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Headnote

Mutual Reliance Review System for Exemptive Relief Applications – relief from prohibition against trading portfolio shares by a person who has information concerning the investment program of a mutual fund – granted to a promoter with respect to certain principal trades with the issuer in securities comprising the issuer's portfolio, subject to certain conditions

Applicable British Columbia Provisions

Securities Act, R.S.B.C. 1996, c. 418, ss. 128 and 130

IN THE MATTER OF THE SECURITIES LEGISLATION OF BRITISH COLUMBIA, ALBERTA, SASKATCHEWAN, ONTARIO, NOVA SCOTIA AND NEWFOUNDLAND AND LABRADOR

AND

IN THE MATTER OF THE MUTUAL RELIANCE REVIEW SYSTEM FOR EXEMPTIVE RELIEF APPLICATIONS

AND

IN THE MATTER OF COASTAL VALUE FUND INC.

MRRS DECISION DOCUMENT

WHEREAS the local securities regulatory authority or regulator (the "Decision Maker") in each of British Columbia, Alberta, Saskatchewan, Ontario, Nova Scotia and Newfoundland and Labrador (the "Jurisdictions") has received an application from Coastal Value Fund Inc. (the "Company") for a decision under the securities legislation of the Jurisdictions (the "Legislation") that the requirement contained in the Legislation to prohibit trading in portfolio securities by persons or companies having information concerning the investment programs of mutual funds that are reporting issuers (the "Insider Trading Prohibitions") shall not apply to The Coastal Fund LP, Coastal Acquisition Corporation and Coastal Investments Inc. (collectively, "Coastal"), entities controlled directly or indirectly by J. Ian Flatt or Gordon Flatt, in connection with the purchase of the Initial Portfolio and Market Purchases and Market Sales (each as hereinafter defined);

AND WHEREAS under the Mutual Reliance Review System for Exemptive Relief Applications (the "System"), the Ontario Securities Commission is the principal regulator for this application;

AND WHEREAS the Company has represented to the Decision Makers that:

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1. The Company was incorporated under the laws of the Province of Ontario on September 27, 2002. The primary undertaking of the Company will be to invest in a portfolio of securities of large-cap issuers which management has identified as trading at a discount to their underlying business value, with the expectation that in the long-term their trading prices will rise (the "Portfolio Securities"). The Portfolio Securities and any cash held by the Company from time to time will be the only material assets of the Company.
2. The Company is considered to be a mutual fund as defined in the Legislation. However, since the Company will not operate as a conventional mutual fund, it has made application for a waiver from certain requirements of National Instrument 81-102.
3. The Company has a board of directors (the "Board") consisting of three directors. One of such directors is a director and/or officer of Coastal while the remaining two directors are independent of Coastal (the "Independent Directors").
4. All of the officers of the Company are directors and/or officers of Coastal
5. The purpose of the Company is to provide a vehicle through which different investment objectives with respect to participation in the Portfolio Securities may be satisfied. This is to be accomplished through the issuance of Capital Shares and Senior Preferred Shares of the Company.
6. The Senior Preferred Shares will be offered to the public pursuant to a prospectus (the "Offering"). The Company has filed a preliminary prospectus with the securities regulatory authorities of each Province of Canada.
7. Concurrently with the Offering of Senior Preferred Shares, the Company will issue and sell one Class A Capital Share and one Class B Capital Share for each Senior Preferred Share sold. The Capital Shares will have an aggregate value at the time of issue equal to the value of the Portfolio Securities, less the proceeds of the Senior Preferred Share Offering.
8. The Company will invest in Portfolio Securities in order to generate fixed cumulative preferential dividends for the holders of the Senior Preferred Shares and to enable the holders of the Capital Shares to participate in any remaining dividends and any capital appreciation in the Portfolio Securities.
9. An application has been made to have the Senior Preferred Shares listed and traded on the Toronto Stock Exchange (the "TSX").

