

NOTICE

NATIONAL POLICY 12-201 MUTUAL RELIANCE REVIEW SYSTEM

FOR EXEMPTIVE RELIEF APPLICATIONS

IMPLEMENTATION

SUBSTANCE AND PURPOSE OF THE POLICY

National Policy 12-201 Mutual Reliance Review System for Exemptive Relief Applications (the "policy") is attached as Appendix A.

Canadian securities regulatory authorities (the "CSA") will implement the policy on January 1, 2000.

The policy will establish the mutual reliance review system ("MRRS") for exemptive relief applications ("ERA").

The policy embodies the principles of mutual reliance set out in the memorandum of understanding (the "MOU") signed as of October 14, 1999 and published on October 29, 1999 by the CSA.

BACKGROUND AND TESTING

The policy was initially published for comment as a concept proposal (the "concept proposal") in January, 1998 with the comment period ending June, 1998.

Testing of ERA commenced in March, 1998 and continues until implementation.

Eight industry comments were received on the concept proposal. The concept proposal was then redrafted as a national policy, which was published for comment on November 20, 1998. The comment period ended February 28, 1999.

The CSA received two comment letters on the draft policy from

- C Osler Hoskin & Harcourt
- C Borden & Elliot.

The CSA would like to thank commentators for providing their comments on the policy. The nature of the comments received were very helpful. Copies of the comment letters may be viewed at the office of a member of the ERA Committee listed below.

The comments received were supportive of ERA and that support was further evidenced by the increasing number of filers that elected to use ERA during testing.

All Canadian securities regulatory authorities and approximately 32 law firms participated in testing.

At present about three quarters of all exemptive relief applications are filed under ERA.

There were no material changes made to the policy published for comment. Only drafting and formatting changes meant to clarify the policy were made.

SUMMARY OF COMMENTS RECEIVED

General

Comment: Two commentators suggested that time lines be imposed on the review of applications by the staff of the principal regulator under ERA. This comment was also raised when the policy was initially published as a concept paper.

Response: The CSA has not made any change to the policy in this regard.

The policy does not set specified time lines for the review of applications by the principal regulator as the time required will vary depending on the type and complexity of each application and the responsiveness of filers to comments. It is the review of the application by the principal regulator that other securities regulatory authorities will rely on and this review should not be constrained.

Part 4 of the policy "Pre-filing Discussions"

Comment: One commentator

C suggested that the filer should be able to elect whether a pre-filing involved novel and substantive issues or raised novel public policy issues

C requested that a specified review period be set out for the review of the principal regulator's proposed approach on pre-filings by non-principal regulators.

Response: The CSA feels that the principal regulator, rather than the filer, is the most appropriate person to determine whether a filing is routine or involves novel and substantive issues or raises novel public policy issues. Accordingly no change was made to the policy.

The CSA agrees with the commentator's suggestion that there should be a time line on the review by non-principal regulators and the policy now specifies a seven business day review period.

Part 5 of the policy "Filing of Materials under MRRS"

Comment: One commentator suggested that ERA should result in reduced fees. The suggestion was that fees should be standardized across jurisdictions with possibly a flat principal regulator and non-principal regulator fee. This comment was also raised when the policy was initially published as a concept paper.

Response: The CSA has noted the comment and, while the CSA is considering the issue of fees generally, the CSA does not feel the issue can be fully addressed in the context of the policy.

Comment: One commentator suggested that the failure to file materials in all jurisdictions concurrently should not trigger a new review period for non-principal regulators.

Response: No change has been made to the policy. The CSA feels it is the filer's responsibility to ensure applications are filed concurrently with all securities regulatory authorities so that staff in each jurisdiction have an equal opportunity to conduct their initial review of the application and provide the principal regulator with any substantive issues arising from that review. This is not unreasonable given that applications can easily initially be filed by facsimile with the hard copy and fees following.

Comment: One commentator requested that notice be given to filers if a principal regulator plans to treat an application as abandoned.

Response: The CSA agrees and this has been added to the policy.

Part 6 of the policy "Review of Materials"

Comment: One commentator suggested that comments from non-principal regulators on applications should also be forwarded to filers.

Response: The CSA feels this would be inconsistent with the principles of mutual reliance. Filers generally deal only with the principal regulator on applications. The suggested approach would undermine this principle. The CSA feels that filers would correspond directly with non-principal regulators, leaving principal regulators without all of the information necessary to consider an application. Staff of principal regulators are responsible for reviewing the application and determining what comments will be made on an application. It is unlikely in practice that a principal regulator would not relay a substantive comment of a non-principal regulator to a filer with the result that a filer would be surprised with an opt out late in the process.

Part 9 of the policy "Opting out of the System"

Comment: One commentator suggested

- C that the policy should be clear that opting out by a local securities regulatory authority does not trigger a requirement for the filer to file a new application and additional fees with that securities regulatory authority
- C that the staff of the local securities regulatory authority opting out should prepare a draft local decision for the filer to review
- C that the date of the issue of the local decision by the local securities regulatory authority opting out should be no later than the date of the issue of the MRRS decision document on the application.

Response: The CSA agrees that, in the case of an opting out on an application, a new application and an additional fee would not be necessary. The policy has been clarified.

The CSA feels that once there has been an opt out of ERA for an application, ERA can no longer specify the process for reviewing that application by that securities regulatory authority. That local securities regulatory authority's local processes would need to be followed. The policy has therefore not been changed.

