

2004 BCSECCOM 679

November 18, 2004

Headnote

Mutual Reliance Review System for Exemptive Relief Applications - Securities Rules s. 162(3) - Exemption from the Requirement to Include a Formal Valuation of the Offeree Issuer in an Issuer Bid Circular - An issuer wants relief from the requirement to obtain a formal valuation in connection with an issuer bid for its outstanding securities - A liquid market for the issuer's securities exists prior to the bid; subsequent to the bid, there will be a market for the issuer's securities that is not materially less liquid than prior to the bid

Applicable British Columbia Provisions

Securities Rules, B.C. Reg. 194/97, s. 162(2) and (3)

In the Matter of
the Securities Legislation of
Alberta, British Columbia, Manitoba, Newfoundland, Nova Scotia and
Saskatchewan
(the Jurisdictions)

and

In the Matter of
the Mutual Reliance Review System for Exemptive Relief Applications

and

In the Matter of
Sheritt International Corporation
(the Filer)

MRRS Decision Document

Background

1. The local securities regulatory authority or regulator (the Decision Maker) in each of the Jurisdictions has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the Legislation) that, in connection with the proposed purchase by the Filer of up to \$100,000,000 of its outstanding 6% Convertible Unsecured Subordinated Debentures due December 15, 2006 (the Debentures) pursuant to an issuer bid (the Offer), the Filer be exempt from the requirements in the Legislation to obtain valuations of the Debentures and provide disclosure in the Circulars of such valuations, or summaries thereof (the Valuation Requirement).

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2. Under the Mutual Reliance Review System for Exemptive Relief Applications (MRRS):
 - 2.01 the Alberta Securities Commission is the principal regulator for this application; and
 - 2.02 this MRRS decision document evidences the decision of each Decision Maker.

Interpretation

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

Representations

4. This decision is based on the following facts represented by the Filer:
 - 4.01 The Filer is a reporting issuer or the equivalent in each of the Jurisdictions and is not in default of any requirement under the Legislation.
 - 4.02 The Filer's authorized capital consists of an unlimited number of Common Shares. 131,366,776 Common Shares were outstanding as at October 25, 2004. Debentures in the aggregate principal amount of \$300,000,000 were outstanding as at October 25, 2004.
 - 4.03 The Debentures and the Common Shares are listed and posted for trading on the Toronto Stock Exchange (the "TSX").
 - 4.04 To the knowledge of the Filer, no person or company holds more than 10% of the aggregate principal amount of outstanding Debentures.
 - 4.05 On October 15, 2004, the last full trading day prior to the day on which the Filer announced its intention to make the Offer, the closing price of the Restricted Voting Shares on the TSX was \$7.95 and the closing price of the Debentures on the TSX was \$1,050.00 per \$1,000.00 principal amount of Debentures.
 - 4.06 No formal valuation will be prepared in connection with the Offer or disclosed in the Circular as the Filer will rely on the liquidity exemption that is available to it under section 3.4.3 of Rule 61-501 of the Ontario

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Securities Commission and section 23(2) of Local Policy Statement Q-27.

4.07 The Filer has obtained an opinion of an independent registered dealer, Paradigm Capital Inc., which states that it is reasonable to conclude that, following the completion of the Issuer Bid, there will be a market for Debentureholders who do not tender to the Issuer Bid that is not materially less liquid than the market that existed at the time of the making of the Issuer Bid. The TSX, being the stock exchange upon which the Debentures are listed and traded, has delivered a letter to the Ontario Securities Commission and l'Autorité des marchés financiers of Quebec indicating that it concurs with the foregoing opinion of Paradigm Capital Inc. As a result, the Filer intends to avail itself of the liquidity exemption to the valuation requirement pursuant to section 3.4.3 of Rule 61-501 of the Ontario Securities Commission. Similarly, in Quebec, the Filer intends to avail itself of the liquidity exemption to the valuation requirement pursuant to section 23(2) of Local Policy Statement Q-27.

4.08 The Filer is including the opinion from Paradigm Capital Inc. in the circular, along with the disclosure that is otherwise required in connection with the exemption under OSC Rule 61-501.

Decision

5. Each of the Decision Makers is satisfied that the test contained in the Legislation that provides the Decision Maker with the jurisdiction to make the decision has been met.
6. The decision of the Decision Makers under the Legislation is that, in connection with the Offer, the Filer is exempt from the Valuation Requirement.

DATED at Calgary, Alberta on this 18th day of November, 2004.

Mavis Legg, CA
Manager, Securities Analysis