

2002 BCSECCOM 867

Headnote

Mutual Reliance Review System for Exemptive Relief Applications – issuer of exchangeable shares exempt from continuous disclosure requirements, subject to certain conditions

Applicable British Columbia Provisions

Securities Act, R.S.B.C. 1996, c. 418, ss. 85(1), 91, 117(2) and 119

Securities Rules, B.C. Reg. 194/97, ss. 144, 145 and 184

IN THE MATTER OF THE SECURITIES LEGISLATION OF BRITISH COLUMBIA, ALBERTA, SASKATCHEWAN, AND ONTARIO

AND

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

AND

IN THE MATTER OF PARKLAND HOLDINGS LIMITED PARTNERSHIP

MRRS DECISION DOCUMENT

1. WHEREAS the local securities regulatory authority or regulator (the “Decision Maker”) in British Columbia, Alberta, Saskatchewan, and Ontario (the “Jurisdictions”) has received an application from Parkland Holdings Limited Partnership (“Holdings LP”) for a decision under the securities legislation of the Jurisdictions (the “Legislation”) that the requirements under the Legislation to issue a press release and file a report upon the occurrence of a material change, file an annual report where applicable, interim financial statements and audited annual financial statements and deliver such financial statements to its security holders, file an information circular or make an annual filing in lieu of filing an information circular, where applicable, file an annual information form and provide management’s discussion and analysis of financial conditions and results of operations (the “Continuous Disclosure Requirements”) not apply to Holdings LP;
2. AND WHEREAS under the Mutual Reliance Review System for Exemptive Relief Application (the “System”), the Alberta Securities Commission is the principal regulator for the application;

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3. AND WHEREAS, unless otherwise defined, the terms herein have the meaning set out in National Instrument 14-101 Definitions or in Québec Commission Notice 14-101;
4. AND WHEREAS Holdings LP has represented to the Decision Makers that:
 - 4.1. Holdings LP is a limited partnership formed under the laws of Alberta and governed by an amended and restated limited partnership agreement dated June 28, 2002;
 - 4.2. 986408 Alberta Ltd., a wholly owned subsidiary of Parkland Income Fund (the "Fund"), incorporated under the *Business Corporation Act* (Alberta), is the general partner of Holdings LP;
 - 4.3. Holdings LP is reporting issuer in the Jurisdictions and became a reporting issuer in the Jurisdictions following an exchange of securities in connection with a statutory arrangement (the "Arrangement") that occurred on June 28, 2002 under section 193 of the *Business Corporations Act* (Alberta) involving Holdings LP, Parkland Investment Trust (the "Trust"), the Fund, Parkland Industries Ltd. ("Parkland"), and the shareholders of Parkland;
 - 4.4. Holdings LP is not in default of any requirements of the Legislation;
 - 4.5. the head office of Holdings LP is located in Red Deer, Alberta;
 - 4.6. Holdings LP is authorized to issue an unlimited number of Class A units (the "Holdings Units ") and an unlimited number of Class B units (the "Rollover LP Units") of which as of August 30, 2002, there were 5,683,099 Holdings Units and 6,443,615 Rollover LP Units outstanding;
 - 4.7. the Fund is an unincorporated open-ended limited purpose trust formed under the laws of Alberta pursuant to a declaration of trust dated April 30, 2002;
 - 4.8. the Fund's head office is located in Red Deer, Alberta;
 - 4.9. the Fund is a reporting issuer in the Jurisdictions, and in Manitoba, and is not in default of any of the requirements of the Legislation;
 - 4.10. units (the "Units") of the Fund have been listed and posted for trading on TSX Inc. ("TSX") since July 5, 2002;

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- 4.11. under an exchange agreement entered into in connection with the Arrangement among the Fund, the Trust, Holdings LP, and the holders of the Rollover LP Units, Parkland shareholders, in exchange for each common share of Parkland, could elect to receive either two Units or two Rollover LP Units;
- 4.12. the Rollover LP Units are intended to be, to the greatest extent practicable, the economic equivalent of the Units and are indirectly exchangeable for Units at the option of the holder on a one-for-one basis until June 30, 2008, and in certain circumstances at the option of the Trust;
- 4.13. the consolidated financial statements of the Fund will include the results of Parkland's operations;
- 4.14. all of the Holdings Units are held by the Trust;
- 4.15. the Rollover LP Units are held by the Trust and 64 unitholders of which five have a registered address in British Columbia, 19 have a registered address in Alberta, 30 have a registered address in Ontario, and none has a registered address in Saskatchewan; and
- 4.16. no securities of Holdings LP are now, or have ever been, listed or quoted on any exchange or market;
5. AND WHEREAS under the System, this MRRS Decision Document evidences the decision of each Decision Maker (collectively, the "Decision");
6. 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;
7. THE DECISION of the Decision Makers under the Legislation is that the Continuous Disclosure Requirements will not apply to Holdings LP for so long as:
 - 7.1. the Fund is a reporting issuer in at least one of the jurisdictions listed in Appendix B of Multilateral Instrument 45-102, *Resale of Securities*, and is an electronic filer under National Instrument 13-101;
 - 7.2. the Fund sends to all holders of Rollover LP Units resident in the Jurisdictions all disclosure material furnished to holders of Units under the Continuous Disclosure Requirements;

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- 7.3. the Fund complies with the requirements of TSX, or such other market or exchange on which the Units may be quoted or listed, in respect of making public disclosure of material information on a timely basis;
- 7.4. Holdings LP is in compliance with the requirements of the Legislation to issue a press release and file a report with the Decision Makers upon the occurrence of a material change in respect of the affairs of Holdings LP that is not also a material change in the affairs of the Trust;
- 7.5. the Fund will include in all future mailings of proxy solicitation materials to holders of Rollover LP Units a clear and concise insert explaining the reason for the mailed material being solely in relation to the Fund and not to Holdings LP, such insert to include a reference to the economic equivalency between Rollover LP Units and Units and the right to receive notice of and to vote at meetings of holders of Units;
- 7.6. the Fund remains the direct or indirect beneficial owner of all of the issued and outstanding voting securities of Holdings LP; and
- 7.7. Holdings LP does not issue any securities to the public other than securities issued in connection with the Arrangement.

DATED this 4th day of October, 2002.

Eric T. Spink, Vice-Chair

Thomas G. Cooke, Q.C., Member