Part 10 of the policy "Effect of Silence"

Comment: Two commentators suggested silence should be deemed to be opting into a decision as opposed to opting out of a decision. It was suggested the current approach may lead to confusion among participants and potentially lengthen the process. It was suggested that deeming silence to be an opt into a decision would operate as an incentive for non-principal regulators to consider applications in a timely manner. This comment was also raised when the policy was initially published as a concept paper.

Response: The CSA does not agree with the commentators.

The wording of the policy has not been changed. The policy retains the concept that silence is a deemed opting out of ERA for a particular application and, given the nature of the relief granted, a positive act indicating an exercise of discretion is still felt to be the wisest course. MRRS decision documents are not standardized like registration certificates or prospectus receipts. Each decision is quite unique and a positive indication that the decision reflects each non-principal regulator's decision is felt necessary. More harm could come from deeming a securities regulatory authority to have opted in through silence if the securities regulatory authority has not actually exercised its discretion to opt in than from deeming a securities regulatory authority to have opted out through silence if the securities regulatory authority has actually exercised its discretion to opt in. In the former case there is a decision made available to the filer that represents a decision not actually made and in the latter the securities regulatory authority could simply issue its own decision to remedy the situation.

Part 11 of the policy "MRRS Decision Document"

Comment: One commentator felt that it should be possible to have a MRRS decision document that had an effective date earlier than the date on which the MRRS decision document was signed.

Response: The CSA has not adopted this comment as securities regulatory authorities are generally reluctant to grant retroactive relief out of a concern for intervening rights.

Commentators also made drafting suggestions to clarify the policy some of which were adopted. There were some drafting and formatting changes made, as a result of testing, to clarify the policy and to ensure consistency with other MRRS instruments. None of these were material.

SUMMARY OF THE POLICY

The following is a summary of the policy:

- C A filer is eligible to elect to use ERA for any application made to more than one securities regulatory authority, except for those applications for which the granting of exemptive relief can be evidenced by a MRRS decision document issued under National Policy 43-201 for the MRRS for Prospectuses and AIFS (the "prospectus policy") or by a certificate of registration;
- C The policy provides that a filer electing to use ERA for an application is responsible for selecting a principal regulator for the application in accordance with guidelines set out in the policy. These guidelines mirror similar provisions in the prospectus policy and are generally based on the location of the head office of the filer or the connection of the filer to a jurisdiction. The policy clarifies the procedure for changing the principal regulator for an application;
- C The policy provides a process for pre-filing discussions on applications. If the principal regulator determines that the pre-filing discussion is of a routine nature, the pre-filing will be dealt with by the principal regulator. If the principal regulator determines that the pre-filing discussion involves a novel and substantive issue or a novel public policy issue, the policy provides for a consultative process between securities regulatory authorities. The process is similar to that provided for in the prospectus policy;
- C The policy provides guidance on the contents of applications and on how applications should be made by filers electing to use ERA. Applications and application filing fees should be filed concurrently in all jurisdictions. The policy provides that if applications are not filed concurrently in all jurisdictions or are incomplete or deficient, the timing of the review may be affected;
- C A single application document should be drafted referencing the relevant legislative provisions of the principal regulator. The policy contains a provision that the application should contain footnotes or be accompanied by a table of concordance clearly referencing all the relevant legislative

provisions of all non-principal regulators where the application is made. The application should also contain analysis of where the provisions of the legislation of the non-principal regulators differs from that of the principal regulator;

- C The policy provides that the filer will generally deal only with the staff of the principal regulator on an application;
- C There will be no surrender of the exercise of discretion by any local securities regulatory authority under ERA. All securities regulatory authorities will exercise their discretion to grant or deny exemptive relief on an application. Non-principal regulators will rely on the review and analysis of the application by the staff of the principal regulator;
- C Under the policy, the staff of non-principal regulators will have seven business days to notify the staff of the principal regulator of substantive issues on an application that in the view of staff may, if left unresolved, cause the non-principal regulator to opt out of ERA for the application. The staff of the principal regulator can abridge this time period if they feel the circumstances warrant the abridgement;
- C Once the staff of the principal regulator has completed their review of an application (having the benefit of the substantive comments of the staff of non-principal regulators), they will notify the staff of the non-principal regulators of their recommendation and forward the recommendation to the principal regulator for a decision on the application;
- C Once the principal regulator has made a decision on an application the staff of the principal regulator will forward their staff memorandum and recommendation and the decision of the principal regulator on the application to the non-principal regulators involved in the application. The staff memorandum must identify substantive comments received from the staff of non-principal regulators and the view of the staff of the principal regulator on these comments;
- C Non-principal regulators have seven business days to decide whether to make the same decision as the principal regulator on an application or whether to opt out of ERA for the application. The principal regulator cannot abridge this time period but only request that the non-principal regulators attempt to make their decisions in a shorter period. The policy establishes a procedure to ensure there is no unintended opting out of ERA on an application due to silence. Staff of the principal regulator will send a reminder by facsimile to all non-principal regulators who have not responded within five business days;
- C A non-principal regulator may opt out of ERA for an application by advising the filer, the principal regulator and the other non-principal regulators of its decision to opt out and its reasons for doing so. The non-principal regulator that has opted out will continue its review of the application, deal directly with the filer, make a decision with respect to the application and issue its own decision document. A non-principal regulator that has opted out of ERA can opt back into ERA at any time prior to the end of the opting out period set by the policy;

