

NOTICE

MUTUAL RELIANCE REVIEW SYSTEM MEMORANDUM OF UNDERSTANDING

Introduction

The Ontario Securities Commission, together with the other members of the Canadian Securities Administrators (the "CSA") is publishing the Memorandum of Understanding (the "MOU") relating to the Mutual Reliance Review System (the "MRRS") as signed by the Chairs of all the Canadian securities regulatory authorities.

The MRRS is an understanding between the Canadian securities regulatory authorities on the principles of mutual reliance and is being implemented by way of the MOU. The general principles of the MRRS are described in the MOU and the different policies and rules that are or will be referred to in Appendix A to the MOU describe the detailed procedures for each of the different categories of filings.

The MRRS applies to filings submitted in more than one jurisdiction. The MRRS is not a mandatory system; if a filer does not wish to use the system, it can file its materials in each relevant jurisdiction and deal separately with such jurisdictions.

The MOU supersedes the Memorandum of Understanding for the Expedited Review of Short Form Prospectuses and Renewal AIFs dated December 18, 1996.

The MOU was delivered to the Minister of Finance on October 28, 1999. If the Minister does not approve or reject the MOU by December 28, 1999, or if the Minister approves the MOU, the MOU will come into effect, pursuant to section 14 of the MOU, on January 1, 2000.

The draft MOU was published for comment on June 19, 1998. Comment letters submitted in response to the Request for Comment did not suggest any major changes to the draft MOU; consequently, the MOU is substantially similar to the published draft.

Appendix A to the MOU refers to those policies and rules which set out specific procedures for each category of filing to which the principles of the MRRS apply. Appendix A to the draft MOU referred to two policies and one rule. The MOU only refers to National Policy 43-201 Mutual Reliance Review System for Prospectuses and AIFs and National Policy 12-201 Mutual Reliance Review System for Exemptive Relief Applications which will be published during November 1999. The reference to National Instrument 31-101 Mutual Reliance Review System for Registration has been deleted because it will not be finalized before the effective date of the MOU. Appendix A will be amended each time additional policies or rules become effective.

Summary of Written Comments and Responses

The comment period following the publication of the draft MOU expired on September 19, 1998. The CSA received submissions on the MOU from three commenters. The commenters are listed in Appendix A to this Notice. The CSA has considered the comments received and would like to thank commenters for providing their comments on the MOU.

General Comments

One commenter noted that the MOU was silent on the important issues surrounding compliance and enforcement and suggested that this be added to the MRRS.

The CSA recognize this issue and will be considering it in the future.

One commenter submitted that the Purpose section of the MOU should be amended to make it clear that one of the important objectives of the MRRS is "to effect a unified approach to the many aspects of securities regulation in Canada" as set out in Section 7. It was suggested that this wording would demonstrate the commitment of participating regulators to harmonization.

The CSA disagree with the comment. The Purpose section of the MOU accurately reflects the objectives of the MOU. Harmonization is not within the scope of the MOU but is an indirect benefit that may be achieved over time. Consequently, the words that the commenter referred to in Section 7 have been deleted.

One commenter felt that the opt-out provisions of the MOU should be eliminated entirely as they added regulatory uncertainty to the process.

The CSA disagree with the comment. Securities legislation does not permit delegation of discretion to another securities regulatory authority ("SRA"). It is fundamental to the MRRS that non-principal regulators are able to opt out for a specific filing at any point in the review process.

One commenter was concerned that the ability of a SRA to withdraw from the MRRS as provided by Section 11 threatened the consistent application of securities regulation which the MRRS seeks to achieve. The commenter was concerned about the extent to which the MRRS lacks regulatory certainty.

The CSA believe that because the MOU is an understanding between the SRAs, each SRA has the ability to withdraw from the MOU whether or not there is such a provision in the MOU. This provision provides certainty to the market as the market will be advised if a SRA intends to withdraw from the MOU.

Specific Comments

One commenter suggested that the definition of "filer" be supplemented with the phrase "or, where the context requires, legal counsel to that person or company".

The CSA disagree with the comment. The definition of "filer" identifies the person or company that is required to file the materials; legal counsel files on behalf of the filer.

One commenter suggested that the reporting obligations imposed under Section 6 (annual report to the Chairs on the operation of the MRRS) and Section 9.4 (report to the relevant CSA Committee of changes to a filer's principal regulator) include reporting to the public (through a publication requirement) for the benefit of market participants.

The CSA note the comment with respect to Section 6 but consider that while the CSA committees will be reporting to the CSA Chairs, the CSA Chairs will report on the operation of the MRRS as they consider appropriate. The CSA recognize the benefit of transparency in Section 9.4 but do not believe that the information is of much value to the market because, under the MRRS, the identity of the principal regulator has limited impact on the filer. The principles of the MOU are based on the conclusion that review and approval processes applicable to filings are similar in most jurisdictions.

