

2003 BCSECCOM 183

Headnote

Mutual Reliance Review System for Exemptive Relief Applications – relief from annual report, interim financial statements, material change reporting and insider reporting, subject to conditions

Applicable British Columbia Provisions

Securities Act, R.S.B.C. 1996, c. 418, ss. 85, 87, 91, 119

Securities Rules, B.C. Reg. 194/97, ss. 144, 149, 184(2)

National Instrument 55-102 System for Electronic Disclosure by Insiders

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

AND

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

AND

IN THE MATTER OF MARITIME LIFE CANADIAN FUNDING

MRRS DECISION DOCUMENT

WHEREAS the securities regulatory authority or regulator (the “Decision Maker”) in each of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Québec, Nova Scotia and Newfoundland and Labrador (collectively, the “Jurisdictions”) has received an application from Maritime Life Canadian Funding (the “Trust”) for a decision pursuant to the securities legislation of the Jurisdictions (the “Legislation”) that:

(a) the requirements contained in the Legislation to:

- (i) make an annual filing (the “Annual Filing”) with the Decision Makers in lieu of filing an information circular, where applicable;
- (ii) file an information circular with the Decision Maker in Québec and deliver such information circular to noteholders (the “Noteholders”) of the Trust;

2003 BCSECCOM 183

- (iii) file unaudited interim financial statements (the “Interim Financial Statements”) with the Decision Makers and deliver such Interim Financial Statements to Noteholders of the Trust;
- (iv) file interim management’s discussion and analysis (“Interim MD&A”) of the financial condition and results of operations of the Trust with the Decision Makers in Ontario and Saskatchewan and send such Interim MD&A to security holders of the Trust (the “Interim MD&A Requirement”); and,
- (v) file material change reports and press releases related thereto, only where such requirement relates solely to a material change in the affairs of The Maritime Life Assurance Company (“Maritime Life”) and which is the subject of a filing by Maritime Life (the “Material Change Reporting Requirement”);

shall not apply to the Trust, subject to certain terms and conditions; and

- (b) the requirements contained in the Legislation for an insider of a reporting issuer to file:
 - (i) reports disclosing the insider’s direct or indirect beneficial ownership of, or control or direction over, securities of the reporting issuer;
 - (ii) disclosing any trade by the insider in such securities;
 - (iii) an insider profile report under National Instrument 55-102 – System for Electronic Disclosure by Insiders (collectively, the “Insider Reporting Requirements”);

shall not apply to insiders of the Trust and its successors who are not also insiders of Maritime Life and who do not receive or have access to, in the ordinary course, information as to material facts or material changes concerning the Trust before the material facts or material changes are generally disclosed;

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

AND WHEREAS the Trust represented to the Decision Makers that:

2003 BCSECCOM 183

The Trust

1. The Trust was established as a special purpose trust by RBC Dominion Securities Inc. (“RBC DS”), as settlor, under a declaration of trust dated August 15, 2001, as amended by the first supplement to the declaration of trust dated December 14, 2001 (collectively, the “Declaration of Trust”). The Declaration of Trust was made by The Canada Trust Company (the “Trustee”) and is governed by the laws of the Province of Ontario. The current beneficiary of the Trust is a charitable organization.
2. The Trustee performs its duties as trustee of the Trust from its offices in Toronto, Ontario.
3. The current auditors of the Trust are KPMG LLP, Toronto, Ontario.
4. Pursuant to the terms of the Declaration of Trust, the business activities of the Trust are substantially limited to:
 - (a) conducting, operating and administering the Trust’s programme (the “Programme”) of acquiring, through a dealer or an affiliate thereof, annuities issued by Maritime Life (the “Annuities”);
 - (b) financing such acquisitions through the issue of annuity-backed, secured, limited recourse debt securities (the “Notes”); and
 - (c) engaging in such activities which, in the reasonable opinion of the Trustee, are reasonably incidental or ancillary to (a) and (b) or required by any agreement relating thereto.

The Trust is otherwise limited from carrying on any active business.