- C The policy indicates that silence by a non-principal regulator on an application is deemed to be an opting out of ERA for an application;
- C The decision of the principal regulator on an application will not be released to the filer until the end of the opting out period set by the policy unless all non-principal regulators have communicated their decisions on the application prior to the end of that period;
- C The policy provides that once a decision has been made by all non-principal regulators, the principal regulator will issue a MRRS decision document evidencing the decisions of the principal regulator and all non-principal regulators that have not opted out of ERA for the application. The decisions of all securities regulatory authorities and the MRRS decision document will have the same effective date and the same terms and conditions;
- C The policy provides that if exemptive relief is needed for part of a transaction or matter the exemptive relief will be granted for the whole transaction or matter and a filer will look to the MRRS decision document for the exemptive relief for the whole transaction or matter and will not rely upon any statutory exemptions for portions of the transaction or matter;
- C The policy provides that the MRRS decision document will generally reflect the securities legislation and securities directions of the principal regulator on an application. This may mean that similar transactions or matters may be subject to different terms and conditions, for example different resale restrictions, depending on who acts as principal regulator on an application;
- C The Commission des valeurs mobilières du Québec will concurrently issue its own decision document on an application to filers. No other local securities regulatory authority or regulator will issue its own decision document on an application to filers. The decisions of all securities regulatory authorities will be evidenced by the MRRS decision document;
- C The time periods under ERA have been set to ensure that all securities regulatory authorities have sufficient time to exercise their discretion under ERA.

UNPUBLISHED MATERIALS

In implementing the policy, the CSA have not relied on any significant unpublished study, report or other written materials.

ALTERNATIVES CONSIDERED

The CSA did not consider any alternatives to the policy.

ANTICIPATED COSTS AND BENEFITS

The policy will reduce unnecessary duplication in the review of exemptive relief applications filed in more than one jurisdiction and is an important step towards increasing efficiency. In the long term use of ERA may lead to increased harmonization of approaches taken by securities regulatory authorities on issues and possibly more harmonization of legislation.

RELATED INSTRUMENTS

The policy, the policy published for comment, the concept proposal, the MOU, the prospectus policy are related.

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Appendix A

National Policy 12-201 MUTUAL RELIANCE REVIEW SYSTEM FOR EXEMPTIVE RELIEF APPLICATIONS Part 1 DEFINITIONS AND INTERPRETATION

1.1 **Definitions** - In this policy

"application" means a request for exemptive relief other than a waiver application or pre-filing as defined in the prospectus policy or a request for exemptive relief if a certificate of registration can evidence the granting of exemptive relief for that request;

"CSA committee" means the Exemptive Relief Applications Committee of the Canadian Securities Administrators;

"exemptive relief" means any approval, declaration, determination, exemption, extension, order, ruling, permission, recognition, revocation, waiver or other relief sought under securities legislation or securities directions;

"facsimile" means a facsimile or other form of electronic transmission;

"filer" means

- (a) a person or company filing an application, and
- (b) an agent of a person or company referred to in paragraph (a);

"local securities directions" means, for the local jurisdiction, the instruments listed in Appendix A of National Instrument 14-101 Definitions opposite the name of the local jurisdiction;

"local securities legislation" means, for the local jurisdiction, the statute and other instruments listed in Appendix B of National Instrument 14-101 Definitions opposite the name of the local jurisdiction;

"local securities regulatory authority" means, for the local jurisdiction, the securities commission or similar regulatory authority listed in Appendix C of National Instrument 14-101 Definitions opposite the name of the local jurisdiction;

"materials" means the documents and fees set out in Part 5;

"MRRS MOU" means the Memorandum of Understanding related to the mutual reliance review system signed as of October 14, 1999;

"pre-filing" means a consultation with one or more of the securities regulatory authorities regarding the interpretation or application of securities legislation or securities directions to a particular transaction or matter or proposed transaction or matter that is the subject of, or is referred to in, an application, if the consultation is initiated before the filing of the application;

"principal decision documents" means the principal regulator's staff memorandum, recommendation and proposed MRRS decision document(s) that are circulated to each non-principal regulator with whom an application has been filed under this policy;

"prospectus policy" means National Policy 43-201 - Mutual Reliance Review System for Prospectuses and AIFS;

"requested regulator" means a participating principal regulator that a filer requests under section 3.3(1) to act as the principal regulator;

"securities directions" means the instruments listed in Appendix A of National Instrument 14-101 Definitions;

"securities legislation" means the statutes and other instruments listed in Appendix B of National Instrument 14 -101 Definitions;

"securities regulatory authorities" means the securities commissions and similar regulatory authorities listed in Appendix C of National Instrument 14-101 Definitions;

"system" means the mutual reliance review system described in this policy for the review of applications;

1.2 Interpretation

Terms defined or interpreted in the MRRS MOU and used in this policy have the respective meanings given them in the MRRS MOU.

Part 2 OVERVIEW AND APPLICATION

2.1 Overview and Application

(1) This policy describes the application of the mutual reliance concepts set out in the MRRS MOU relating to the filing and review of applications.

(2) A filer may elect to use the system for any application made in more than one jurisdiction.

