

2005 BCSECCOM 69

January 21, 2005

Headnote

Mutual Reliance Review System for Exemptive Relief Applications - Securities Act, s. 1(1) - An issuer wants to be designated as a reporting issuer - the issuer is formed in connection with a reorganization; the issuer will assume the debentures of an issuer that will be dissolved and will carry on the business of that dissolved issuer; the debentures have been the subject of seasoned continuous disclosure for more than 12 months as the dissolved issuer has been a reporting issuer for more than 12 months; but for the fact that the issuer is assuming the debentures and not exchanging its securities with the dissolved issuer it would automatically become a reporting issuer

National Instrument 44-101 *Short Form Prospectus Distributions*, ss. 2.1 and 15.1 - An issuer that has not been a reporting issuer for 12 months wishes to use the short form prospectus system in NI 44-101 - the issuer is formed in connection with a reorganization to carry on the business and assume the debt obligations of an issuer that will be dissolved under the reorganization; the issuer will become a reporting issuer on closing of the reorganization; the dissolved issuer was eligible to use the short form prospectus system under NI 44-101; the issuer will adopt the AIF of the dissolved issuer until such time as it files its own AIF; the issuer will incorporate by reference in a short form prospectus the relevant disclosure documents of the dissolved issuer until such time as it files its own relevant disclosure documents; the issuer will otherwise comply with NI 44-101

Applicable British Columbia Provisions

Securities Act, R.S.B.C. 1996, c. 418, s. 1(1)

National Instrument 44-101 *Short Form Prospectus Distributions*, ss. 2.1 and 15.1

In the Matter of
the Securities Legislation
of Ontario, British Columbia, Alberta, Saskatchewan, Manitoba, Québec, New
Brunswick, Nova Scotia, Prince Edward Island, Newfoundland and Labrador,
Nunavut, Yukon and the Northwest Territories (the “Jurisdictions”)

and

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

and

Molson Canada and Molson Canada 2005 (the “Filers”)

2005 BCSECCOM 69

MRRS Decision Document

Background

The local securities regulatory authority or regulator (the “Decision Maker”) in each of the Jurisdictions has received an application from the Filers for a decision under the securities legislation of the Jurisdictions (the “Legislation”) that:

1. Reporting Issuer Status Relief

In British Columbia, Alberta, Ontario, New Brunswick, Nova Scotia and Newfoundland, Molson Canada 2005 (“MC 2005”), a partnership to be formed under the laws of Ontario, shall be deemed or declared a reporting issuer under the Legislation immediately after closing of the Reorganization (“Reporting Issuer Status Relief”).

2. Short Form Prospectus Eligibility Relief

In all Jurisdictions, the requirements of the Legislation to have a current annual information form and to have a 12-month reporting issuer history in Canada to be eligible to use the short form prospectus regime shall not apply to MC 2005 (the “Short Form Prospectus Eligibility Relief”).

Under National Policy 12-201 - Mutual Reliance Review System (“MRRS”) for Exemptive Relief Applications:

- (a) the Ontario Securities Commission is the principal regulator for this application, and
- (b) this MRRS decision document evidences the decision of each Decision Maker.

Interpretation

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

“Arrangement” means the plan of arrangement, under Section 192 of the *Canada Business Corporations Act*, pursuant to which the Transaction will be effected;

“Assumption” means the proposed assumption by MC 2005 of the MC Debentures issued by MC;

“Effective Time” means the effective time of the Arrangement;

“MC” means Molson Canada, an Ontario partnership;

2005 BCSECCOM 69

“MC Debentures” means the issued and outstanding debt securities of MC consisting of Cdn\$100 million of debentures bearing interest at an annual rate of 6.7% and maturing on June 2, 2028, Cdn\$100 million of debentures bearing interest at an annual rate of 9.1% and maturing on March 11, 2013, Cdn\$150 million of debentures bearing interest at an annual rate of 8.4% and maturing on December 7, 2018 and Cdn\$200 million of debentures bearing interest at an annual rate of 6% and maturing on June 2, 2008;

“NI 44-101” means National Instrument 44-101 – *Short Form Prospectus Distributions*;

“NI 51-102” means National Instrument 51-102 – *Continuous Disclosure Obligations*;

“Reorganization” means the proposed reorganization involving the Assumption and certain other transactions between Molson, MC, MC 2005 and affiliates thereof; and

“Transaction” means the proposed combination of Adolph Coors Company (“Coors”) and Molson Inc. (“Molson”) pursuant to the combination agreement dated as of July 21, 2004 among Coors, Molson and Molson Coors Canada Inc (“Exchangeco”), as amended.