One commenter suggested that, in addition to reasons for opting out, reasons for opting back in also be forwarded to the relevant CSA committee and to the public.

The CSA note the comment but do not believe that changes should be made to the MOU. The non-principal regulator that opts out shall provide written reasons for its decision to opt out to the filer, the principal regulator and the other non-principal regulators. This procedure is similar to the comment letter process under the present review system. A non-principal regulator will opt back into the MRRS when the comment raised has been resolved. This is not different from the present situation where a SRA that raises a comment is not required to explain how a comment was resolved. The MRRS does not change the information that is available on the public record about the filer. While comments and responses to comments are not public information, the reasons for refusing to issue a receipt are.

APPENDIX A

List of commenters

1. Osler, Hoskin & Harcourt by letter dated September 17, 1998.
2. Canadian Bankers Association by letter dated September 18, 1998.
3. Canadian Advocacy Council of the Association for Investment Management and Research by letter dated October 22, 1998.

MEMORANDUM OF UNDERSTANDING MUTUAL RELIANCE REVIEW SYSTEM

1. PURPOSE

The investor protection regimes contemplated by securities legislation in Canada and commodity futures legislation are substantially similar. Consequently, filings are often made in several jurisdictions in Canada under provisions of securities legislation and commodity futures legislation that are the same or substantially similar. In most cases, the securities regulatory authorities apply similar review and approval processes to these filings.

The Canadian securities regulatory authorities recognize the need to improve the efficiency of the Canadian capital markets by streamlining the review of filings to reduce the regulatory burden for issuers, registrants and applicants for discretionary relief. Accordingly, the Canadian securities regulatory authorities have agreed to create the Mutual Reliance Review System ("MRRS") for filings made in multiple jurisdictions, which system will reduce unnecessary duplication in the review of such filings. Implementing the MRRS will facilitate over time the harmonization of legislative requirements and administrative practices across jurisdictions and will provide consistent treatment of filers in Canada.

Mutual reliance means that, in exercising discretion under securities legislation and commodity futures legislation, the decision-maker in a particular securities regulatory authority is prepared to rely primarily on the analysis and review of the staff of another securities regulatory authority.

The Canadian securities regulatory authorities have reached the understanding set out in this Memorandum of Understanding ("MOU") with respect to the procedures they will follow for the review of filings made in more than one jurisdiction in Canada. Under the MRRS, a filer will file certain documents with each relevant jurisdiction, will generally deal with only one securities regulatory authority and will receive a document from that securities regulatory authority that will confirm the decision of all relevant jurisdictions that have not opted out of the MRRS for that filing.

2. INTERPRETATION

(1) Definitions - In the MOU

"CSA committees" means the committees identified in each policy or rule as being responsible for the MRRS for that category of filing;

"commodity futures legislation" means The Commodity Futures Act in Manitoba, the Commodity Futures Act in Ontario, and any other legislation in Canada concerning commodity futures or exchange contracts;

"filer" means a person or company that is required to file materials;

"MOU" means this Memorandum of Understanding;

"MRRS" means the Mutual Reliance Review System established by the MOU;

"MRRS decision document" means the document issued by the principal regulator that evidences that a determination with respect to materials filed under the MRRS has been made by the principal regulator and the non-principal regulators that have not opted out;

"materials" means the documents and fees required to be sent by a filer under each system referred to in the policies or rules listed in Appendix A, as amended from time to time;

"non-principal regulator" means, in respect of a particular filing, a securities regulatory authority or regulator, as the context requires, with which materials are filed other than the principal regulator;

"participating principal regulator" means, in respect of each system referred to in the policies or rules listed in Appendix A, a securities regulatory authority or regulator, as the context requires, of a province or territory that has agreed to act as principal regulator;

"policy" means each of the policies listed in Appendix A to the MOU which describe the procedures for each category of filing, and which are collectively referred to as "policies";

"principal regulator" in respect of a filer means the securities regulatory authority or regulator, as the context requires, designated in accordance with Section 9;

"rule" means each of the rules listed in Appendix A to the MOU and which are collectively referred to as "rules";

(2) Interpretation - Terms used in the MOU that are defined or interpreted in National Instrument 14-101 should be interpreted in accordance with that instrument.

3. RETENTION OF DISCRETION

The MRRS involves no surrender of jurisdiction by any securities regulatory authority. Each securities regulatory authority retains and will exercise its statutory discretion with respect to all materials filed pursuant to the MRRS.

4. SCOPE

The MOU sets out the principles governing the implementation and operation of the MRRS. The MRRS applies to the categories of filings referred to in the policies or rules listed in Appendix A, as amended from time to time.