5. The Trust has no assets other than a \$1,000 initial contribution to the Trust, the Annuities, the Indemnity (as defined below at paragraph 15), other collateral held from time to time as security for a series of Notes, amounts held from time to time in expense accounts to finance various costs and expenses of the Trust, and related contractual rights under the documents establishing the Programme.
6. The Trust is a reporting issuer or the equivalent thereof in each of the Jurisdictions as a consequence of having filed a short form base shelf prospectus dated December 21, 2001 (the “Shelf Prospectus”) in the Jurisdictions for the purpose of distributing Notes, and is not, to the Trustee’s knowledge, in default of any requirement under the Legislation.

2003 BCSECCOM 183

Maritime Life

7. As set out more particularly in Maritime Life's most recent Annual Information Form dated March 14, 2002, Maritime Life was amalgamated under the provisions of the *Insurance Companies Act* (Canada) ("ICA") on January 1, 2002. Maritime Life was originally incorporated by private act of the Legislature of Nova Scotia on April 29, 1922. It commenced business on March 6, 1924. In 1969, Maritime Life became a wholly-owned subsidiary of The John Hancock Life Insurance Company and today is an indirectly held wholly-owned subsidiary of John Hancock Financial Services, Inc. ("John Hancock") of Boston, Massachusetts. On December 24, 1999, Maritime Life was continued under the ICA. John Hancock Canadian Holdings Limited, a wholly-owned subsidiary of John Hancock, currently owns all of the common shares of Maritime Life. Maritime Life's reporting profile indicates that it is a reporting issuer or the equivalent thereof in each of the Jurisdictions.

8. As set out more particularly in Maritime Life's quarterly report to shareholders for the nine month period ended September 30, 2002, the authorized share capital of Maritime Life consists of 5,000,000 Maritime Life common shares, 3,960,000 Maritime Life First Preferred Shares of which 1,400,000 have been designated as Maritime Life Series A First Preferred Shares and 8,000,000 Maritime Life Second Preferred Shares, of which 4,000,000 have been designated as Maritime Life Series 1 Second Preferred Shares and 4,000,000 have been designated as Maritime Life Series 2 Second Preferred Shares. As at September 30, 2002, Maritime Life had outstanding 350,175 Maritime Life Common Shares and 1,400,000 Maritime Life Series A Preferred Shares and 4,000,000 Maritime Life Series 1 Second Preferred Shares. Subsequent to September 30, 2002, Maritime Life authorized and issued an additional 4,000,000 Maritime Life Second Preferred Shares designated as Maritime Life Series 3 Second Preferred Shares, as set out more particularly in Maritime Life's short form prospectus dated December 6, 2002. The Maritime Life First Preferred Shares and Maritime Life Second Preferred Shares are issuable in series, with each series to consist of such number of Shares with such designation, rights, restrictions, conditions and limitations as Maritime Life's Board of Directors may determine.

The Notes

9. The Trust will offer the Notes from time to time under prospectus supplements to the Shelf Prospectus. As of the date of this application, the Trust has issued \$150,000,000 aggregate principal amount of floating-rate Notes, designated Series 2002-1 (the "Series 2002-1 Notes") and \$200,000,000 aggregate principal amount of 5.390% Notes, designated Series 2002-2 (the "Series 2002-2 Notes").

2003 BCSECCOM 183

10. Apart from the Series 2002-1 Notes and the Series 2002-2 Notes, the Trust currently has no securities issued or outstanding.