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10. Coastal Investments Inc. ("Coastal Investments"), a private investment holding company, is the promoter of the Company and is the general partner of The Coastal Fund LP. Coastal owns all of the outstanding shares of The Coastal Corporation Ltd. (the "Administrator").
11. Pursuant to an administration agreement (the "Administration Agreement") to be entered into between the Company and the Administrator, the Administrator will be retained to administer the ongoing operations of the Company (other than investment management activities). The Administrator will be paid an annual fee equal to 0.95% of the Net Asset Value of the Portfolio in connection with the services provided by it. The Company will issue Capital Shares in satisfaction of the administration fee owing to the Administrator.
12. The net proceeds from the Offering of the Senior Preferred Shares (after deducting the Agents' fees and expenses of the issue) will be used by the Company, together with the proceeds from the distribution of Capital Shares, to fund the purchase of Portfolio Securities to be held by the Company.
13. Pursuant to an agreement (the "Purchase Agreement") to be made between the Company and The Coastal Fund LP or a party related thereto (the "Coastal Fund"), the Company will agree to purchase, on the closing of the Offering, and Coastal Fund will agree to sell the initial portfolio (the "Initial Portfolio") of Portfolio Securities described in the (final) prospectus for the Offering (the "Final Prospectus"). The price to be paid by the Company to the Coastal Fund for the Portfolio Securities representing the Initial Portfolio will not be greater than the aggregate of the closing prices of such shares on the TSX or the New York Stock Exchange (the "NYSE") on the business day prior to the date of the Final Prospectus and where any such shares have not traded on that date, the average of the "bid" and "ask" prices for such shares on the TSX or the NYSE on such date. The acquisition of the Initial Portfolio and the terms thereof will be approved by the Independent Directors.
14. The Initial Portfolio will be purchased for cash, to be funded from the proceeds of the Senior Preferred Share Offering and the distribution of Capital Shares. Entering into the Purchase Agreement in advance of the closing of the Offering will permit the Company and the Agents to fix the price of the Initial Portfolio at the time of the pricing of the Offering and provide certainty that the Company will be able to purchase sufficient Portfolio Securities at closing to complete the transaction.

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15. The Portfolio Securities to be sold by the Coastal Fund as principal to the Company were, or will be, acquired in compliance with the Insider Trading Prohibitions including those Portfolio Securities representing the Initial Portfolio to be acquired on or after the date of the Decision (as hereinafter defined) which will be acquired in accordance with the Decision.
16. The Company is not, and will not after its acquisition of Portfolio Securities be, an insider of any of the issuers of Portfolio Securities representing the Initial Portfolio.
17. The acquisition of the Initial Portfolio represents the business judgment of the Company's board of directors, uninfluenced by considerations other than the best interest of the Company. The Company intends to hold the Initial Portfolio and not engage in trading, except under certain limited circumstances as described in the Final Prospectus.
18. In its investment activities following the acquisition of the Initial Portfolio, the Company is subject to the following investment restrictions which are designed to improve the quality and diversification of the Portfolio:
 - (a) *Replacement Securities*: Only investments in the following types of securities are permitted:
 - (i) common shares (or equivalent) of: (x) any issuer whose shares (or equivalent) form part of the S&P/TSX 60 Index; (y) any Canadian issuer with a minimum market capitalization of C\$1 billion; or (z) any issuer whose shares (or equivalent) form part of the Standard & Poor's 500 Index;
 - (ii) preferred shares (or equivalent) issued by any Canadian issuer with a minimum rating of Pfd-3 (high) (or equivalent) by at least one major rating agency;
 - (iii) units of any Canadian income trust, limited partnership or similar issuer provided that, notwithstanding any other investment restrictions set out below, the Company's aggregate investment in this type of security may not exceed 10% of the total assets of the Company and the Company's investment in any single issuer of this type of security may not exceed 5% of the total assets of the Company; and

