

2006 BCSECCOM 214

April 4, 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 issuer is a short-term vehicle formed solely to invest its available funds in flow-through shares of resource issuers; the issuer's securities are not redeemable and there is no secondary trading in the issuer's securities; the issuer's other continuous disclosure documents will provide all relevant information necessary for investors to understand the issuer's business, financial position and future plans

Applicable British Columbia Provisions

National Instrument 81-106, ss. 9.1 and 17.1

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

and

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

and

In the Matter of Creststreet 2005 Limited Partnership (the "Filer")

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 Filer for a decision under the securities legislation of the Jurisdictions (the "Legislation") exempting the Filer from the requirement in Section 9.2 of National Instrument 81-106 ("NI 81-106") to file an annual information form (the "Requested Relief").

Under the Mutual Reliance Review System for Exemptive Relief Applications:

- (a) the Ontario Securities Commission is the principal regulator for this application; and

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- (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 Filer:

1. The Filer is a limited partnership formed pursuant to the provisions of the *Limited Partnerships Act* (Ontario) on December 22, 2004.
2. The Filer was formed to achieve capital appreciation through investment in a diversified portfolio of equity securities, comprised principally of flow through shares ("Flow-Through Shares"), of companies engaged in oil and gas, mining or renewable energy exploration and development in Canada or that invest in securities of entities engaged in such activities ("Resource Issuers").
3. The Filer was granted a decision document, dated March 9, 2005, by the OSC in its capacity as principal regulator under National Policy 43-201 Mutual Reliance Review System for Prospectuses and Annual Information Forms on behalf of the securities regulatory authority or regulator for each of the other provinces of Canada, which decision document evidences the issue of final receipts for the Filer's prospectus (the "Prospectus") dated March 8, 2005 relating to an offering of up to 7,500,000 limited partnership units. As a result, the Filer is a reporting issuer or the equivalent thereof in each province of Canada.
4. On March 30, 2005, the Filer completed the issue of 5,428,165 non-redeemable limited partnership units under the Prospectus (the "Partnership Units"). No additional Partnership Units have been or may be issued by the Filer. The Partnership Units have not been and will not be listed or quoted for trading on any stock exchange or market.
5. It is the current intention of the Filer, as described in the Prospectus, to transfer its assets to Creststreet Mutual Funds Limited, an open-ended mutual fund corporation incorporated under the laws of Canada, ("CMFL"), on January 19, 2007 on a tax deferred basis in exchange for redeemable resource class shares of CMFL (the "Creststreet Resource Fund"). Upon the dissolution of the Filer, which will occur immediately following such transfer, such shares of the Creststreet Resource Fund will be distributed to the partners

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of the Filer *pro rata* on a tax-deferred basis. Such transaction is subject, *inter alia*, to any necessary regulatory approvals and in the event that it is not possible to complete the transaction, it is the current intention of the Filer to dissolve and distribute its net assets *pro rata* to its partners no later than September 30, 2007 or such later date as may be approved by the limited partners of the Filer by extraordinary resolution.

6. Since its formation on December 22, 2004, the Filer's activities have been limited to (i) completing the issue of the Partnership Units under the Prospectus, (ii) investing its available funds in Flow-Through Shares of Resource Issuers and (iii) incurring expenses as described in the Prospectus.
7. The limited partners of the Filer will obtain adequate financial information from the Filer's annual and interim financial statements and management report of fund performance. If a material change takes place in the business and affairs of the Filer, the Filer will ensure that a timely material change report is filed with the securities regulatory authority or regulator in each of the Jurisdictions.
8. The Prospectus, the financial statements and management report of fund performance provide sufficient information necessary for a limited partner to understand the Filer's business, its financial position and its future plans, including the intended asset transfer and dissolution on January 19, 2007.
9. In light of the limited range of business activities to be conducted by the Filer, the nature of the investment of the limited partners in the Filer and the fact that the Filer intends to dissolve on or about January 19, 2007, the requirement to file an annual information form does not produce a benefit to the limited partners and may impose a material financial burden on the Filer.

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 requirement in Section 9.2 of NI 81-016 to file an annual information form shall not apply to the Filer.

Leslie Byberg
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Ontario Securities Commission