11. The Notes are issued by the Trust in accordance with the terms of:

- (a) a trust indenture dated December 21, 2001, as supplemented, amended or consolidated, from time to time (the “Indenture”), under which Computershare Trust Company of Canada is the indenture trustee (the “Indenture Trustee”); and
- (b) a master programme agreement dated December 21, 2001 (the “Master Programme Agreement”) between the Trust, the Trustee, the Indenture Trustee, Maritime Life, RBC DS, and certain other securities dealers who may offer Notes. The provisions of the Master Programme Agreement include the following:
 - (i) a detailed set of obligations, conditions, and limitations relating to the issuance of the Annuities by Maritime Life;
 - (ii) representations and warranties by each of the parties relating to its existence, business, power and capacity, and the truth and completeness of information regarding such parties in the Shelf Prospectus, as supplemented by an applicable prospectus supplement;
 - (iii) representations and warranties by Maritime Life to each of the other parties relating to the issuance of Annuities;
 - (iv) undertakings of Maritime Life to each of the other parties to comply with applicable laws (including its continuous disclosure obligations applicable to it under the Legislation), to deliver the Trust and the Trustee continuous disclosure information required by the Act in the event Maritime Life is no longer a reporting issuer and Notes remain outstanding, and to deliver information respecting any material change in the affairs of Maritime Life;
 - (v) an indemnity by Maritime Life to each of the parties in respect of certain aspects of the Programme (the details of such indemnity with respect to costs and expenses associated with the Programme are described in paragraph 15); and
 - (vi) an acknowledgement respecting the limited liability of the Trustee.

2003 BCSECCOM 183

12. The obligations of the Trust under each series of Notes and to related obligees of the Trust will be payable only from cashflows from, and the recourse of the Noteholders will be limited to the related security over, the “Series Collateral” applicable to such series. “Series Collateral” for a series refers to the right, title and interest and property of the Trust in and to the following:

- (a) each Annuity issued by Maritime Life and acquired by the Trust in connection with such series;
- (b) certain contractual obligations relating to such series (“Series Specific Contractual Obligations”); and
- (c) all related rights, entitlements, privileges and benefits derived from the Annuity and Series Specific Contractual Obligations and related contractual rights, proceeds and other rights and property relating to such series.

13. The maturity, payment and annuity rate provisions of an Annuity acquired by the Trust in connection with the issuance of a tranche of Notes are structured so that Maritime Life is obligated to make payments under that Annuity which are sufficient to satisfy the Trust’s scheduled principal, interest (if any) and other payment obligations (if any) in connection with the tranche, and the Trust’s costs and expenses related to that tranche.

14. The costs associated with issuing a tranche of Notes will be financed by a non-interest bearing, unsecured, subordinated, limited recourse loan made to the Trust by Maritime Life (a related “Series Subordinated Loan”). Repayment of a Series Subordinated Loan is funded from the payments to the Trust under the applicable Annuity.

15. Under the Master Programme Agreement, Maritime Life has granted to the Trust an indemnity (the “Indemnity”) with respect to claims, liabilities, losses, costs and expenses which the Trust may incur in respect of:

- (a) certain amounts owed by the Trust under the Indenture to the Indenture Trustee;
- (b) amounts payable by the Trust with respect to any unauthorized mortgage, charge, lien, security interest or other charge or encumbrance against any Series Collateral;
- (c) amounts to maintain, preserve or otherwise protect the Series Collateral or to carry out any of the transactions necessary under the Programme;

2003 BCSECCOM 183

- (d) fees and expenses to carry out the business of the Trust;
- (e) amounts payable to the Trustee with respect to expenses or obligations for which the Trustee is not otherwise indemnified; and
- (f) other obligations, costs and expenses incurred by the Trust in connection with the Programme,

other than amounts which a court determines have been caused by the bad faith, gross negligence or wilful conduct of the Trustee.

16. Maritime Life has also provided an indemnity to the Trust in respect of taxes which may be incurred by the Trust with respect to:

- (a) amounts received by the Trust from the Annuities and any other amounts which form part of the Series Collateral; and
- (b) amounts required to be included in the capital of the Trust in respect of the issuance of Notes to finance the acquisition of, or the payment of a premium under, an Annuity.

17. If an event of default occurs in respect of a series of Notes, remedies will be available to the Noteholders under the Indenture.

