Participants; or

- 3.1.1.3 shareholders of active or formerly active corporate Members or partners of active or formerly active unincorporated Members;
- 3.1.2 “Investment Shares” means investment shares in the capital of the Filer;
- 3.1.3 “Members” means members of the Filer, each of whom is actively involved in dairy farming;
- 3.1.4 “Members’ Loans” means the loans made by Members, or Auxiliary Members at the time they were active Members, to the Filer;
- 3.1.5 “Participants” means, collectively:
 - 3.1.5.1 Members;
 - 3.1.5.2 Auxiliary Members; and
 - 3.1.5.3 the executor or administrator of the estate of a Member or Auxiliary Member provided that the executor or administrator may only hold and sell the Investment Shares owned by the deceased person at the time of his or her death and any additional Investment Shares issued to the deceased’s estate as a result of the mandatory investment of patronage returns to the deceased or the deceased’s estate for the purchase of Investment Shares, but the executor or administrator may not otherwise acquire additional Investment Shares;
- 3.1.6 “Trading Rules” means the rules governing the Trading System; and
- 3.1.7 “Trading System” means the system developed by the Filer for the exclusive purpose of facilitating trades of Investment Shares by and among Participants.

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Representation

4. This decision is based on the following facts represented by the Filer:
 - 4.1 The Filer is a cooperative association organized under the *Canada Cooperatives Act* whose Members are dairy producers located in each of the Jurisdictions. The head office of the Filer is located in Edmonton, Alberta.
 - 4.2 The Filer offers its Members the service of picking up milk from their farms and delivering the milk to dairies for processing.
 - 4.3 The Filer is not a reporting issuer in any of the Jurisdictions and has no intention of becoming a reporting issuer.
 - 4.4 The Filer recently underwent a capital reorganization and is now authorized to issue membership shares and Investment Shares. Outstanding Member Loans will be converted into Investment Shares on February 28, 2006.
 - 4.5 Investment Shares may be issued and transferred only to Participants. In addition, no person or shareholder group is permitted to hold more than five percent of the issued and outstanding Investment Shares. Previously issued Investment Shares can be transferred only to a person who has been a Member or Auxiliary Member for at least 12 months before the date of the transfer.
 - 4.6 The Filer has developed the Trading System to facilitate the purchase and sale of Investment Shares among the Participants who live in remote geographical locations in the Jurisdictions.
 - 4.7 The Trading System is governed by the Trading Rules which are based on a quota exchange system used by the British Columbia, Alberta and Saskatchewan Milk Marketing Boards for the trading of milk quotas with which Participants are familiar.
 - 4.8 The Trading Rules provide a method by which Participants interested in selling Investment Shares are matched with Participants interested in buying Investment Shares, including a non-discretionary procedure for the pro rata allocation of available Investment Shares where the demand for Investment Shares exceeds the number available for sale at a particular price.

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- 4.9 The Filer will charge a flat fee to Participants for the purchase and sale of Investment Shares under the Trading System. The amount of the fee will be disclosed in the Trading Rules and will partially offset the costs to the Filer of establishing and operating the Trading System.
- 4.10 As part of the Trading System, the Filer has developed a website from which Participants may access the Filer's annual financial statements and other disclosure documents, the Trading Rules, current and historical trading information, contact information and appropriate cautions regarding compliance with applicable securities laws and the need to obtain independent professional advice.
- 4.11 The Filer will hold any funds received in connection with the trading of Investment Shares in a segregated trust account for the benefit of the relevant Participants. The fact that such funds will be held in trust will be disclosed on the website, in the Trading Rules and on any other materials relating to the Trading System that are prepared by the Filer.
- 4.12 The Filer will keep records of all trades conducted on the Trading System for a minimum of seven years, which will be kept in a readily accessible location for the first two years, and undertakes to make the trading records available to the principal regulator on request.
- 4.13 The Filer is developing procedures for the periodic testing of the adequacy and effectiveness of the systems used to support the Trading System and for an annual independent audit of the segregated trust account, share transfer register and books and records maintained by the Filer relating to the Exempt Trades.
- 4.14 Under a prior MRRS decision of the Decision Maker in each of the Jurisdictions dated August 5, 2005 (the 2005 Decision), trades of the Filer's Investment Shares among the Participants are exempt, subject to certain conditions, from the registration and prospectus requirements of the Legislation. The 2005 Decision did not contemplate the Filer establishing the Trading System to facilitate the Exempt Trades.
- 4.15 The Filer's participation in the Trading System will be purely administrative in nature and no director, officer, employee or agent of the Filer will solicit Participants to use the Trading System or provide investment advice to Participants with respect to the Exempt Trades.

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- 4.16 The Filer will advise the Decision Maker in each of the Jurisdictions when trading commences under the Trading System and will provide the Decision Makers with the final version of the Trading Rules.

Decision

5. 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.
6. The decision of the Decision Makers under the Legislation is that the Requested Relief is granted.

Stephen R. Murison, Vice-Chair
Alberta Securities Commission

David W. Betts, CFA, Member
Alberta Securities Commission