

2005 BCSECCOM 686

November 8, 2005

Headnote

Mutual Reliance Review System for Exemptive Relief Applications - National Instrument 81-106 *Continuous Disclosure Requirements for Investment Funds*, s. 17.1 – net asset value calculation requirements - An investment fund wants relief from the requirement in s. 14.2(3)(b) of National Instrument 81-106 to calculate its net asset value at least once every business day - The fund is a closed-end investment fund that allows redemptions or retractions no more frequently than once per month; units of the fund are listed on a stock exchange and unitholders can buy or sell units of the fund through the exchange; the fund calculates its net asset value on a regular basis and makes that calculation available to the public on request

Applicable British Columbia Provisions

National Instrument 81-106, ss. 14.2(3)(b), 17.1

In the Matter of
the Securities Legislation
of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Québec, Nova
Scotia, New Brunswick, and Newfoundland and Labrador (the “Jurisdictions”)

and

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

and

In the Matter of First Asset/Blackrock North American Dividend Achievers Trust
(the “Fund”)

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 Fund for a decision under the securities legislation of the Jurisdictions (the “Legislation”) for an

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exemption from the requirement contained in section 14.2(3)(b) of National Instrument 81-106 – Investment Fund Continuous Disclosure (“NI 81-106”) to calculate net asset value at least once every business day (the “Requested Relief”).

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

- (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 Fund:

1. The Fund is an investment fund established under the laws of Ontario. The Fund’s manager is First Asset Funds Inc. (the “Manager”) and its investment advisor is First Asset Investment Management Inc.
2. The Fund will make an offering (the “Offering”) to the public, on a best efforts basis, of units of the Fund (the “Units”) in each of the provinces of Canada.
3. The Units will be listed for trading on the Toronto Stock Exchange (the “TSX”).
4. The Fund will invest the net proceeds of the Offering primarily in a portfolio that consists of issuers that are “Dividend Achievers”. To be considered a “Dividend Achiever”, an issuer must have raised its annual regular cash dividend for at least each of the last ten consecutive calendar years (5 years in the case of Canadian issuers). From all those stocks that meet this criteria, individual stocks will be selected by identifying the 100 highest yielding “Dividend Achievers” and all the Canadian “Dividend Achievers”, from which 60 to 90 stocks will be selected using an allocation model that takes into account factors such as yield, sector, industry, capitalization and volatility.
5. The Fund will calculate its net asset value per Unit on Thursday of each week, or if any Thursday is not a business day, the immediately preceding business day, the last business day of each month, each Redemption Date and any other date on which the Manager elects, in its discretion, to calculate the net asset

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value per Unit (a “NAV Valuation Date”). Net asset value will be calculated as at the close of business on each NAV Valuation Date by subtracting the aggregate amount of the Fund’s liabilities from the aggregate value of the Fund’s assets.

6. The Fund’s objectives are to maximize total returns for the owners of the beneficial interest in the Units (“Unitholders”) and pay monthly cash distributions of \$0.05 per Unit (\$0.60 per annum or 6.0% on the original issue price). The Fund does not have a fixed termination date but may be terminated by the Manager with the approval of Unitholders by a resolution passed by the affirmative vote of at least 66^{2/3}% of the votes cast, either in person or by proxy, at a meeting of Unitholders called for the purpose of considering such a resolution.
7. Subject to the Fund’s right to suspend redemptions, Units may be surrendered for redemption on a monthly and yearly basis. Units may be surrendered for redemption on (i) the last business day of the month where the Units are surrendered by 5:00 p.m. (Toronto time) on a day that is 15 business days prior to the last day of the month; or (ii) the last business day of the following month where the Units are surrendered after 5:00 p.m. (Toronto time) of the day that is within 15 business days of the last day of the current month (the “Monthly Redemption Date”) by giving notice thereof to the Manager. Units surrendered in such a fashion will be redeemed on the applicable Monthly Redemption Date. Additionally, Units may be redeemed annually on the second last business day in March (the “Redemption Date”) provided they are surrendered not more than 45 days and not less than 10 business days prior to the Redemption Date.

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 Requested Relief is granted provided the Prospectus discloses that:

- (a) the net asset value calculation is available to the public upon request, and
- (b) there is a toll-free telephone number or website that the public can access for this purpose;

for so long as:

- (a) the Units are listed on the TSX, and

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(b) the Fund calculates its net asset value at least weekly.

Leslie Byberg
Manager
Investment Funds Branch
Ontario Securities Commission