

# 2006 BCSECCOM 385

June 15, 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**

NI 81-106, ss. 9.2 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, Yukon, Northwest  
Territories and Nunavut  
(the Jurisdictions)

and

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

and

In the Matter of  
Front Street Flow-Through 2005-I Limited Partnership (FS 2005-I) and  
Front Street Flow-Through 2006-I Limited Partnership (FS 2006-I)  
(collectively, the Filers)

## 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 Filers for a decision under the securities legislation of the Jurisdictions (the Legislation) for an

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exemption from the annual information form (AIF) filing requirement in section 9.2 of National Instrument 81-106 *Investment Fund Continuous Disclosure* (NI 81-106) pursuant to section 17.1 thereof (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
- (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 Filers:

1. The Filers are limited partnerships formed pursuant to the provisions of the *Limited Partnerships Act* (Ontario). FS 2005-I was formed on December 31, 2002 and FS 2006-I was formed on December 28, 2005. The principal office of the Filers is located in Toronto, Ontario.
2. The primary investment objective of FS 2005-I is to achieve capital appreciation for its limited partners through investment in a diversified portfolio of flow-through common shares (Flow-Through Shares) of resource issuers (Resource Issuers) engaged primarily in oil and gas and mining exploration, development and production that will incur Canadian Exploration Expenses (CEE), including Canadian Renewable and Conservation Expenses (CRCE). Flow-Through Shares are issued on the basis that the Resource Issuer will agree to incur and renounce to that Filer amounts equal to the subscription price of the Flow-Through Shares in expenditures in respect of resource exploration and development which qualify as CEE or as CRCE.
3. The investment objectives of FS 2006-I are (i) to achieve capital appreciation through investment in a diversified portfolio of equity securities of Resource Issuers engaged in oil and gas or mining exploration, development or production or energy production that will incur CEE, including CRCE; and (ii) to invest in limited partnerships that will participate financially in the gross production or production revenue generated from mining and oil sands properties of various resource companies that meet specified criteria (each a Resource Company) and that will make contributions to qualifying

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environmental trusts to secure reclamation obligations of Resource Companies.

4. FS 2005-I received a receipt dated January 27, 2005, issued under MRRS by the Ontario Securities Commission on behalf of each of the provincial regulators with respect to a (final) prospectus dated January 25, 2005, offering for sale up to 4,000,000 limited partnership units of FS 2005-I at a price of \$25 per unit. FS 2005-I is a reporting issuer in each of the provincial Jurisdictions.
5. On or about June 30, 2007, FS 2005-I will be dissolved. The FS 2005-I general partner has been authorized to implement an exchange transaction (a Mutual Fund Rollover Transaction), prior to that date, under which FS 2005-I would transfer its assets to an open-end mutual fund corporation, on a tax deferred basis, in exchange for mutual fund shares. If a Mutual Fund Rollover Transaction is not implemented by May 31, 2007 or if the FS 2005-I limited partners determine by extraordinary resolution not to proceed with the Mutual Fund Rollover Transaction, the assets of FS 2005-I will be disposed of, debts and liabilities will be paid and FS 2005-I will be dissolved with the FS 2005-I limited partners receiving their pro rata share of the FS 2005-I net assets.
6. FS 2006-I received a receipt dated February 13, 2006, issued under MRRS by the Ontario Securities Commission on behalf of each of the jurisdictions with respect to a (final) prospectus dated February 9, 2006, offering for sale up to 5,000,000 limited partnership units of FS 2006-I at a price of \$25 per unit. FS 2006-I is a reporting issuer in each of the Jurisdictions.
7. On or about June 30, 2008, FS 2006-I will be dissolved. The FS 2006-I general partner has been authorized to implement a Mutual Fund Rollover Transaction, prior to that date, under which FS 2006-I would transfer its assets to an open-end mutual fund corporation, on a tax deferred basis, in exchange for mutual fund shares. If a Mutual Fund Rollover Transaction is not implemented by May 31, 2008 or if the FS 2006-I limited partners determine by extraordinary resolution not to proceed with the Mutual Fund Rollover Transaction, the assets of FS 2006-I will be disposed of, debts and liabilities will be paid and FS 2006-I will be dissolved with the FS 2006-I limited partners receiving their pro rata share of the FS 2006-I net assets.
8. The limited partnership units of each Filer are not and will not be listed or quoted for trading on any stock exchange or market and are also not redeemable by the limited partners.

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9. Given the limited range of business activities conducted by the Filers, the short duration of their existence and the nature of the investment in the Filers, the preparation and distribution of an AIF by the Filers will not be of any benefit to the Filers' limited partners and may impose a material financial burden on the Filers.
10. The limited partners of each Filer will obtain adequate financial information from that Filer's annual and interim financial statements and management reports of fund performance. If a material change occurs to one of the Filers, that Filer is obligated to file a material change report in the applicable Jurisdictions.

### **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.

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Ontario Securities Commission