5. CHANGES IN A PARTICIPATING PRINCIPAL REGULATOR'S REVIEW

The Canadian securities regulatory authorities acknowledge that the MRRS is premised on the review procedures in place in each of the participating principal regulators at the time of signature of the MOU. A participating principal regulator may thereafter adopt and implement different review procedures that would apply to filings under the MRRS. Any participating principal regulator making substantive changes to its existing review procedures agrees to notify in advance the relevant CSA committee and any other securities regulatory authority that do not have membership on such CSA committee prior to amending its procedures and will provide sufficient time and information to the relevant CSA committee for it to assess the proposed changes and to determine the appropriate way to resolve any resulting issues.

Alternatively, a participating principal regulator may lose personnel such that it is no longer able to discharge its responsibility as a principal regulator under the MRRS. Where through the loss of personnel a participating principal regulator is unable to discharge its responsibility as a principal regulator, it shall notify the relevant CSA committee of this situation.

6. CONSULTATION

The CSA committees will be responsible for promoting consistency and communication among the securities regulatory authorities in their review of materials and coordinating any changes or amendments to the MRRS. In addition, each relevant CSA committee will meet at least semi-annually to review and enhance as necessary the operation of the MRRS and to identify and discuss issues that have arisen during that period. The relevant CSA committee will report to the CSA Chairs on an annual basis on the operation of the MRRS.

7. STAFF DEVELOPMENT AND TRAINING

Each participating principal regulator is responsible for ensuring that it has staff with adequate expertise to review materials filed under the MRRS.

In order to support the MRRS, it will be necessary to provide an opportunity for staff of each securities regulatory authority to acquire, maintain and upgrade skills, standardize review processes and develop common approaches to issues. To this end, the relevant CSA committee will be responsible for monitoring the MRRS and developments under securities legislation, securities directions and commodity futures legislation and will coordinate appropriate training seminars or materials, as needed. Staff of the participating principal regulators will participate in the seminars. Training seminars will also be available to staff of other securities regulatory authorities.

To give recognition to the objectives of the MRRS to simplify and facilitate the use of the regulatory system and to more effectively employ the human and other resources of the CSA, the securities regulatory authorities may endeavour to coordinate the utilization of personnel among the securities regulatory authorities. This may be effected by arrangements between two or more securities regulatory authorities whereby the staff of

one securities regulatory authority may be utilized by another securities regulatory authority in fulfilling its obligations as principal regulator. Such arrangements may assist in maintaining staff expertise in all participating principal regulators and enhancing experienced human resources availability to the participating principal regulators.

8. FUNDING

Each securities regulatory authority agrees to provide adequate funding to support the consultation and training components of the MRRS. Costs would include but not be limited to travel and related costs, preparation of materials for and participation in initiatives contemplated by the MOU.

9. PRINCIPAL REGULATOR

9.1 Assigning the Principal Regulator

The participating principal regulators referred to in the relevant policy or rule have agreed to act as principal regulator in respect of materials filed pursuant to the MRRS. The principal regulator in respect of particular materials filed under the MRRS will be determined by the filer in accordance with the criteria set out in the relevant policy or rule.

In respect of a particular filing under the MRRS, where the filer has incorrectly identified a non-principal regulator as the principal regulator, such non-principal regulator will decline to act as principal regulator.

9.2 Applications by Filer for a Change of Principal Regulator

A filer may apply for a change of principal regulator where it believes that its principal regulator is not the appropriate securities regulatory authority to act as principal regulator. The application must be made to the filer's principal regulator and the securities regulatory authority which the filer is requesting to act as principal regulator (the "requested regulator"). The principal regulator and the requested regulator will consider the application in accordance with the relevant policy or rule and will notify the filer in writing of the disposition of the application.

9.3 Redesignation of Principal Regulator

Where, in respect of a filer, either:

1. the designation of the principal regulator is unclear;
2. the principal regulator determines that another securities regulatory authority should act as principal regulator; or
3. another securities regulatory authority proposes that it act as principal regulator;

the filer shall be advised of the proposed designation which was determined by the relevant securities regulatory authorities as more appropriate and shall be given an opportunity to make submissions with respect to the proposed designation.

9.4 Notification to CSA Committees

The relevant CSA committee will be responsible for establishing and monitoring the procedures for changing a filer's principal regulator and for promoting consistency of decisions. To this end, the securities regulatory authorities will advise the relevant CSA committee of all decisions rendered pursuant to this section and the reasons for such decisions.

10. MRRS PROCEDURES

10.1 Filing

The materials shall be filed with the principal regulator and each of the non-principal regulators in accordance with the procedures contained in the relevant policy or rule.