- (3) Although the filer will generally deal only with the principal regulator regarding an application filed under the system, the local securities legislation and local securities directions in each jurisdiction are applicable to that application. Filers should ensure that the exemptive relief sought is both appropriate and necessary in each jurisdiction where the application is made.
- (4) Filers should be aware that the terms and conditions of the MRRS decision document will generally reflect the local securities legislation and local securities directions of the jurisdiction in which the principal regulator is located.
- (5) Filers are reminded that the primary objective of the system is to reduce unnecessary duplication in the review of applications. The timelines set out in the system are designed to ensure that the principal regulator and the non-principal regulators have sufficient time to consider the application and exercise their discretion.

Part 3 PRINCIPAL REGULATOR

3.1 Participating Principal Regulators - As of the date of this policy, the securities regulatory authorities and regulators of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Québec, Nova Scotia and Newfoundland have agreed to act as principal regulator for applications filed under this policy.

3.2 Determination of Principal Regulator - A filer is responsible for selecting a principal regulator in accordance with the following guidelines when electing to use the system for a particular application:

1. the filer should select as its principal regulator the local securities regulatory authority or regulator in the jurisdiction where the filer's head office is located.
2. if the filer does not require exemptive relief in the jurisdiction referred to in paragraph 1 or the local securities regulatory authority or regulator in the jurisdiction referred to in paragraph 1 is not a participating principal regulator under the system, the filer should select the participating principal regulator in the jurisdiction with which the filer has the next most significant connection to act as the principal regulator.
3. if the filer has no significant connection to any jurisdiction, the filer may select any participating principal regulator to act as the principal regulator.

If the filer is a mutual fund, the location of the head office of the manager of the mutual fund will be considered to be the location of the head office of the mutual fund for the purposes of selecting a principal regulator under section 3.2.

Filers are reminded that it is the location of the head office or the significant connection of the person or company filing an application, not the head office location or connection of the agent, that is used to satisfy the criteria for selecting a principal regulator under section 3.2. For example, the selection of the jurisdiction in which the offices of the law firm filing an application on behalf of a client, whose head office is located in another jurisdiction, would not satisfy the criteria under section 3.2.

3.3 Change of Principal Regulator - by Filer

- (1) A filer may apply for a change of principal regulator for an application if:
 - (a) the filer believes the principal regulator determined in accordance with section 3.2 is not the appropriate local securities regulatory authority to act as principal regulator for a particular application such as where the nature of the exemptive relief sought could result in the selection of more than one principal regulator in respect of a transaction or matter; or
 - (b) the filer withdraws its application in the jurisdiction where the principal regulator is located after the principal regulator has commenced its review of the application because no exemptive relief is required in that jurisdiction, but the filer wishes to remain in the system for the application.
- (2) A filer may apply for a change of principal regulator by filing a written notice of the request with the principal regulator determined in accordance with section 3.2 and the requested regulator at least two business days before the filing of the application referred to in paragraph (1)(a) or as soon as practicable after the withdrawal referred to in paragraph (1)(b). The written notice should address the basis for the original designation of principal regulator under section 3.2 and the reasons for the requested change.
- (3) Filers are reminded to include notice of any change of principal regulator together with reasons for the change in the application.
- (4) Requests to change a filer's principal regulator under paragraph (1) will not generally be granted unless exceptional circumstances justify the change.
- (5) If staff of both participating principal regulators consent to the change in designated principal regulator under paragraph (1)(a), staff of the requested regulator will notify the filer.
- (6) If staff of both participating principal regulators consent to the change in designated principal regulator under paragraph (1)(b), staff of the requested regulator will notify the filer and the non-principal regulators by facsimile of the change and the reasons for the change.

3.4 Change of Principal Regulator - by the Participating Principal Regulators

- (1) For a particular application filed under the system, staff of the participating principal regulators may determine that it would be preferable for a participating principal regulator other than the principal regulator determined in accordance with section 3.2 to act as a filer's principal regulator. This determination will generally only be made when changing the principal regulator would result in greater administrative and regulatory efficiencies in the review process for the application such as where the nature of the exemptive relief sought results in the selection of more than one principal regulator in respect of a transaction or matter.
- (2) If staff of the participating principal regulators propose to change a filer's principal regulator for a particular application, staff of the redesignated principal regulator will notify the filer and non-principal regulators by facsimile of the change in principal regulator and the reasons for the proposed change in principal regulator.

3.5 Continued Use of Requested Regulator - A filer may continue to select the requested principal regulator as its principal regulator for future applications filed under the system, if there has been no material change in the circumstances giving rise to the change in principal regulator. Filers are reminded to reference the change in principal regulator when setting out the basis for its selection of principal regulator in any future application under the system.

3.6 Notification to CSA Committee - The participating principal regulators involved in a proposal to change a filer's principal regulator will advise the CSA committee of all determinations made under section 3.3 or 3.4 and the reasons for the decision.

Part 4 PRE-FILING DISCUSSIONS

4.1 General

- (1) The principles of mutual reliance are available to govern the review of pre-filings of applications that will be made to a principal regulator and at least one other non-principal regulator. Filers intending to file an application under the system should use the procedures set out in Part 4 for any pre-filings related to the application.
- (2) Filers are reminded to identify the pre-filing as an MRRS filing and file the pre-filing sufficiently in advance of the filing of the application under the system to avoid any delays in the issuance of the MRRS decision document.
- (3) Filers should also be aware that different review procedures apply to those pre-filings that are routine and those that raise novel and substantive issues or novel public policy issues.

