

ALBERTA SECURITIES COMMISSION

VARIATION OF CEASE TRADE ORDER

Citation: Re Crossroads-DMD Mortgage Investment Corporation, 2014 ABASC 428

Date: 20141030

Crossroads-DMD Mortgage Investment Corporation

Background

1. Crossroads-DMD Mortgage Investment Corporation (the **Filer**) has made an application to the Executive Director of the Alberta Securities Commission (the **Executive Director**) for an order to vary a cease trade order dated 13 September 2013 (the **Cease Trade Order**).
2. Pursuant to subsection 17(2) of the *Securities Act* (Alberta) (the **Act**), the Executive Director has made an Authorization Order dated 23 November 2009, which includes authorizing the undersigned to revoke or vary certain orders issued under section 33.1 of the Act.
3. Terms used in this Variation Order that are defined in the *Securities Act*, R.S.A. 2000, c. S-4 (the **Act**) have the same meaning as in the Act.

Representations

4. The Filer has represented to the Executive Director that:
 - (a) The Filer was incorporated under the laws of Alberta on 9 May 2001.
 - (b) The Filer is a mortgage investment corporation doing business in Alberta, British Columbia, Saskatchewan and Manitoba.
 - (c) The Filer's head office is located in the province of Alberta.
 - (d) The Filer is not a reporting issuer in any jurisdiction in Canada.
 - (e) The Cease Trade Order was issued in response to:
 - (i) the Filer's distribution of class B preferred shares of the Filer (the **Preferred Shares**) in reliance on section 2.9 of National Instrument 45-106 *Prospectus and Registration Exemptions* based on an offering memorandum dated 30 May 2013 that was not prepared in accordance with Alberta securities laws; and
 - (ii) the filing of certain reports of exempt distribution in the Form 45-106F1 *Report of Exempt Distribution* not completed in accordance with Alberta securities laws.

- (f) The British Columbia Securities Commission issued a similar cease trade order on 5 November 2013.
- (g) The Filer held a special meeting of all of its shareholders on 9 January 2014 where shareholders voted on and approved a resolution to amend the Filer's articles (the **Amendment Resolution**).
- (h) Certain holders of Preferred Shares dissented to the Amendment Resolution (the **Dissenting Shareholders**) pursuant to section 191(2) of the *Business Corporation Act* (Alberta), R.S.A. 2000, c. B-9 (the **ABCA**) and are therefore entitled to be paid fair value for their Preferred Shares.
- (i) Pursuant to section 191 of the ABCA, the Filer is required to pay the Dissenting Shareholders the fair value for the Preferred Shares they hold, with fair value being determined pursuant to the ABCA.
- (j) The articles of the Filer (the **Articles**) allow the redemption of Preferred Shares under specified terms and conditions.
- (k) Certain holders of Preferred Shares held in registered retirement investment funds (**RRIFs**) have requested that the Filer redeem a portion or all of their Preferred Shares held in RRIFs as the *Income Tax Act* (Canada), R.S.C. 1985, c. 1 (5th Supp.) governing the operation of RRIFs requires that the holder must withdraw a minimum amount in cash from the RRIF in each year and pay taxes on this amount regardless of whether cash actually is withdrawn from the RRIF.
- (l) Certain holders of Preferred Shares held in registered education savings plans (**RESPs**) have requested to redeem a portion of their Preferred Shares to pay funds to the beneficiaries of the RESPs for their education expenses.
- (m) The Filer undertakes to the Executive Director, as soon as reasonably practicable, to send out a notice to notify all of the holders of the Preferred Shares that this Variation Order has been granted.

Decision

5. The undersigned, being of the opinion that it would not be prejudicial to the public interest to do so, orders under subsection 214(1.1) of the Act that the Cease Trade Order is varied to permit the following:
 - (a) other than in respect of insiders of the Filer, the redemption of Preferred Shares, to the extent permitted by the Articles and the ABCA, by the Filer from holders who hold the Preferred Shares in a RRIF or RESP; and

- (b) the acquisition of Preferred Shares by the Filer in accordance with the statutory dissent and appraisal procedures in the ABCA.

30 October 2014

“original signed by”

Denise Weeres
Manager, Legal
Corporate Finance