10.2 Review

The principal regulator is responsible for reviewing the materials in accordance with its securities legislation, securities directions and commodity futures legislation, review procedures, analysis and precedents. The non-principal regulators may conduct a review intended to identify any material concerns with respect to the materials. In the event a non-principal regulator has identified specific material issues with respect to materials filed under the MRRS, which, if left unresolved, would cause the non-principal regulator to opt out of the MRRS in respect of such materials, it shall advise the principal regulator of the issues.

10.3 Opting Out of the MRRS

Each non-principal regulator is entitled to opt out of the MRRS in respect of particular materials prior to the issuance of a MRRS decision document and in accordance with the procedures contained in the relevant policy or rule. Any non-principal regulator choosing to opt out of the MRRS will notify the filer, the principal regulator, and all other non-principal regulators. The non-principal regulator that has opted out shall provide written reasons for its decision to opt out to the filer. The non-principal regulator that has opted out shall also advise the principal regulator and the other non-principal regulators of its reasons for opting out. The non-principal regulator that has opted out of the MRRS will conduct its own review of the materials, deal directly with the filer, make a determination with respect to the materials and, when appropriate, issue its own decision document.

A non-principal regulator that has opted out of the MRRS for a particular filing may opt back in to the MRRS in accordance with the procedures contained in the relevant policy

or rule and by notifying the filer, the principal regulator, and the other non-principal regulators.

Reasons for opting out shall be forwarded to the relevant CSA committee.

10.4 MRRS Decision Document

Once a decision has been made to issue a MRRS decision document, it is the responsibility of the principal regulator to do so.

Notwithstanding the issuance of a MRRS decision document, certain non-principal regulators will issue their own decision document in respect of materials filed under the MRRS.

11. WITHDRAWAL FROM MEMORANDUM OF UNDERSTANDING

A securities regulatory authority may withdraw from the understanding set out in the MOU by providing 60 days written notice to the other securities regulatory authorities.

12. APPENDIX A

Appendix A to the MOU provides a list of the relevant policies or rules for each category of filing. Amendments to the policies or rules may be made or policies or rules may be added to the list in Appendix A upon the written confirmation by the regulators of each of the jurisdictions. Where a proposed amendment or addition may have a significant impact on the MRRS or on the filer, the relevant CSA committee will recommend to the Canadian securities regulatory authorities that the proposed amendment or addition be published for comment.

The provisions in the rule and policies listed in Appendix A relating to the determination and change of principal regulator are deemed to be part of the MOU for the Commission des valeurs mobilières du Québec.

13. COUNTERPARTS

The MOU may be executed in several counterparts, each of which when so executed shall be deemed to be an original, and such counterparts together shall constitute one and the same instrument.

The MOU supersedes the Memorandum of Understanding for the Expedited Review of Short Form Prospectuses and Renewal AIFs dated December 18, 1996.

14. EFFECTIVENESS

The MOU will be effective on January 1, 2000.

SIGNED AS OF OCTOBER 14, 1999

"David A. Brown"

David A. Brown
Chair, Ontario Securities Commission

"Carmen Crépin "

Carmen Crépin
Présidente, Commission des valeurs mobilières du Québec

"Robert B. MacLellan"

Robert B. MacLellan
Chairman, Nova Scotia Securities Commission

"Donne W. Smith Jr."

Donne W. Smith Jr.
Administrator, Office of the Administrator of Securities, New Brunswick

"Donald G. Murray"

Donald G. Murray
Chairman of the Commission, Manitoba Securities Commission

"Katharine Tummon"

Katharine Tummon
Registrar of Securities, Government of Northwest Territories

"Douglas M. Hyndman"

Douglas M. Hyndman
Chair, British Columbia Securities Commission

"Edison Shea"

Edison Shea
Registrar of Securities, Department of Community Affairs and Attorney General,
Prince Edward Island

"Richard Roberts"

Richard Roberts
Registrar of Securities, Government of Yukon

"William L. Hess"

William L. Hess, Q.C.
Chair, Alberta Securities Commission

"Marcel de la Gorgendière"

Marcel de la Gorgendière, Q.C.
Chairperson, Saskatchewan Securities Commission

"Anthony Patey"

Anthony Patey

Director of Securities, Securities Division, Department of Government Services and Lands, Government of Newfoundland and Labrador

"Walter Noel"

Walter Noel

Minister for Intergovernmental Affairs, Government of Newfoundland and Labrador

"Gary Crowe"

Gary Crowe

Registrar of Securities, Nunavut Securities Registry, Government of Nunavut

APPENDIX A

1. National Policy 43-201 Mutual Reliance Review System for Prospectuses and Annual Information Forms
2. National Policy 12-201 Mutual Reliance Review System for Exemptive Relief Applications