4.2 Procedure for Routine Pre-Filings - Except as provided in section 4.3, a pre-filing made under Part 4 should be submitted to the principal regulator in the form required by the principal regulator and the filer will deal directly with the principal regulator to resolve the pre-filing. If staff of the principal regulator determines that the pre-filing involves novel and substantive issues or raises novel public policy issues, staff of the principal regulator will advise the filer that the pre-filing would be more appropriately dealt with in accordance with the procedures described in section 4.3.

4.3 Procedure for Novel and Substantive Pre-Filings - If staff of the principal regulator determines that a pre-filing filed under Part 4 involves a novel and substantive issue or raises a novel public policy issue

- (a) staff of the principal regulator will request that the filer concurrently submit the pre-filing by facsimile to the principal regulator and all non-principal regulators;
- (b) staff of the non-principal regulators will have seven business days from receipt of the pre-filing to raise with the principal regulator substantive issues that in the view of staff may, if left unresolved, cause the non-principal regulator to opt out of the system if an application related to the pre-filing was filed under the system; and
- (c) staff of the principal regulator will notify staff of the non-principal regulators of its proposed approach with respect to the pre-filing and will give staff of the non-principal regulators seven business days to advise staff of the principal regulator of their disagreement with the proposed approach with respect to the pre-filing before notifying the filer of the outcome. Staff of the principal regulator will advise the filer that the outcome of the pre-filing represents the approach adopted by all non-principal regulators other than those that advised the principal regulator of their disagreement with the approach within that seven business day period.

4.4 Disclosure in Related Application - In any application filed under this system, the filer should describe the subject matter of any pre-filing and the approach taken on the pre-filing by staff of the principal regulator and, if applicable, staff of any non-principal regulator that disagreed with the approach adopted by the principal regulator and had an alternative approach for the pre-filing.

Part 5 FILING OF MATERIALS UNDER MRRS

5.1 Election of MRRS and Identification of Principal Regulator - A filer wishing to use the system is responsible for selecting a principal regulator in accordance with the criteria set out in Part 3 and identifying the non-principal regulators from whom exemptive relief is sought.

5.2 Materials to be Filed

- (1) A filer should file concurrently in each jurisdiction where exemptive relief is sought materials consisting of
 - (a) a written application drafted in accordance with the procedures of the principal regulator as to format and content in which the filer:
 - (i) states that the application is being filed under the system and identifies the jurisdictions in which the application is being filed,
 - (ii) identifies whether a separate application in connection with the same transaction or subject matter has been filed outside of the system in one or more jurisdictions and the reasons for filing a separate application,
 - (iii) identifies the principal regulator(s) selected and the basis for that selection (i.e. whether in accordance with the guidelines in section 3.2 or the criteria in section 3.3 or 3.4),
 - (iv) describes any pre-filing discussions under sections 4.2 and 4.3;
 - (v) sets out any request to shorten either the review period referred to in section 6.2 or the opting out period referred to in section 8.1, or both, together with supporting reasons;
 - (vi) sets out under separate headings all of the exemptive relief sought, including any request for confidentiality, and clearly identifies the jurisdictions in which each head of relief is sought and all of the relevant provisions of the local securities legislation and local securities directions of the jurisdiction in which the principal regulator and each non-principal regulator is located, including an analysis where the provisions of the local securities legislation or local securities directions of a jurisdiction in which a non-principal regulator is located differs from those of the jurisdiction in which the principal regulator is located. These provisions may be set out in a footnote or table of concordance.
 - (b) supporting materials;
 - (c) draft form(s) of MRRS decision document(s) with terms and conditions, including resale restrictions, based on the local securities legislation and local securities directions of the jurisdiction in which the principal regulator is located; and
 - (d) the appropriate fees payable in each jurisdiction under securities legislation.

(2) By way of example

- (a) If in connection with a reorganization, a filer with a head office in jurisdiction A requires exemptive relief from the prospectus and registration requirements in all jurisdictions and wishes to be designated as a reporting issuer in only three jurisdictions (jurisdictions "A", "B" and "C"), the filer would
 - (i) select a principal regulator in accordance with section 3.2 - in this case the filer selects jurisdiction "A" as the principal regulator for each head of relief,
 - (ii) set out the relief sought under two separate headings - in this case one for the registration and prospectus relief and a second for the reporting issuer designation,
 - (iii) prepare and file with the application one draft MRRS decision document dealing with the registration and prospectus relief for all jurisdictions and the reporting issuer designation for jurisdictions "A", "B" and "C",
- (b) if, however, the filer in this example wishes to be designated as a reporting issuer in only jurisdictions "B" and "C", the filer would ordinarily file a separate application for each head of relief, but under the system
 - (i) the filer would
 - (A) combine the requests for exemptive relief in one application,
 - (B) select another principal regulator in accordance with section 3.2 for the reporting issuer designation head of relief as that relief is not required in jurisdiction "A", and
 - (C) prepare and file with the application two draft MRRS decision documents, one dealing with the registration and prospectus relief for which jurisdiction "A" is the principal regulator and the second dealing with the reporting issuer designation for which either jurisdiction "B" or "C" would act as the principal regulator, or
 - (ii) in exceptional circumstances, the filer could request a change of principal regulator under section 3.3; or
- (c) if registration and prospectus relief is required in a number of jurisdictions for a multi-trade transaction, such as an amalgamation or reorganization, but the trades that

require relief differ from jurisdiction to jurisdiction, due to the availability of statutory exemptions or blanket relief, the filer would

