

2003 BCSECCOM 620

Headnote

Mutual Reliance Review System for Exemptive Relief Application – relief granted to an issuer from requirement to deliver initial interim financial statements, subject to conditions – initial interim financial statements cover a short operating period

Applicable British Columbia Provisions

Securities Act, R.S.B.C.1996, c. 418, s. 91

IN THE MATTER OF THE SECURITIES LEGISLATION OF BRITISH COLUMBIA, ALBERTA, SASKATCHEWAN MANITOBA, ONTARIO, QUÉBEC, AND NOVA SCOTIA

AND

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

AND

IN THE MATTER OF OIL SANDS SPLIT TRUST

MRRS DECISION DOCUMENT

WHEREAS the local securities regulatory authority or regulator (the “Decision Maker”) in each of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Québec and Nova Scotia (the “Jurisdictions”) have received an application from Oil Sands Split Trust (the “Issuer”) for a decision under the securities legislation (the “Legislation”) of the Jurisdictions that the Issuer be exempt from the requirement to deliver to its security holders interim financial statements for the period from June 13, 2003 to June 30, 2003, as would otherwise be required pursuant to applicable Legislation;

AND WHEREAS pursuant to the Mutual Reliance Review System for Exemptive Relief Applications (the “System”), Ontario is the principal regulator for this application;

AND WHEREAS, unless otherwise defined, the terms herein have the meaning set out in National Instrument 14-101 Definitions or in Quebec Commission Notice 14-101;

AND WHEREAS the Issuer has represented to the Decision Maker that:

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1. The Issuer filed a final prospectus dated June 13, 2003 (the “Prospectus”) with the securities regulatory authority in each of the provinces of Canada pursuant to which a distribution of 2,500,000 preferred securities (the “Preferred Securities”) and 2,500,000 capital units (the “Capital Units”) of the Issuer was completed on July 3, 2003.
2. The Issuer was established under the laws of the Province of Ontario pursuant to a trust agreement dated June 13, 2003. The fiscal year end of the Issuer is December 31, with the first fiscal year end to occur on December 31, 2003. Pursuant to the requirements of the Legislation, and subject to any relief obtained pursuant to this application, the Issuer would be required to prepare and file in the Jurisdictions and deliver to its security holders interim financial statements (the “Initial Interim Financial Statements”) for the period from June 13, 2003 to June 30, 2003.
3. The final redemption of the Preferred Securities and the Capital Units of the Issuer is scheduled to occur on September 15, 2010.
4. The authorized capital of the Issuer consists of an unlimited number of Capital Units, of which 2,500,000 are issued and outstanding. An aggregate principal amount of \$42,500,000 of Preferred Securities has been authorized to be issued, of which 2,500,000 Preferred Securities having an aggregate principal amount of \$42,500,000 are issued and outstanding. The attributes of the Preferred Securities and the Capital Units are described under the headings “Certain Provisions of the Preferred Securities” and “Certain Provisions of the Capital Units” on pages 18 and 21, respectively, of the Prospectus.
5. RBC Dominion Securities Inc. acted as an agent for, and was the promoter of, the Issuer in respect of the offerings of the Preferred Securities and the Capital Units.
6. The principal undertaking of Issuer is the holding of a portfolio of trust units (the “COS Units”) of Canadian Oil Sands Trust in order to generate quarterly fixed interest payments for the holders of Preferred Securities and to enable the holders of Capital Units to participate in any capital appreciation in the COS Units. The COS Units held by the Issuer will only be disposed of as described in the Prospectus.
7. The Prospectus included an audited statement of financial position of the Issuer as at June 13, 2003 and an unaudited pro forma statement of financial position as at June 13, 2003 prepared on the basis of the completion of the sale and issue of Capital Units and Preferred Securities of the Issuer. As such, the

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financial position of the Issuer as at June 30, 2003 will have been substantially reflected in the pro forma financial statements contained in the Prospectus.

8. The Issuer is an inactive company, the sole purpose of which is to provide a vehicle through which different investment objectives with respect to participation in the COS Units may be satisfied. Holders of Capital Units will be entitled on redemption to the benefits of any capital appreciation in the market price of the COS Units after payment of administrative and operating expenses of the Issuer and the fixed distributions on the Preferred Securities, and holders of Preferred Securities will be entitled to receive fixed cumulative preferential distributions on a quarterly basis equal to \$0.36125 per Preferred Security.
9. The benefit to be derived by the security holders of the Issuer from receiving the Initial Interim Financial Statements would be minimal in view of (i) the short period (i.e., 17 days) from the date of the Prospectus to June 30, 2003; (ii) the pro forma financial statements contained in the Prospectus; and (iii) the nature of the minimal business carried on by the Issuer.
10. The expense to the Issuer of sending to its security holders the Initial Interim Financial Statements would not be justified in view of the benefit to be derived by the security holders from receiving such statements.
11. The annual unaudited financial statements of the Issuer for the period ending December 31, 2003 will include the period from June 13, 2003 to June 30, 2003.

AND WHEREAS pursuant to 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;

IT IS HEREBY DECIDED by the Decision Makers pursuant to the Legislation that the Issuer is exempted from the requirement to deliver to its security holders the Initial Interim Financial Statements, provided that

- (i) the Initial Interim Financial Statements are filed and posted for viewing on SEDAR;

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(ii) the Issuer issue, and file on SEDAR, a press release informing security holders of their right to receive the Initial Interim Financial Statements upon request; and

(iii) the Issuer send a copy of such Initial Interim Financial Statements to any security holder of the Issuer who so requests.

DATED August 29, 2003

H. Lorne Morphy, Q.C.

Wendell S. Wigle