Representations

This decision is based on the following facts represented by the Filers:

1. The Filers

Molson Canada

- i. MC’s principal executive offices are located at 175 Bloor Street East, North Tower, 2nd Floor, Toronto, Ontario M4W 3S4.
- ii. Currently, MC is an Ontario partnership with its sole partners consisting of Molson (with 60% equity interest) and Carling O’Keefe Breweries of Canada Limited (with 40% equity interest), which is wholly-owned directly by Molson.
- iii. Immediately prior to the effective time of the Assumption and as part of the Reorganization, the partners of MC will consist of Molson (with approximately 99.99% equity interest) and Carling O’Keefe Company (“Carling O’Keefe”) (with approximately

2005 BCSECCOM 69

0.01% equity interest), which will be wholly-owned directly by Molson.

- iv. MC is and has been for a period of over 12 months a reporting issuer or equivalent in all Jurisdictions (except Prince Edward Island, Yukon, Nunavut and the Northwest Territories) and is not on the list of defaulting reporting issuers maintained under applicable Legislation. MC has issued and outstanding the MC Debentures. The MC Debentures (a) were offered by way of prospectus in Canada, (b) are redeemable at the option of MC and (c) are direct unsecured obligations of MC.
- v. Molson's Canadian brewing and distribution operations are carried on by MC.
- vi. As part of the Reorganization, MC will be dissolved following the Assumption by MC 2005 of the MC Debentures.

MC 2005

- vii. When formed, prior to the Assumption, MC 2005's principal executive offices will be located at 175 Bloor Street East, North Tower, 2nd Floor, Toronto, Ontario M4W 3S4.
- viii. As part of the Reorganization, MC 2005 will be formed as an Ontario partnership with MC (as to a 50.1% equity interest), Exchangeco (as to a 24.9% equity interest) and 3096605 Nova Scotia Company ("Coors Canada (2005) Company"), a corporation wholly-owned by Exchangeco (as to a 24.9% equity interest), as its sole partners.
- ix. Following closing of the Reorganization and Transaction, the partners of MC 2005 will consist of Molson (with approximately 80% equity interest), Carling O'Keefe (with approximately 9.975% equity interest) and Coors Canada (2005) Company (with approximately 10.025% interest), all of which will be indirect wholly-owned subsidiaries of Molson Coors Brewing Company ("Molson Coors"), the company in which Molson's and Coors' businesses will be combined in the Transaction.
- x. Following closing of the Reorganization and Transaction, MC 2005 will carry on the businesses currently being carried on by MC, which are Molson's Canadian brewing and distribution

2005 BCSECCOM 69

operations, and by Coors Canada, a partnership formed under the laws of Ontario, which currently markets and distributes certain Coors brands in Canada.

2. The Reorganization and Assumption are to be completed prior to the Effective Time. The principal purpose of the Reorganization is for Molson and Coors to combine their Canadian businesses in a single partnership in order to assist in extracting synergies from the proposed Transaction of a merger of equals.

3. Certain Steps of the Reorganization

MC 2005 will be formed prior to the securityholders meetings of each of Molson and Coors (collectively, the “Securityholders Meetings”) to be held in respect of the Transaction.

If the Molson and Coors securityholders approve the Transaction at their respective Securityholders Meetings and the Superior Court, District of Montreal, Province of Québec grants a final order in respect of the Arrangement, following such meetings and order and before the Effective Time, the following actions will occur as part of the Reorganization. The terms of closing of the Reorganization are such that all of the following steps must take place; if any step set-out below does not take place, the Reorganization will not proceed.

