

2002 BCSECCOM 1056

Headnote

Mutual Reliance Review System for Exemptive Relief Applications - Dutch auction issuer bid provides for return of securities tendered above the clearing price and for additional purchases from certain shareholders to prevent the creation of small holdings (odd lots). Offeror exempt from the requirement in the legislation to take up and pay for securities proportionately according to the number of securities deposited by each securityholder, the associated disclosure requirement, and the requirement to state the class and number of securities sought under the issuer bid

Applicable British Columbia Provisions

Securities Act, R.S.B.C. 1996, c. 418, ss. 105(g), 108(7), and 114(2)(c)
Form 62-903F, Items 2 and 9

IN THE MATTER OF THE SECURITIES LEGISLATION OF BRITISH COLUMBIA, ALBERTA, MANITOBA AND ONTARIO

AND

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

AND

IN THE MATTER OF CANADIAN HOME INCOME PLAN CORPORATION

MRRS DECISION DOCUMENT

WHEREAS the Canadian securities regulatory authority or regulator (the “Decision Maker”) in each of British Columbia, Alberta, Manitoba, and Ontario (collectively, the “Jurisdictions”) has received an application (the “Application”) from Canadian Home Income Plan Corporation (“CHIP”) for a decision pursuant to the securities legislation of the Jurisdictions (the “Legislation”) that, in connection with the proposed purchase by CHIP of a portion of its outstanding common shares and non-voting common shares (collectively, the “Shares”) pursuant to an issuer bid (the “Bid”), CHIP be exempt from the requirements in the Legislation to:

- (i) take up and pay for securities proportionately according to the number of securities deposited by each securityholder (the “Proportionate Take-up and Payment Requirement”);

2002 BCSECCOM 1056

(ii) provide disclosure in the issuer bid circular (the “Circular”) of such proportionate take-up and payment (the “Associated Disclosure Requirement”); and

(iii) state the class and number of securities sought under the Bid in the Circular (the “Number of Securities Requirement”).

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

AND WHEREAS CHIP has represented to the Decision Makers that:

1. CHIP is incorporated under the *Canada Business Corporations Act*.
2. CHIP is not a reporting issuer in any of the Jurisdictions or in any other jurisdiction.
3. The authorized capital of CHIP includes an unlimited number of Shares, of which approximately 9,378,797 Shares were outstanding as at November 4, 2002.
4. CHIP proposes to purchase for cash Shares pursuant to the Bid made by way of the Circular. The Bid was made on November 4, 2002 and expires on December 10, 2002.
5. The Shares are not listed on any stock exchange or any other market.
6. The Bid was made pursuant to a modified Dutch Auction procedure as follows:
 - (a) the maximum number of Shares (the “Specified Number”) that CHIP intends to purchase under the Bid is specified in the Circular;
 - (b) the maximum amount of money (the “Maximum Amount”) that CHIP is prepared to spend under the Bid is specified in the Circular;
 - (c) the range of prices (the “Range”) within which CHIP is prepared to repurchase Shares under the Bid is also specified in the Circular;
 - (d) holders of Shares (the “Shareholders”) wishing to tender to the Bid will be able to specify the lowest price within the Range at which they are willing to sell their Shares (an “Auction Tender”);

2002 BCSECCOM 1056

- (e) Shareholders wishing to tender to the Bid but who do not wish to make an Auction Tender may elect to be deemed to have tendered at the Clearing Price (defined below) determined in accordance with subparagraph 6(f) below (a “Clearing Price Tender”);
- (f) the purchase price (the “Clearing Price”) of the Shares tendered to the Bid will be the lowest price that will enable CHIP to purchase the maximum number of Shares that may be purchased with the Maximum Amount and will be determined based upon the number of Shares tendered pursuant to an Auction Tender at each price within the Range and the number of Shares tendered pursuant to a Clearing Price Tender, with each Clearing Price Tender being considered a tender at the lowest price in the Range for the purpose of calculating the Clearing Price;
- (g) all Shares tendered (and not withdrawn) at or below the Clearing Price pursuant to an Auction Tender or a Clearing Price Tender will be taken up and paid for at the Clearing Price, subject to proration if the aggregate number of Shares tendered at or below the Clearing Price pursuant to Auction Tenders and the number of Shares tendered pursuant to Clearing Price Tenders exceeds the Specified Number or would require CHIP to spend more than the Maximum Amount (an “Over-Subscription”);
- (h) in the event of an Over-Subscription CHIP will purchase at the Clearing Price from Shareholders who deposited Shares at or below the Clearing Price the Shares so deposited for an aggregate Clearing Price of the Maximum Amount on a pro rata basis. Multiple tenders by the same shareholder will be aggregated for this proration;
- (i) all Shares tendered at prices above the Clearing Price will be returned to the appropriate Shareholders;
- (j) if, as a result of proration, the number of Shares to be returned to a tendering Shareholder is less than 1,000 Shares, CHIP will purchase at the Clearing Price all of such Shares from such Shareholders, resulting in the purchase of a number of Shares greater than the Specified Number, in order to avoid the creation of holdings of less than 1,000 Shares, or “Small Holdings”, due to proration; and
- (k) all Shares tendered by Shareholders who specify a tender price for such tendered Shares that falls outside the Range or who fail to specify any tender price and fail to indicate that they have tendered pursuant to a Clearing Price Tender, will be considered to have been improperly

2002 BCSECCOM 1056

tendered, will be excluded from the determination of the Clearing Price, will not be purchased by CHIP and will be returned to the tendering Shareholders.

7. Prior to the expiry of the Bid, all information regarding the number of Shares tendered and the prices at which such Shares are tendered will be kept confidential, and the depository under the Bid will be directed by CHIP to maintain such confidentiality until the Clearing Price is determined.
8. CHIP has provided a formal valuation in the Circular, in accordance with Ontario Securities Commission Rule 61-501.
9. Since the Bid is for less than all the Shares, if the number of Shares tendered to the Bid at or below the Clearing Price exceeds the maximum number of Shares which CHIP is prepared to purchase, the Legislation would require CHIP to take up and pay for deposited Shares proportionately, according to the number of Shares deposited by each Shareholder. In addition, the Legislation would require disclosure in the Circular that CHIP would, if Shares tendered to the Bid exceeded the Specified Number, take up such Shares proportionately according to the number of Shares tendered by each Shareholder.
10. The Circular:
 - (a) discloses the mechanics for the take-up of and payment for, or the return of, Shares as described in paragraph 6(g) above; and
 - (b) explains that, by tendering Shares at the lowest price in the Range, a Shareholder can reasonably expect that the Shares so tendered will be purchased at the Clearing Price, subject to proration and subject to the purchase of Post-Offer Small Holdings as described in paragraph 6(j) above.

AND WHEREAS pursuant to the System, this MRRS Decision Document evidences the decision of each of the Decision Makers (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;

THE DECISION of the Decision Makers in the Jurisdictions pursuant to the Legislation is that, in connection with the Bid, CHIP is exempt from the

2002 BCSECCOM 1056

Proportionate Take-up and Payment Requirement, the Associated Disclosure Requirement and the Number of Securities Requirement, provided that Shares tendered to the Bid are taken up and paid for, or returned to the Shareholders, in the manner and circumstances described in paragraph 6 above.

DATED this 9th day of December, 2002.

Howard I. Wetston

Robert W. Davis