

2008 BCSECCOM 194

March 25, 2008

Headnote

Mutual Reliance Review System for Exemptive Relief Applications - National Instrument 81-107 *Independent Review Committee for Investment Funds*, s. 7.1 – requirement to file IRC report within 120 days after the end of the first financial year - The manager of a flow-through limited partnership wants an extension of time to file the report of the Investment Review Committee (IRC) required under sections 4.4(1) and 8.2(3) - The partnership has a different financial year end from all other funds under common management; the partnership will exist only for a short period of time; the content of the IRC report for the partnership will be similar to that of the other funds and will cover the same period of time as for the other funds

Applicable British Columbia Provisions

National Instrument 81-107, ss. 4.4(1), 7.1 and 8.2(3)

In the Matter of
the Securities Legislation of
Ontario, Alberta, British Columbia, Manitoba,
Nova Scotia, New Brunswick, Prince Edward Island,
Newfoundland and Labrador, the Northwest Territories,
Nunavut, Quebec, Saskatchewan and the Yukon
(the “Jurisdictions”)

and

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

and

MSP 2007 Resource Limited Partnership
(the “Partnership”)

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 Partnership and Mackenzie Financial Corporation (the “Manager”) on behalf of the Manager, the Partnership and the independent review committee of the Partnership (the “IRC”) for a decision pursuant to section 7.1 of National Instrument 81-107 *Independent*

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Review Committee for Investment Funds (“NI 81-107”) permitting the IRC to defer until October 28, 2008 and, if the Partnership is still in existence, until September 28, 2009, the preparation of the IRC report to securityholders of the Partnership that is required to be prepared under section 4.4(1) and section 8.2(3) of NI 81-107 (the “Requested Relief”).

Interpretation

Defined terms contained in the 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 Partnership:

1. The Partnership is a limited partnership formed under the laws of the Province of Ontario.
2. The Partnership filed a final prospectus dated January 17, 2007 (the “Prospectus”) with the securities commission or regulatory authority of each of the Jurisdictions and Prince Edward Island and is a reporting issuer in each of the Jurisdictions and Prince Edward Island. The Partnership is a non-redeemable investment fund. Although the termination date of the Partnership is June 30, 2009, it is expected that the Partnership will be dissolved in March 2009.
3. In addition to the Partnership, the IRC also oversees all of the mutual funds and the other investment funds, including any other resource flow-through limited partnership managed by the Manager (collectively, the “Mackenzie Funds”).
4. The financial year of each Mackenzie Fund is June 30 of each year. The financial year of the Partnership is December 31 of each year. Accordingly, other than the Partnership, all of the Mackenzie Funds, including any future resource flow-through limited partnership, have or will have a common financial year of June 30.
5. At the time the December 31 financial year of the Partnership was established, the consequences on the IRC and the IRC’s reporting obligations under securities legislation were not considered by the Manager.
6. Under section 4.4(1) and section 8.2(3) of NI 81-107, the IRC is required to prepare its first report to the investors of the Mackenzie Funds by October 28, 2008 and its second report by September 28, 2009. However, because the Partnership has a different financial year than all of the Mackenzie Funds,

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absent the Requested Relief, the IRC would be required to prepare its first report to the investors of the Partnership by April 29, 2008, and its second report to investors of the Partnership by March 31, 2009.

7. Given the nature of an investment in a resource flow-through limited partnership such as the Partnership, the Manager is of the view that the investors in the Partnership would derive little, if any, benefit from a separate IRC report. Further, additional costs would be incurred in preparing a separate IRC report, which costs would be borne by the Partnership and, ultimately, by the investors in the Partnership. Therefore, from a cost/benefit perspective, the Manager believes that granting the Requested Relief would be in the best interests of the investors in the Partnership.
8. Granting the Requested Relief will also not be prejudicial to the investors in the Partnership, as these investors would have access to the comprehensive IRC report that will be prepared by October 28, 2008 for all of the Mackenzie Funds, including the Partnership and any other resource flow-through limited partnership managed by the Manager, and made available to all Mackenzie investors.
9. The Manager anticipates that the content of the IRC report on behalf of the Partnership will be similar to that of the Mackenzie Funds in 2008 and 2009, and, if the Requested Relief is granted, will cover the same period as the IRC report on behalf of the Mackenzie Funds, namely, the period of IRC activity up to and including June 30, 2008, and, if applicable, up to and including June 30, 2009.
10. The IRC report to securityholders of the mutual fund (the "Mutual Fund") into which assets of the Partnership are, or may be, eventually rolled over (the rollover being the "Mutual Fund Rollover Transaction" as described in the Prospectus), will disclose that the IRC has reviewed the Mutual Fund Rollover Transaction and will disclose the IRC's recommendation on this transaction.
11. The Requested Relief is only required in respect of the IRC report to securityholders of the Partnership required to be prepared in 2008 and in 2009. Although the termination date of the Partnership is June 30, 2009, it is expected that the Partnership will be dissolved in March 2009.
12. If the Partnership is not terminated on or prior to June 30, 2009, then pursuant to the Requested Relief, the IRC report to securityholders of the Partnership will be prepared by September 28, 2009 along with the IRC report to investors in the Mackenzie Funds, and the Manager will evaluate what further steps should be taken in respect of the Partnership.

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Decision

Each of the Decision Makers is satisfied that the test contained in the Legislation that provides the Decision Makers with the jurisdiction to make the Decision has been met.

The decision of the Decision Makers is that the Requested Relief is granted.

Vera Nunes
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ONTARIO SECURITIES COMMISSION