- (i) select a principal regulator in accordance with section 3.2,
 - (ii) in the application
 - (A) establish that some aspect of the transaction or subject matter of the application requires exemptive relief in each jurisdiction,
 - (B) provide a detailed analysis of the trades and the exemptive relief required in each jurisdiction together with supporting arguments, and
 - (C) identify any statutory exemptions that apply to any aspect of the transaction or subject matter of the application in each jurisdiction, and
 - (iii) prepare and file with the application one draft MRRS decision document that provides registration and prospectus relief for the entire transaction or subject matter of the application. This will ensure that the exempt transaction or subject matter is treated uniformly in all jurisdictions named in the MRRS decision document.
- (3) Filers are advised to submit their applications sufficiently in advance of any deadlines to ensure that staff of the principal regulator has a reasonable opportunity to complete their review of the application and make recommendations to the principal regulator and all of the non-principal regulators for a decision on the merits of the application.
 - (4) Filers must ensure that some aspect of the exemptive relief sought is necessary in each jurisdiction where the application is made.
 - (5) Filers are reminded that the Commission des valeurs mobilières du Québec ("CVMQ") will require that a French language version of the draft MRRS decision document be filed in Quebec when the CVMQ is acting as principal regulator.

5.3 Request for Confidentiality

- (1) Filers requesting that the application and supporting material be held in confidence during the application review process must provide a substantive reason for the request.
- (2) If a filer is seeking to have the application and supporting materials and/or the MRRS decision document held in confidence after the effective date of the MRRS decision

document, the request for confidentiality should be set out in a separate head of relief with the appropriate fee payable in each jurisdiction where confidentiality is sought.

- (3) The filer should provide an explanation in the application to demonstrate that the request for confidentiality is reasonable in the circumstances and is not prejudicial to the public interest.
- (4) The filer should also provide a timeline for lifting a grant of confidentiality.

5.4 Filing

- (1) The filer should file materials with the principal regulator and concurrently with each non-principal regulator. Applications cannot be filed electronically through SEDAR as the materials filed under the system are not a mandated filing under SEDAR.
- (2) Filers are encouraged to file the application both by facsimile and in paper format to ensure the timely delivery of materials to all non-principal regulators. Failure to file the application concurrently in all jurisdictions may affect the timing of the review and the issuance of the MRRS decision document.

5.5 Incomplete or Deficient Material

- (1) If the materials filed under the system are deficient or incomplete, staff of the principal regulator may direct that the filer file an amended application with the principal regulator and each non-principal regulator.
- (2) Upon confirmation from the filer that an amended application has been filed with the principal regulator and all non-principal regulators, the principal regulator will provide the filer and the non-principal regulators with a new acknowledgment of receipt referred to in section 5.6 which will trigger a new seven business day review period referred to in section 6.2.

5.6 Acknowledgment of Receipt of Filing

- (1) Upon receipt of an application, the principal regulator will provide by facsimile an acknowledgment of receipt of the application to the filer and non-principal regulators. In the acknowledgement, the principal regulator will identify the name, phone number, fax number and e-mail address of the staff member who has been assigned to review the application and the end date of the review period referred to in section 6.2.
- (2) On receipt of the acknowledgement, each non-principal regulator will notify the principal regulator by facsimile of the name, phone number, fax number and e-mail address of the

staff member assigned to the application in that jurisdiction and confirm receipt of the application.

- (3) If a non-principal regulator has not received the application at the time the acknowledgment is received, the filer will be directed by staff of the principal regulator to deliver the application to that non-principal regulator. When the principal regulator is satisfied that each non-principal regulator is in receipt of the application, the principal regulator will provide the filer and the non-principal regulators with a new acknowledgement of receipt referred to in this section which will trigger a new seven business day review period referred to in section 6.2.

5.7 Withdrawal or Abandonment of Application

- (1) If an application is withdrawn at any time during the process, the filer is responsible for notifying by facsimile the principal regulator and all non-principal regulators and providing an explanation for the withdrawal.
- (2) If at any time during the review process staff of the principal regulator determine that an application has been abandoned by a filer, staff of the principal regulator will notify by facsimile the filer that the application will be marked "not proceeded with" and the file closed without further notice to the filer unless the filer responds in writing within 10 business days with acceptable reasons as to why the file should remain open. If no response is received from the filer within the 10 business day time period, staff of the principal regulator will notify by facsimile the filer and all non-principal regulators that the file has been closed.

Part 6 REVIEW OF MATERIALS

6.1 Reliance on Principal Regulator

- (1) Staff of the principal regulator is responsible for reviewing any application filed under the system in accordance with its usual review procedures, analysis and precedents together with the benefit of comments, if any, from staff of the non-principal regulators.
- (2) The filer will generally deal only with staff of the principal regulator, who will be responsible for issuing comments to and receiving responses from the filer.
- (3) In exceptional circumstances, staff of the principal regulator may refer the filer to staff of a non-principal regulator.