18. The Trustee's responsibilities on behalf of the Trust under the Programme documents are substantially limited to the following:

- (a) preparing financial statements;
- (b) preparing and filing tax returns;
- (c) complying with continuous disclosure requirements from time to time applicable to the Trust under applicable laws;
- (d) directing Maritime Life to deposit Annuity payments into an account created in respect of a series of Notes and paying principal, interest and any other amounts on the series of Notes from such account;
- (e) instructing the Indenture Trustee to pay liabilities for a series from amounts on deposit in a related expense account;

2003 BCSECCOM 183

- (f) exercising the Trust's rights under the Programme documents, including claiming against Maritime Life under the Master Programme Agreement;
- (g) providing required notices to the Indenture Trustee; and
- (h) delivering documentation to rating agencies.

19. The market value of the Notes will depend primarily on the following:

- (a) the creditworthiness of Maritime Life with respect to the Annuities and other contractual arrangements in place to fund payments in respect of the Notes;
- (b) the Noteholders' security and remedies (directly and indirectly) under the Programme documents; and
- (c) the rate of interest on the Notes in comparison to the prevailing Canadian interest rates.

20. The Trust will continue to file its AIF, annual financial statements and management's discussion and analysis thereon with the Decision Makers in accordance with the Legislation.

21. Noteholders are entitled and shall continue to be entitled to receive the following documentation and information:

- (a) the Shelf Prospectus and prospectus supplement related to the series of Notes of which they are holders and, upon request, all documents incorporated by reference therein;
- (b) the list of holders in the register of Noteholders for a particular series, provided that such Noteholder or Noteholders represent at least 10% of the aggregate principal amount of a series and are accessing the list for the purpose of communicating with other Noteholders;
- (c) notice by the Indenture Trustee to Noteholders of a series of the occurrence of a continuing event of default in respect of such series; and
- (d) all such continuous disclosure documents of the Trust as the Trust as may be required to deliver to its security holders under the Legislation, if any, except as such requirements are modified by this Decision Document.

2003 BCSECCOM 183

22. The Trust will issue press releases and file material change reports in accordance with the requirements of the Legislation in respect of material changes in its affairs which do not relate solely to the affairs of Maritime Life and which have not been the subject of a filing by Maritime Life.

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;

THE DECISION of the Decision Makers pursuant to the Legislation is:

1. that the requirements contained in the Legislation:

- (a) to make an Annual Filing, where applicable, with the Decision Makers in lieu of filing an information circular;
- (b) to file an information circular with the Decision Maker in Québec and deliver such information circular to Noteholders resident in Québec;
- (c) to file Interim Financial Statements with the Decision Makers and to deliver such Interim Financial Statements to Noteholders; and
- (d) to satisfy the Material Change Reporting Requirement,

shall not apply to the Trust, provided that, at the time that any such requirement would otherwise apply:

- (i) the Trust has filed a current AIF on SEDAR;
- (ii) Maritime Life is a reporting issuer;
- (iii) the Trust carries on no other business or activities other than those set out at paragraph 4 hereof;
- (iv) the Trust complies with paragraph 22 hereof; and
- (v) the Trust files a notice to Noteholders on SEDAR that it will undertake upon the request of a Noteholder to deliver to that Noteholder the continuous disclosure materials of Maritime Life which have been filed with the Decision Makers,

2003 BCSECCOM 183

provided that this Decision shall terminate within thirty (30) days of a material change in the affairs of the Trust, except where such material change relates solely to the affairs of Maritime Life and which is the subject of a filing by Maritime Life, unless the Trust satisfies the Decision Makers that the Decision should continue, which satisfaction shall be evidenced in writing; and that

2. the Insider Reporting Requirements shall not apply to the Trust or any insider of the Trust, who is not otherwise an insider of Maritime Life and who does not receive or have access to, in the ordinary course, information as to material facts or material changes concerning the Trust before the material facts or material changes are generally disclosed.

DATED this 28th day of February, 2003.

Robert W. Korthals

Robert L. Shirriff

AND THE FURTHER DECISION of the Decision Makers in Ontario and Saskatchewan is that the Interim MD&A Requirement to file and send and deliver to the registered holders of Notes, as the case may be, the Interim MD&A, shall not apply to the Trust.

DATED this 28th day of February, 2003.

John Hughes