

December 1, 2006

**In the Matter of the Securities Legislation of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Québec, New Brunswick, Nova Scotia, Prince Edward Island, Newfoundland and Labrador, Yukon, 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 Canadian Financial Income Fund, Canadian Fundamental 100 Income Fund and Canadian Financial Dividend & Income Fund  
(collectively, the “Funds”)**

**MRRS Decision Document**

**Background**

The local securities regulatory authority or regulator (the “**Decision Maker**”) in each of the Jurisdictions has received an application from Claymore Investments, Inc. (“**Claymore**”) on behalf of the Funds for a decision under the securities legislation of the Jurisdictions (the “**Legislation**”) exempting the Funds from the following provisions of National Instrument 81-102 Mutual Funds (“**NI 81-102**”), subject to certain terms and conditions:

1. subsection 2.6(a) to permit each of the Funds to borrow to a limit of 15% of their respective net asset value under a loan facility, and in each case to provide a security interest over their respective portfolio assets in connection therewith.
2. sections 9.1 and 10.2 to permit purchases and sales of units (“**Units**”) of the Funds on The Toronto Stock Exchange (the “**TSX**”), instead of through order receipt offices;
3. section 9.4(2) to permit the Funds to accept a combination of cash and securities as subscription proceeds for Units, instead of only cash or securities;
4. section 10.3 to permit the Funds to redeem less than the Prescribed Number of Units at a discount to their market price, instead of at their net asset value; and
5. section 14.1 to permit the Funds to establish a record date for distributions in accordance with TSX Rules.

Paragraphs 1 through 5 above are collectively referred to in this decision as the **Requested Relief**.

Under the Mutual Reliance Review System for Exemptive Relief Applications:

1. the Ontario Securities Commission is the principal regulator for this application; and

2. this MRRS decision document evidences the decision of each Decision Maker.

### **Interpretation**

“**Basket of Securities**” means, in relation to a Fund, a group of securities determined by Claymore from time to time representing the constituents of the investment portfolio then held by such Fund.

“**Designated Brokers**” means registered brokers and dealers that enter into agreements with the Funds to perform certain duties in relation to the Funds.

“**Prescribed Number of Units**” means, in relation to a Fund, the number of Units of the Fund determined by Claymore from time to time for the purpose of subscription orders, exchanges, redemptions or for other purposes.

“**Underwriters**” means registered brokers and dealers that have entered into underwriting agreements with the Funds and that subscribe for and purchase Units from the Funds, and “**Underwriter**” means any one of them.

“**Unitholders**” means beneficial and registered holders of Units.

Section references set out in this decision are references to NI 81-102, unless otherwise indicated.

Defined terms contained in NI 81-102 and 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 Claymore:

#### ***Background***

1. Each Fund is a mutual fund trust governed by the laws of Ontario and a reporting issuer under the laws of all of the Jurisdictions.
2. The Funds are closed-end funds whose Units are listed and traded on the TSX. The Units of Canadian Financial Income Fund (“**FIE**”), Canadian Fundamental 100 Income Fund (“**RFI**”) and Canadian Financial Dividend & Income Fund (“**FDI**”) were sold to the public by way of initial public offerings made under long form prospectuses dated July 27, 2005, November 21, 2005 and February 15, 2006, respectively.
3. Claymore is manager of the Funds and is a registered investment counsel and portfolio manager in Ontario and is registered as an investment adviser with the U.S. Securities and Exchange Commission under the Investment Advisers Act of 1940 (the “**Advisers Act**”). Claymore is a wholly-owned subsidiary of Claymore Group, Inc., a financial services and asset management company based in Lisle, Illinois. Claymore Group, Inc. and its U.S. affiliates include two investment advisers registered with the U.S. Securities and Exchange Commission under the Advisers Act and a broker-dealer registered with

the National Association of Securities Dealers, Inc. under the United States Securities Exchange Act of 1934.

4. FIE's investment objectives are:
  - (a) to maximize total return to Unitholders, consisting of distributions and capital appreciation; and
  - (b) to provide Unitholders with a stable stream of monthly cash distributions of \$0.05 per Unit.

The net proceeds of FIE's initial public offering, together with borrowings under its loan facility, were invested in a diversified and actively managed investment portfolio consisting primarily of common shares, preferred shares, corporate bonds and income trust units of issuers in the Canadian financial sector.

