

2007 BCSECCOM 22

December 15, 2006

Headnote

Mutual Reliance Review System for Exemptive Relief Applications - National Instrument 81-106, s.17.1 - Continuous Disclosure Requirements for Investment Funds - 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 allow consistent, but infrequent redemptions or retractions; 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, s. 14.2(3)(b) and 17.1

In the Matter of
the Securities Legislation of
British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Québec, Nova
Scotia, New Brunswick, 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
Canadian Closed-End Trust
(the “Trust”)

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

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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 Trust:

1. The Trust is a closed-end investment trust established under the laws of Ontario. The Trust's manager and trustee is Navina Capital Corp. (the "Manager" or the "Trustee"), and its portfolio advisor is BluMont Capital Corporation (the "Portfolio Manager").
2. The Portfolio Manager is a corporation incorporated under the laws of Ontario and is registered as an investment counselor and portfolio manager and mutual fund dealer in the province of Ontario.
3. The custodian of the Trust assets is CIBC Mellon. The transfer agent of the Trust is Computershare Investor Services Inc.
4. The Trust will make an offering to the public, on a best efforts basis, of units of the Trust (the "Units") in each of the provinces and territories of Canada. The Trust is offering to issue its Units in exchange for securities of certain closed-end funds ("Closed-End Funds") listed on the TSX. The Trust filed a preliminary prospectus dated November 8, 2006 in connection with the offering and will file a final prospectus (collectively, the "Prospectus").
5. The Units are expected to be listed and posted for trading on the Toronto Stock Exchange (the "TSX"). An application requesting conditional listing approval has been made on behalf of the Trust to the TSX. Since the Units will be listed on the TSX, investors will not have to rely solely on the redemption feature of the Units to provide liquidity for their investment.
6. The Portfolio Manager intends to implement the Trust's investment strategy primarily by trading Closed-End Funds listed on the TSX.

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7. The Trust's investment objectives are: (a) to pay monthly cash distributions on the Units to holders of Units ("Unitholders"); and (b) to preserve and potentially enhance the value of the portfolio.
8. The Trust is not considered to be a "mutual fund" because the Unitholders are not entitled to receive on demand an amount computed by reference to the value of a proportionate interest in the whole or in part of the net assets of the Trust as contemplated in the definition of "mutual fund" in the applicable securities legislation. Accordingly, the Trust will be a "non-redeemable investment fund" as defined in NI 81-106.
9. The Trust proposes to calculate its net asset value per Unit on the Thursday of each week of the fiscal year (or if Thursday is not a business day, the immediately preceding business day), and on the last business day of each month in March, June, September and December (a "NAV Valuation Date"). Net asset value will be calculated as of each NAV Valuation Date by subtracting the aggregate amount of the Trust's liabilities from its total assets. The preliminary prospectus discloses and the final prospectus will disclose how the Trust will calculate net asset value.
10. The Trust intends to make monthly cash distributions to be declared payable to Unitholders of record on the last business day of each month and to be paid on or before the 15th day of the following month. The monthly distribution amount for the 12 months ending on December 31, 2007 will be \$0.0583 per Unit per month, representing a yield of 7.0% per annum based on the original issue price of the Units.
11. The Trust does not have a fixed termination date but may be terminated on any date specified in an extraordinary resolution of Unitholders, provided that such date must be at least 90 days after the date of the Unitholder meeting at which the extraordinary resolution was approved, or on 60 days notice by the Trustee if the Trustee determines that it is no longer economically practical to continue the Trust or the Trustee determines that it is in the best interests of the Trust and the Unitholders to terminate the Trust.
12. Subject to certain exceptions, a Unitholder who surrenders a Unit for redemption on the last business day of June of any year commencing in 2008 will receive payment therefore which is based on the net asset value per Unit.

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

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been met. The Decision of the Decision Makers under the Legislation is that the Requested Relief is granted provided that the Prospectus discloses:

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

for so long as:

- (c) the Units are listed on the TSX; and
- (d) the Trust calculates its net asset value at least weekly.

Rhonda Goldberg
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Ontario Securities Commission