6.2 Review Period for Non-Principal Regulators

- (1) Staff of the non-principal regulators will have seven business days from receipt of the acknowledgment referred to in section 5.6 to review the application.
- (2) If staff of a non-principal regulator identify substantive issues that in the view of staff may, if left unresolved, cause the non-principal regulator to opt out of the system for that particular application, staff will forward these comments to staff of the principal regulator by facsimile before the expiration of the seven business day review period or the abridged period referred to in section 6.3.
- (3) If staff of a non-principal regulator are of the view that no relief is required under the securities legislation in Canada of that jurisdiction, staff of the non-principal regulator will notify the filer and the principal regulator by facsimile and request that the application be withdrawn in that jurisdiction.

6.3 Abridgement of Review Period for Non-Principal Regulators

- (1) If staff of the principal regulator considers it appropriate, they can abridge the seven business day review period referred to in section 6.2 by notifying each of the non-principal regulators by facsimile.
- (2) Such abridgements will generally be made only in exceptional circumstances.
- (3) Filers requesting an abridgement must satisfy the staff of the principal regulator that the application has been concurrently filed in all jurisdictions and that immediate attention to the application is necessary and reasonable under the circumstances.
- (4) If staff of a non-principal regulator are of the view that there is insufficient time to review the application under the abridged time period, staff of the non-principal regulator will notify the filer and the principal regulator by facsimile and request that the application be withdrawn from the system for that jurisdiction. The application will be processed as a local application filed in that jurisdiction.

6.4 Review and Processing of Application by Principal Regulator - Following the expiration of the seven business day period referred to in section 6.2 or the abridged period referred to in section 6.3, staff of the principal regulator will

- (a) complete their review of the application;
- (b) prepare a staff memorandum that
 - (i) provides an analysis of the application and the exemptive relief sought,

- (ii) identifies a request by the filer for the application and/or the MRRS decision document to be held in confidence beyond the effective date of the MRRS decision document, the basis for the request, including a timeframe for lifting of any grant of confidentiality, and
 - (iii) identifies any substantive issues raised by staff of the non-principal regulators and the view of staff of the principal regulator on such issues;
- (c) make a recommendation to grant or deny the exemptive relief sought by the filer and concurrently notify staff of each non-principal regulator by facsimile of the recommendation; and
 - (d) if there is a recommendation to grant the exemptive relief sought, prepare a proposed MRRS decision document following the form described in section 11.2. The proposed MRRS decision document should also reference any request for confidentiality of materials and/or the MRRS decision document beyond the effective date of the MRRS decision document.

Part 7 DECISION OF PRINCIPAL REGULATOR

7.1 Principal Regulator to Grant or Deny Relief - Upon completion of the review process and after considering the recommendation of its staff, the principal regulator will determine whether to grant or deny the exemptive relief sought.

7.2 Decision to Grant Exemptive Relief

- (1) If the principal regulator makes a decision to grant the exemptive relief sought, the principal regulator will immediately circulate by facsimile the principal decision documents to the non-principal regulators.
- (2) Two business days before the expiry of the opting out period referred to in section 8.1, the principal regulator will follow-up by facsimile with a reminder to each non-principal regulator that has not provided the confirmation referred to in section 8.1.
- (3) The principal regulator will not communicate the decision to the filer until after the opting out period referred to in section 8.1 has elapsed except where all non-principal regulators have made their decisions before the expiry of the opting out period, in which case the principal regulator will communicate the decision to the filer as soon as it receives all of the confirmations referred to in section 8.1.

7.3 Potential Denial of Exemptive Relief - If the principal regulator is not prepared to grant the exemptive relief sought based on the information before it, the principal regulator will notify the

filer and the non-principal regulators by facsimile that it intends to deny the exemptive relief sought.

7.4 Opportunity to be Heard on a Potential Denial

- (1) If a filer requests the opportunity to appear and make submissions to the principal regulator as a result of a potential denial of the exemptive relief sought, the principal regulator will notify by facsimile the non-principal regulators with whom the application was filed that the filer has made the request and circulate their staff memorandum and recommendation.
- (2) The principal regulator may hold a hearing, either solely, jointly or concurrently with other interested non-principal regulators.
- (3) The non-principal regulators with whom the application was filed may make whatever arrangements they consider appropriate, including conducting a hearing contemporaneously with the hearing held by the principal regulator.
- (4) After the hearing, the principal regulator will circulate by facsimile the principal decision documents to the non-principal regulators.

Part 8 DECISION OF NON-PRINCIPAL REGULATORS

8.1 Decision of Non-Principal Regulator

- (1) Each non-principal regulator will have seven business days from receipt of the principal decision documents to confirm to the principal regulator by facsimile whether it has made the same decision as the principal regulator or is opting out of the system for that application.
- (2) If staff of the principal regulator considers it appropriate, staff may only request, but cannot require, that the non-principal regulators abridge the seven business day time period if possible. Filers requesting an abridgement will be asked to satisfy staff of the principal regulator that the abridgement is necessary and reasonable in the circumstances.
- (3) Each non-principal regulator may document for its own purposes the decision made on each application in its jurisdiction in accordance with its own procedures.

