

# 2008 BCSECCOM 94

January 17, 2008

## 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 *Continuous Disclosure Requirements for Investment Funds* (NI 81-106) to calculate its net asset value at least once every business day - The fund is a closed-end investment fund that allows redemptions or retractions no more frequently than once per month; units of the fund are either: (a) listed or to be listed on a stock exchange and unitholders can buy or sell shares of the fund through the exchange, or (b) convertible into units listed or to be listed on a stock 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, and Newfoundland and Labrador  
(the Jurisdictions)

and

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

and

In the Matter of  
Tech Titans Trust  
(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”) for an exemption from the requirement contained in section 14.2(3)(b) of National

## 2008 BCSECCOM 94

Instrument 81-106 – Investment Fund Continuous Disclosure (“NI 81-106”) to calculate net asset value at least once every business day (the “Requested Relief”).

Under the Mutual Reliance Review System for Exemptive Relief Applications (the “System”):

- (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 Filer:

#### The Filer

1. The Filer is an investment fund established under the laws of the Province of Ontario. Quadravest Inc. will be the manager of the Filer (the “Manager”) and Quadravest Capital Management Inc. (the “Investment Manager”) will provide investment advisory and portfolio management services to the Filer. The head office of the Manager is located in the province of Ontario.

#### The Offering

2. The Filer will make an offering (the “Offering”) to the public, on a best efforts basis, of units (“Units”) consisting of one trust unit (a “Trust Unit”) and one warrant to purchase a trust unit (a “Warrant”) in each of the provinces of Canada, at a price of \$12.00 per Unit. Each Warrant entitles the holder thereof to purchase one Trust Unit at a price of \$12.25 on the last business day of March, June, September and December in each year commencing March 28, 2008 and ending June 30, 2009 inclusive. Warrants not exercised on or before June 30, 2009 will be void and of no value.
3. A preliminary prospectus for the Filer dated December 6, 2007 (the “Preliminary Prospectus”) has been filed with the securities regulatory authority in each of the Provinces of Canada under SEDAR Project No. 1196105.

## 2008 BCSECCOM 94

4. The Trust Units and the Warrants are expected to be listed and posted for trading on the Toronto Stock Exchange (the “TSX”). An application for conditional listing approval has been made by the Filer to the TSX.
5. The Offering is a one-time offering and Trust Units will not be sold on a continuous basis under a prospectus.
6. The Filer’s investment objective is to seek capital appreciation by investing the net proceeds of the Offering in common shares of Apple, Inc., Google Inc., Microsoft Corporation and Research in Motion Ltd. (collectively, the “Portfolio Companies”). The Filer’s investment strategy will involve the use of specified derivatives.

### The Trust Units

7. The Trust Units may be surrendered for redemption at any time and will be redeemed on a monthly basis on the last business day of each month (a “Redemption Date”), provided such Trust Units are surrendered for redemption not less than 20 business days prior to the Redemption Date. The Filer will make payment for any Trust Units redeemed within 15 business days of the Redemption Date.
8. The redemption price for a Trust Unit surrendered for redemption on a monthly basis will be equal to the lesser of
  - (i) 95% of the “market price” of the Trust Units on the principal market on which the Trust Units are quoted for trading during the 20 trading day period ending immediately before the Redemption Date; and
  - (ii) 100% of the “closing market price” on the principal market on which the Trust Units are quoted for trading on the applicable Redemption Date.
9. Unitholders also have an annual redemption right under which they may redeem Trust Units on the June Redemption Date in each year, commencing on June 30, 2009. The price paid by the Filer for such a redemption will be equal to the net asset value per Trust Unit calculated as of such date, less \$0.10 per Trust Unit redeemed to cover the costs of liquidating a portion of the Portfolio to fund the redemption.

### Calculation of Net Asset Value

## 2008 BCSECCOM 94

10. Under clause 14.2(3)(b) of NI 81-106, an investment fund that is a reporting issuer is generally required to calculate the net asset value per security of the fund on at least a weekly basis. Furthermore, an investment fund that uses or holds specified derivatives, such as the Filer intends to do, must calculate its net asset value per security on a daily basis.
11. The Filer will calculate its net asset value per Trust Unit, on each Redemption Date and the fifteenth day of each month, or if the fifteenth is not a business day, the preceding business day (each a “Valuation Date”). Net asset value will be calculated as at the close of business on each Valuation Date by subtracting the aggregate amount of the Filer’s liabilities from the aggregate value of the Filer’s assets.
12. The Filer will calculate a “basic” net asset value per Trust Unit on each Valuation Date, which shall be calculated by dividing the net asset value on such Valuation Date by the total number of Trust Units issued and outstanding on such Valuation Date. Where as a result of such calculation the basic net asset value per Trust Unit is greater than \$12.25 (the exercise price of the Warrants), then a diluted net asset value per Trust Unit shall also be calculated. The diluted net asset value per Trust Unit shall be calculated by adding to the denominator the total number of Trust Units issuable pursuant to the Warrants then outstanding and by adding to the numerator the product of such number of Trust Units issuable on the exercise of the Warrants and the exercise price of the Warrants. The diluted net asset value per Trust Unit shall be deemed to be the resulting quotient.
13. The Preliminary Prospectus discloses, and the final prospectus of the Filer will disclose, that the basic net asset value per Trust Unit and, if applicable, the diluted net asset value per Trust Unit, will be made available to the public by the Investment Manager on the Filer’s website at [www.TechTitansTrust.com](http://www.TechTitansTrust.com) and will be available to the public upon request. The Filer’s website will also contain an explanation of the difference between the basic net asset value per Trust Unit and the diluted net asset value per Trust Unit.
14. Unitholders will have the opportunity to trade their shares on the TSX and as such do not have to rely on the redemption features to provide liquidity for their shares.

### **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.

## **2008 BCSECCOM 94**

The decision of the Decision Makers under the Legislation is that the Requested Relief is granted for so long as:

- (a) the Trust Units are listed on the TSX; and
- (b) the Filer calculates its net asset value per Trust Unit at least twice a month.

Vera Nunes  
Assistant Manager, Investment Funds  
Ontario Securities Commission