

2006 BCSECCOM 33

January 5, 2006

Headnote

Mutual Reliance Review System for Exemptive Relief Applications - Securities Act, ss. 48 and 76 – registration and prospectus requirements - Trades by a non-mutual fund in connection with its distribution reinvestment plan - The issuer is a newly-settled investment trust; the issuer can rely on the exemption in s. 2.2 of NI 45-106 *Prospectus and Registration Exemptions* to distribute units to participants in its distribution reinvestment plan; however, the issuer has only a small number of trust units issued and outstanding at the beginning of its initial financial year, restricting the number of trust units it could issue under the optional cash payment component of the plan during its initial financial year

Applicable British Columbia Provisions

Securities Act, R.S.B.C. 1996, c. 418. ss. 34(1)(a), 48, 61 and 76
Multilateral Instrument 45-102 *Resale of Securities*, s. 2.6(3)

In the Matter of
the Securities Legislation
of Alberta, British Columbia, Saskatchewan, Manitoba, Québec, Nova Scotia,
New Brunswick, Newfoundland and Labrador, Prince Edward Island, 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
Acclaim Energy Trust and Canetic Resources Trust

MRRS Decision Document

Background

1. The local securities regulatory authority or regulator (the Decision Maker) in each of the Jurisdictions has received an application from Acclaim Energy Trust (Acclaim) and the Canetic Resources Trust (Canetic Trust or the Filer) for a decision under the securities legislation of the Jurisdictions

2006 BCSECCOM 33

(the Legislation) that the dealer registration requirement and the prospectus requirement contained in the Legislation (collectively, the Registration and Prospectus Requirements) shall not apply to the initial distribution of trust units of the Filer (the Trust Units) under the optional cash payment provisions of a distribution reinvestment and optional trust unit purchase plan (the Plan) during the Filer's financial year ending December 31, 2006 (the 2006 Financial Year) (the Requested Relief).

2. Under the Mutual Reliance Review System for Exemptive Relief Applications ("MRRS"):
 - 2.1 the Alberta Securities Commission (ASC) is the Principal Regulator for the Filer; and
 - 2.2 this MRRS decision document evidences the decision of each Decision Maker.

Interpretation

3. Defined terms contained in National Instrument 14-101- Definitions have the same meaning in this decision unless they are otherwise defined in this decision.

Representations

4. This Decision is based on the following facts represented by the Filer:
 - 4.1 Canetic Trust is an investment trust formed under the laws of Alberta and governed by a trust indenture dated November 16, 2005 (the Trust Indenture);
 - 4.2 The head office of the Filer is located in Calgary, Alberta;
 - 4.3 The Filer will become a reporting issuer in all jurisdictions of Canada where that concept exists on the completion of a plan of arrangement, which will result in the reorganization of Canetic Trust (the Arrangement);
 - 4.4 The Arrangement received unitholder and court approval on December 19, 2005;
 - 4.5 Prior to the Arrangement becoming effective on January 5, 2006 (the Effective Date), there will be approximately 1,000 Trust Units issued and outstanding and approximately 195.236 million Trust Units issued and outstanding immediately after the Effective Date;

2006 BCSECCOM 33

- 4.6 The Trust Units will be listed on the Toronto Stock Exchange following the Effective Date. The Filer intends to make application to list the Trust Units on the New York Stock Exchange shortly after the Effective Date;
- 4.7 The Plan permits holders of Trust Units (Unitholders) to automatically reinvest cash distributions paid on their Trust Units in additional Trust Units (Plan Units) as an alternative to receiving a cash distribution;
- 4.8 The Plan will also permit registered Unitholders that participate in the Plan (Participants) to make additional optional cash payments to acquire additional Trust Units (Optional Plan Units), subject to a minimum of \$2,000 per Option Cash Payment and to a maximum of \$100,000 per financial year of the Filer per Participant;
- 4.9 Cash distributions under the Plan will be paid to the plan agent (Plan Agent) and applied by the Plan Agent to the purchase of Plan Units and Optional Plan Units, which will be held under the Plan for the account of the appropriate Participants;
- 4.10 The Filer will pay the Plan Agent's charges for administering the Plan and all applicable commissions, service charges, or brokerage fees in connection with the purchases in the market under the Plan. No commissions, service charges or brokerage fees will be payable by Participants in connection with the purchase of Plan Units or Optional Plan Units under the Plan. However, Participants who enrol in the Plan through a broker, trust company, bank or other nominee may be subject to fees in accordance with their agreement with their nominee;
- 4.11 The aggregate number of Optional Plan Units that may be issued under the Plan:
 - 4.11.1 for the 2006 Financial Year, will be limited to 2% of the number of Trust Units issued and outstanding immediately after the Effective Date;
 - 4.11.2 for each financial year thereafter, will be limited to 2% of the number of Trust Units issued and outstanding at the start of that financial year.
- 4.12 A Participant may terminate its participation in the Plan at any time by written notice to the Plan Agent;

2006 BCSECCOM 33

- 4.13 A copy of the Plan, which contains a statement describing their right to withdraw from the Plan and to make an election to receive cash instead of Plan Units and Optional Plan Units on the making of a cash distribution by the Filer and instructions on how to exercise their right to withdraw from the Plan, will be delivered to all Participants and will be posted on the Filer's website;
- 4.14 The Filer can rely on exemptions from the Registration and Prospectus Requirements contained in National Instrument 45-106 *Prospectus and Registration Exemptions* (NI 45-106) to distribute Plan Units and Optional Plan Units, except for Optional Plan Units distributed during the 2006 Financial Year;
- 4.15 As the 2006 Financial Year will begin prior to the Effective Date, the Filer would only be able to issue 2% of the 1,000 Optional Plan Units issued and outstanding prior to the Effective Date of the Arrangement. The Filer is seeking to issue 2% of the aggregated number of Trust Units issued and outstanding immediately after the Effective Date, as disclosed in the Plan;

Decision

- 5. 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.
- 6. The decision of the Decision Makers under the Legislation is that the Requested Relief is granted provided that:
 - 6.1 at the time of the trade the Filer is a reporting issuer in at least one of the Jurisdictions and is not in default of any requirements of the Legislation;
 - 6.2 no sales charge is payable by Participants in connection with the purchase of Optional Plan Units under the Plan;
 - 6.3 the aggregate number of Optional Plan Units issued under the Plan in the 2006 Financial Year must not exceed 2% of the aggregate number of Trust Units issued and outstanding immediately after the Effective Date;
- 7. The first trade of Optional Plan Units shall be deemed to be a distribution or primary distribution to the public in the Jurisdictions unless the conditions

2006 BCSECCOM 33

set out in subsection 2.6(3) of National Instrument 45-102 *Resale of Securities* are satisfied.

William S. Rice, Chair
Alberta Securities Commission

Glenda A. Campbell, Q.C., Vice-Chair
Alberta Securities Commission