Part 9 OPTING OUT OF THE System**9.1 Opting Out of the System**

- (1) A non-principal regulator electing to opt out of the system on any particular application will notify the filer, the principal regulator and other non-principal regulators by facsimile and briefly indicate reasons for opting out.
- (2) In opting out of the system for a particular application, a non-principal regulator is not making a decision on the merits of the application.
- (3) A filer is entitled to deal directly with a non-principal regulator that has opted out of the system to resolve outstanding issues and obtain a decision in respect of that particular application without having to file a new application or remit a new application fee. If the filer and non-principal regulator are able to resolve all outstanding issues, the non-principal regulator may opt back into the system for that application by notifying the principal regulator and all other non-principal regulators by facsimile within the opting out period referred to in section 8.1.
- (4) Reasons for opting out will be forwarded by the non-principal regulator to the CSA committee.

Part 10 EFFECT OF SILENCE

10.1 Effect of Silence - Silence on the part of a non-principal regulator at the end of the opting out period referred to in section 8.1 will mean that the non-principal regulator is considered to have opted out of the system for that particular application.

Part 11 MRRS DECISION DOCUMENT**11.1 Effect of MRRS Decision Document**

- (1) The MRRS decision document evidences that a decision has been made by the principal regulator and each of the non-principal regulators that has not opted out of the system for the application.
- (2) The MRRS decision document will generally reflect the local securities legislation and local securities directions of the jurisdiction in which the principal regulator is located. This may mean that similar transactions or matters may be subject to different terms and conditions, for example resale restrictions, depending on who acts as the principal regulator for an application.

- (3) The MRRS decision document provides exemptive relief for the entire transaction or matter that is the subject of the application. This ensures that the exempt transaction or matter is treated in a uniform manner in all jurisdictions named in the MRRS decision document. Consequently, if the transaction or matter is a composite transaction or matter comprised of a series of trades, the filer will look to the MRRS decision document for all trades in the series and not rely on statutory exemptions for some trades and on the MRRS decision document for other trades.

11.2 Form of MRRS Decision Document

- (1) Except as described below, the MRRS decision document will be in the form of the MRRS decision document attached as Schedule A. This will not preclude the issuance of a less formal MRRS Decision Document where it is the current practice. If the decision is a denial of the relief sought, the MRRS decision document will set out reasons for the decision.
- (2) If the MRRS decision document is in a form other than the form set out in Schedule A, the MRRS decision document should contain wording to the effect that the MRRS decision document evidences the decisions of each relevant local securities regulatory authority or regulator, as the case may be, and that the decision sets out the decisions of such securities regulatory authorities or regulators, as the case may be.

11.3 Issuance of MRRS Decision Document

- (1) The principal regulator will not issue a MRRS decision document with respect to an application until the earlier of
 - (a) the date that the principal regulator has received all of the confirmations referred to in section 8.1; or
 - (b) the date the opting out period referred to in section 8.1 has expired.
- (2) After the opting-out period has elapsed, or such earlier date as the principal regulator has received all of the confirmations referred to above, the principal regulator will issue a MRRS decision document evidencing that a decision to grant or deny the exemptive relief sought has been made by the principal regulator and each non-principal regulator that has not opted out of the system for that application.
- (3) If the MRRS decision document evidences a denial of the exemptive relief sought, reasons for the denial will be provided in the MRRS decision document.
- (4) The principal regulator will then send the MRRS decision document by facsimile to the filer and non-principal regulators.

- 11.4 Effective Date of MRRS Decision Document** - The decisions made by each of the principal regulator and the non-principal regulators with respect to an application will have the same effective date as the MRRS decision document.
- 11.5 Local Decision** - Notwithstanding the issuance of the MRRS decision document, the CVMQ will concurrently issue its own local decision in each case. The CVMQ local decision will have the same terms and conditions as the MRRS decision document. No other local securities regulatory authority or regulator will issue a local decision.

SCHEDULE A

IN THE MATTER OF THE SECURITIES LEGISLATION OF **(list by name those jurisdictions where the application was filed that have not opted out of the system for this application)**

AND

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

IN THE MATTER OF _____ **(name(s) of filer/relevant parties)**

MRRS DECISION DOCUMENT

WHEREAS the local securities regulatory authority or regulator (the "Decision Maker") in each of _____ **(list by name the jurisdictions where the application was filed that have not opted out of the system for this application)** (the "Jurisdictions") has received an application from _____ **(Name(s) of filer(s) and relevant parties)** ("Definitions as required", collectively the "Filer") for a decision under the securities legislation of the Jurisdictions (the "Legislation") that the requirement contained in the Legislation to _____ **(Describe in words - do not use statutory references)** shall not apply to _____ **(State who or if a transaction is involved briefly describe the transaction in question - do not break down into parts - do not use statutory references - include appropriate defined term);**

AND WHEREAS under the Mutual Reliance Review System for Exemptive Relief Applications (the "System"), the _____ **(Name of the principal regulator)** is the principal regulator for this application;

AND WHEREAS the Filer has represented to the Decision Makers that:

(Insert numbered representations disclosing all facts relevant to the granting of the relief, including the location of the head office of the Filer. Do not use statutory references.)

AND WHEREAS under the System, this MRRS Decision Document evidences the decision of each Decision Maker (collectively, the "Decision");

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;

The Decision of the Decision Makers under the Legislation is that the requirement contained in the Legislation to _____ **(Describe in words - do not use statutory references)** shall not

apply to _____ (State who or, if applicable, the transaction using the appropriate **definition**) provided that:

(Insert numbered terms and conditions. These should be generic and without statutory references to the Legislation of the Jurisdictions where this application was filed and have not opted out of the System for this application)

DATED _____, 199__.

(Name)

(Title)