- i. Molson will transfer its approximately 49.9% equity interest in Coors Canada and shares representing 100% of the equity of Rathon Corp. and C-GMOL Inc. to MC in consideration for an additional equity interest in MC. Actions described in this subparagraph 3.i are collectively referred to herein as “Step i”.
- ii. Following Step i, the Assumption of the MC Debentures will be effected by an assumption agreement dated as of the date of the Reorganization between MC and MC 2005. The Assumption of MC Debentures by MC 2005 will be in consideration for payment of approximately Cdn\$550 million to MC 2005 by MC. Actions described in this subparagraph 3.ii are collectively referred to herein as “Step ii”.
- iii. Following Step ii, MC will transfer to MC 2005 by way of an agreement dated as of the date of the Reorganization between MC and MC 2005, all of MC’s assets and undertaking, with the exception of the Carling family of trademarks, its 49.9% equity

2005 BCSECCOM 69

interest in Coors Canada, shares of a newly-formed wholly-owned company (“Brandco”) and shares of its wholly-owned companies Rathon Corp. and C-GMOL Inc. This transfer will be in consideration for cash of Cdn\$550 million, MC 2005 assuming the liabilities of MC and issuing an additional partnership interest to MC. Following these actions, the partners of MC 2005 will consist of MC (with approximately 99.99% equity interest), Coors Canada (2005) Company (with 0.005% equity interest) and Exchangeco (with approximately 0.005% equity interest). Actions described in this subparagraph 3.iii are collectively referred to herein as “Step iii”.

- iv. Following Step iii, MC will license the Carling family of trademarks to MC 2005 by way of an agreement (“Licence”) dated as of the Reorganization. Actions described in this subparagraph 3.iv are collectively referred to herein as “Step iv”.
- v. Following Step iv, MC will transfer the Carling family of trademarks, the Licence and 10% equity interest in MC 2005 by way of an agreement dated as of the date of the Reorganization to Brandco. This transfer will be in consideration for the issuance to MC of shares of Brandco. Following these actions, the partners of MC 2005 will consist of MC (with approximately 89.99% equity interest), Brandco (with approximately 10% equity interest), Coors Canada (2005) Company (with 0.005% equity interest) and Exchangeco (with approximately 0.005% equity interest). Actions described in this subparagraph 3.v are collectively referred to herein as “Step v”.
- vi. Following Step v, the MC partners, consisting of Molson (with approximately 99.99% equity interest) and Carling O’Keefe (with approximately 0.01% equity interest), will agree to dissolve MC and transfer an undivided interest in each MC asset to Molson and Carling O’Keefe in proportion to their equity interests in MC. This step will result in (a) Molson and Carling O’Keefe holding, respectively, approximately 99.99% and approximately 0.01% equity interests in the shares of Brandco, Rathon Corp. and C-GMOL Inc., (b) Molson and Carling O’Keefe holding, respectively, approximately 49.89% and 0.01% equity interests in the Coors Canada and (c) Molson and Carling O’Keefe holding, respectively, approximately 89.98% and 0.01% equity interests in MC 2005. Actions described in this subparagraph 3.vi are collectively referred to herein as “Step vi”.

2005 BCSECCOM 69

- vii. Following Step vi, Molson will transfer its approximately 49.89% equity interest in the Coors Canada to Carling O'Keefe by a way of an agreement dated as of the date of the Reorganization between Molson and Carling O'Keefe, in consideration for the issuance to Molson of additional Carling O'Keefe shares. This step will result in Carling O'Keefe holding approximately 49.9% equity interest in the Coors Canada. Actions described in this subparagraph 3.vii are collectively referred to herein as "Step vii".
- viii. Following Step vii, Carling O'Keefe will transfer its approximately 0.01% partnership equity interest in MC 2005 and its approximately 0.01% share interest in Brandco, Rathon Corp. and C-GMOL Inc., to Molson by way of an agreement between Molson and Carling O'Keefe dated as of the date of the Reorganization in consideration for the payment of cash by Molson. This step will result in Molson holding approximately 89.99% equity interest directly, and an additional 10% equity interest indirectly through Brandco, in MC 2005 and 100% of the shares of Brandco, Rathon Corp. and C-GMOL Inc. Actions described in this subparagraph 3.viii are collectively referred to herein as "Step viii".
- ix. Following Step viii, Molson will cause Brandco to be dissolved and on the dissolution it will acquire from Brandco the Carling family of trademarks, the Licence and a 10% equity interest in MC 2005. This step will result in Molson holding approximately 99.99% equity interest in MC 2005. Actions described in this subparagraph 3.ix are collectively referred to herein as "Step ix".
- x. Following Step ix, Molson will transfer to MC 2005 the Carling family of trademarks by agreement dated as of the date of the Reorganization. This transfer will be in consideration for an additional partnership interest in MC 2005. The Licence will be terminated. Actions described in this subparagraph 3.x are collectively referred to herein as "Step x".
- xi. Following Step x, Coors Canada will transfer its business assets to MC 2005 by way of an agreement dated as of the date of the Reorganization. This transfer will be in consideration for the issuance to Coors Canada of a partnership interest in MC 2005 and the assumption by MC 2005 of Coors Canada liabilities. Actions described in this subparagraph 3.xi are collectively referred to herein as "Step xi".