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- (iv) fixed income securities issued by any Canadian or U.S. issuer with a minimum rating of A (low) (or equivalent) by at least one major rating agency.
 - (b) *Rating:* Issuers of common shares (or equivalent) must have a minimum rating of A (low) (or equivalent) on their senior unsecured debt from at least one major rating agency.
 - (c) *Liquidity:* Other than fixed income securities, all securities in the Portfolio must be listed for trading on a recognized North American stock exchange.
 - (d) *Diversification by Issuer:* No more than 10% of the total assets of the Company can be invested in securities of a single issuer.
 - (e) *Diversification by Industry:* No more than 20% of the total assets of the Company can be invested in securities of issuers involved in the same industry (based on the Standard & Poor's Global Industry Classification Standard or any successor thereto).
 - (f) *Dividend Coverage:* Any investment activity must maintain dividend coverage on the Senior Preferred Shares equal to the lesser of: (i) the dividend coverage immediately prior to such investment activity; and (ii) 1.05 times.
 - (g) *Taxation:* Any investment activity must maintain the Company's status with respect to "Canadian content" for purposes of the *Income Tax Act* (Canada).
 - (h) *Use of Proceeds:* Other than as disclosed in the Final Prospectus (for example, to fund retractions of Senior Preferred Shares), net proceeds generated from the sale of Portfolio Securities may only be used to purchase replacement Portfolio Securities in accordance with the foregoing investment restrictions and may not be made payable in cash to holders of the Capital Shares.
19. The Company will only buy and sell Portfolio Securities through a recognized exchange through an investment dealer or broker.
20. It will be disclosed in the Final Prospectus that Coastal may buy or sell for its own account securities that may be included in the Portfolio held by the Company through the facilities of a recognized exchange. If the Company is buying or selling ("Market Purchases" or "Market Sales") securities at the

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same time, Coastal may unknowingly be trading with the Company but such trades will be at market prices through the facilities of a recognized exchange.

21. Coastal and the Company will comply with applicable securities legislation and orders obtained from all applicable securities regulatory authorities. The Final Prospectus will disclose that Coastal may realize a gain or loss on the resale of securities acquired from the Company.
22. The Final Prospectus will disclose that the Company will require any investment dealer engaged by it to undertake any investment activities to take reasonable steps, such as soliciting bids from other market participants or such other steps as such investment dealer, in its discretion, considers appropriate after taking into account prevailing market conditions and other relevant factors, to enable the Company to obtain the best price reasonably available for the Portfolio Securities so long as the price obtained (net of all transaction costs, if any) by the Company is at least as advantageous to the Company as the price which is available (net of all transaction costs, if any) through the facilities of the applicable exchange at the time of the trade.
23. Neither Coastal nor its associates or affiliates will receive any commissions from the Company in connection with any trade of Portfolio Securities and, in carrying out any such trade, Coastal and its associates and affiliates shall deal fairly, honestly and in good faith with the Company.
24. The Final Prospectus will disclose:
 - (a) the price to be paid for the Initial Portfolio;
 - (b) the fact that the Independent Directors of the Company have determined that the price to be paid for each class of Portfolio Securities in the Initial Portfolio is fair to the Company;
 - (c) the general factors, and those facts that are specifically relevant to each Portfolio Security, that were considered by the Independent Directors of the Company in determining that the price to be paid for each Portfolio Security in the Initial Portfolio is fair to the Company;
 - (d) information concerning the trading history of the Portfolio Securities;
 - (e) information concerning the applicable credit rating of the issuers of the Portfolio Securities and dividend history of the Portfolio Securities in the Initial Portfolio; and

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- (f) details of Coastal's relationship with and economic interest in the Company.

AND WHEREAS under the System, this MRRS Decision Document evidences the decision of each Decision Maker (collectively, the "Decision");

AND WHEREAS 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 requirement contained in the Legislation to prohibit trading in portfolio securities by persons or companies having information concerning the investment programs of mutual funds that are reporting issuers shall not apply to Coastal or its associates or affiliates in connection with the purchase of the Initial Portfolio and Market Purchases and Market Sales herein described provided that:

- (a) the Final Prospectus contains the disclosure referred to in paragraph 22 above;
- (b) the price payable to the Company for any Market Sales is not less than the bid price as reported on the applicable stock exchange; and
- (c) the price payable by the Company for any Market Purchases is not more than the ask price as reported on the applicable stock exchange.

DATED this 28th day of November, 2002.

Robert L. Shirriff

Robert W. Korthals