5. RFI's investment objectives are to provide Unitholders with:
  - (a) a stable stream of monthly cash distributions of \$0.05 per Unit; and
  - (b) a total return that approximates the returns of the RAFI™ Canadian Fundamental 100 Index, net of expenses, and generally outperforms an investment in the S&P/TSX Composite Index.

The net proceeds of RFI's initial public offering, together with borrowings under its loan facility, were invested in a diversified portfolio of 100 Canadian equity securities selected and weighted on the basis of Research Affiliates, LLC's Canadian Fundamental 100 Index.

6. FDI's investment objectives are:
  - (a) to maximize total return for holders of Units, consisting of distributions and capital appreciation; and
  - (b) to provide Unitholders with a stable stream of monthly cash distributions of \$0.05 per Unit.

The net proceeds of FDI's initial public offering, together with borrowings under its loan facility, were invested in a diversified and actively managed investment portfolio consisting primarily of common shares, preferred shares, corporate bonds and income trust units of issuers in the Canadian financial sector.

7. Units of the Funds may be surrendered for redemption once annually for a redemption price per Unit equal to the net asset value per Unit less any costs and expenses incurred by the respective Funds in connection with funding the redemption. Units are also redeemable monthly for a redemption price determined by reference to the trading price of the Units.

8. As closed-end funds, the Funds are not governed by the investment restrictions of NI 81-102. Accordingly, each of the Funds currently borrows funds under a loan facility for purposes and in amounts that are not otherwise permitted for conventional mutual funds under paragraph 2.6(a) of NI 81-102.
9. Claymore has determined that it is in the best interests of the Unitholders and the Funds to convert the Funds into exchange-traded funds (“ETFs”). Upon conversion, the Funds would become “mutual funds” under the Legislation and would be subject to the provisions of NI 81-102. Units issued by FIE and FDI will not be index participation units within the meaning of NI 81-102. Units issued by RFI will be index participation units.
10. Claymore wishes to maintain the Funds’ ability to borrow funds under a loan facility after the Funds’ conversion to an ETF structure. The Funds intend to use funds borrowed under the loan facility to acquire additional portfolio securities which will assist them in meeting their total return and distribution investment objectives. The borrowing by a Fund under the loan facility will be secured against the portfolio assets of that Fund.
11. The investment objectives, investment strategy, investment approach and investment restrictions of the Funds will continue to be the same and the Funds expect to continue to pay their normal distributions following conversion to an ETF structure.
12. In order to implement this proposal, Claymore will call and hold special meetings of the Unitholders of each Fund in order to obtain unitholder approval to the changes that will be required to the Fund trust agreements to implement the changes. In connection with the special meetings, Claymore will prepare and deliver to Unitholders in accordance with applicable securities laws, a management information circular (the “**Circular**”) describing the proposal and the changes to be made to the Fund trust agreements as well as their impact on the Fund and Unitholders. It is expected that the circular will contain prospectus-like disclosure relating to the operation and administration of the Funds on a going forward basis.
13. If the requisite unitholder and regulatory approvals are obtained, the Funds will prepare and file a preliminary prospectus of the Funds relating to the proposed continuous distribution of Units of each Fund and enter into the necessary designated broker and underwriting agreements in connection with such offerings. Claymore will not file a final prospectus for the continuous distribution of Units of the Funds until the TSX has conditionally approved the listing of additional Units of the Funds. The Funds will not commence a continuous distribution of Units at least until the final prospectus in respect of such distribution has been receipted.
14. As listed securities, Units of the Funds will be available for purchase by investors from IDA registrants.
15. The trust agreements for the Funds will be amended to implement the required changes. As a result and in furtherance of these changes, and after the final prospectus has been receipted:

- (a) Units may only be subscribed for or purchased directly from the Funds by Underwriters or Designated Brokers and orders may only be placed for Units in the Prescribed Number of Units (or an integral multiple thereof) on any day when there is a trading session on the TSX.
- (b) The Funds will appoint Designated Brokers to perform certain functions which include standing in the market with a bid and ask price for Units of each Fund for the purpose of maintaining liquidity for the Units.
- (c) Each Underwriter or Designated Broker that subscribes for Units must deliver, in respect of each Prescribed Number of Units to be issued, a Basket of Securities and cash in an amount sufficient so that the value of the Basket of Securities and cash delivered is equal to the net asset value of the Units subscribed for next determined following the receipt of the subscription order. In the discretion of Claymore, the Funds may also accept subscriptions for Units in cash only, in securities other than Baskets of Securities and/or in a combination of cash and securities other than Baskets of Securities, in an amount equal to the net asset value of the Units next determined following the receipt of the subscription order.
- (d) The net asset value per Unit of each Fund will be calculated and published daily and the investment portfolio of each Fund will be made available daily on Claymore's website.
- (e) Upon notice given by Claymore from time to time and, in any event, not more than once quarterly, a Designated Broker will subscribe for Units in cash in an amount not to exceed 0.3% of the net asset value of the Fund, or such other amount established by Claymore and disclosed in the prospectus of such Fund, next determined following delivery of the notice of subscription to that Designated Broker.
- (f) Neither the Underwriters nor the Designated Brokers will receive any fees or commissions in connection with the issuance of Units to them. Claymore may, at its discretion, charge an administration fee on the issuance of Units to the Designated Brokers or Underwriters.
- (g) Except as described in subparagraphs (a) through (e) above, Units may not be purchased directly from the Funds. Investors are generally expected to purchase Units through the facilities of the TSX. However, Units may be issued directly to Unitholders upon the reinvestment of distributions of income or capital gains and in accordance with the distribution reinvestment plan of each Fund.
- (h) Unitholders that wish to dispose of their Units may generally do so by selling their Units on the TSX, through IDA brokers or dealers, subject only to customary brokerage commissions. A Unitholder that holds a Prescribed Number of Units or an integral multiple thereof may exchange such Units for Baskets of Securities and cash; Unitholders may also redeem their Units for cash at a redemption price equal to 95% of the closing price of the Units on the TSX on the date of redemption.

- (i) As manager, Claymore receives a fixed annual fee from each Fund. Such annual fee is calculated as a fixed percentage of the net asset value of each Fund. Each Fund is responsible for the payment of all expenses including any extraordinary expenses.
16. As the TSX listing will represent the principal means of liquidity for investors in the Funds, the Funds are not required to, on a daily basis, maintain and allocate a portion of cash or other portfolio assets to the funding of anticipated redemptions. Consequently, the existence of a security interest over the Funds' portfolio assets to secure obligations under the loan facility will not impact the liquidity of the Funds' units on the TSX.
17. Claymore has also determined to submit a proposal to the Unitholders of both FIE and FDI to merge the two Funds. Under the merger FDI would agree to sell all of its net assets to FIE in consideration for the issuance of Units of FIE and FDI valued at an exchange ratio determined with reference to the net asset values of each of FIE and FDI determined in accordance with their trust agreements. The Units of FDI would then be automatically redeemed for Units of FIE and as a result Unitholders of FDI would receive FIE Units and become Unitholders of FIE. FIE will be the continuing fund. The merger proposal will be voted upon separately from the proposal to convert the Funds into ETFs and the proposals will not be contingent on each other. The merger proposal will be described in the Circular. If the merger proposal is approved by Unitholders and implemented, it will become effective before the proposal to convert the Funds into ETFs. As a result the relief granted below would be required for and apply to FIE as the continuing fund and RFI. If the merger proposal is not approved by Unitholders, it will not be implemented and, assuming the proposal to convert the Funds into ETFs is approved and implemented, the relief granted below would be required for and apply to each of the Funds.

## **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.

The decision of the Decision Makers under the Legislation is that the Requested Relief is granted to the Funds upon their conversion to ETFs provided that:

1. in respect of the relief granted from subsection 2.6(a),
  - (a) if trading of a Fund's Units on the TSX is suspended for a period exceeding thirty days, that Fund will begin taking all necessary steps to ensure that all amounts borrowed under the loan facility are fully repaid as soon as commercially reasonable but no later than sixty days from the date of suspension, provided that such repayment need not be completed if the suspension is lifted within sixty days from the date of the suspension;
  - (b) a Fund does not make a distribution to Unitholders where that distribution would impair the ability of that Fund to repay the funds borrowed under the loan facility;

- (c) the Funds' final prospectus to be filed in connection with the continuous distribution of Units discloses the maximum percentage of assets of the Funds that the borrowing may represent, the Funds' intended use of amounts borrowed under the loan facility, the material terms of the loan facility and the risks arising from the borrowing under the loan facility;
- 2. in respect of the relief granted from subsection 9.4(2), the acceptance of any securities as payment for the issue price of Units is made in accordance with paragraph 9.4(2)(b); and
- 3. in respect of the relief granted from section 14.1, the Funds comply with applicable TSX requirements in setting the record date for the payment of distributions.

"Leslie Byberg"

Leslie Byberg  
Manager, Investment Funds Branch