2005 BCSECCOM 69

- xii. Following Step xi, the Coors Canada partners, consisting of Carling O’Keefe (with approximately 49.9% equity interest) and Exchangeco (with approximately 50.1% equity interest), will agree to dissolve Coors Canada and transfer an undivided interest in Coors Canada’s asset (being its equity interest in MC 2005) in proportion to their equity interests in Coors Canada. This step will result in (a) Molson and Carling O’Keefe holding, respectively, approximately 80% and 9.975% equity interests in MC 2005 and (b) Exchangeco and Coors Canada (2005) Company holding, respectively, approximately 10.02% and 0.005% equity interests in MC 2005. Actions described in this subparagraph 3.xii are collectively referred to herein as “Step xii”.
- xiii. Following Step xii, Exchangeco will transfer its approximately 10.02% equity interest in MC 2005 and a licence to Coors Canada (2005) Company for shares of the latter. Following this action, Coors Canada (2005) Company will hold an approximately 10.025% equity interest in MC 2005. Actions described in this subparagraph 3.xiii are collectively referred to herein as “Step xiii”.

As a consequence of the Reorganization and Assumption, (a) substantially all of the assets held by MC will be transferred to, and held by, MC 2005, (b) all of the MC Debentures will become obligations of MC 2005 and (c) all of the assets and held by Coors Canada will be transferred to, and held by, MC 2005. The Assumption will result in the change of the debtor’s identity from MC to MC 2005 but the terms and conditions of the MC Debentures will remain unchanged.

CIBC Mellon Trust Company (the “Trustee”), the trustee under the trust indentures governing the MC Debentures, will approve Steps i through xi of the Reorganization (being the Steps relevant to the MC Debenture holders) as not being prejudicial to the MC Debenture holders pursuant to the terms of the trust indentures governing the MC Debentures.

- 4. Both before and after completion of the Reorganization, Molson will, on the same terms as before the Assumption, remain liable on the same basis, as partner of MC 2005, for the amounts owing under the MC Debentures. MC 2005’s net asset base will be equal to or greater than that of MC as it will carry on the businesses currently being carried on by MC, Molson’s Canadian brewing and distribution operations, as well as those being

2005 BCSECCOM 69

carried on by Coors Canada, which currently markets and distributes the Coors brand in Canada.

5. MC 2005 wishes to become a reporting issuer or its equivalent in all Jurisdictions where MC is currently a reporting issuer or its equivalent effective immediately after the closing of the Reorganization (being all Jurisdictions except Prince Edward Island, Yukon, Nunavut and the Northwest Territories).
6. Following the Reorganization, MC 2005 will continue to carry on the businesses currently being carried on by MC, which consist of Molson's Canadian brewing, marketing and distribution operations and hold substantially the same assets as are currently held by MC, in addition to those assets used in connection with the distribution of the Coors brand in Canada.

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.

1. Reporting Issuer Status Relief

The decision of the Decision Makers in British Columbia, Alberta, Ontario, New Brunswick, Nova Scotia and Newfoundland under the Legislation is that the Reporting Issuer Status Relief is granted.

Suresh Thakrar	Robert W. Davis
Commissioner	Commissioner
Ontario Securities Commission	Ontario Securities Commission

2. Short Form Prospectus Eligibility Relief

The further decision of the Decision Makers in all Jurisdictions under the Legislation is that the Short Form Prospectus Eligibility Relief is granted provided that:

- (a) until MC 2005 files an annual information form in accordance with the Legislation, MC 2005 adopts as its current annual information form the current annual information form of MC;
- (b) MC 2005 incorporates by reference in any short form prospectus the relevant documents filed by MC until such time as those

2005 BCSECCOM 69

documents are superseded by documents filed by MC 2005 in accordance with the Legislation; and

- (c) MC 2005 complies with the other requirements and procedures and each of the other qualifications or qualification criteria of NI 44-101.

Iva Vranic
Manager, Corporate Finance Branch
Ontario Securities Commission