

# 2002 BCSECCOM 905

## Headnote

Mutual Reliance Review System for Exemptive Relief Applications – relief granted to permit a newly formed issuer to file an annual information form despite not having completed a financial year – issuer formed to complete a plan of arrangement with a reporting issuer under the *Companies' Creditors Arrangement Act*

## Applicable British Columbia Provisions

Multilateral Instrument 45-102 *Resale of Securities* – s. 9.1

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

AND

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

AND

## IN THE MATTER OF IMPERIAL METALS CORPORATION

## MRRS DECISION DOCUMENT

- ¶ 1 WHEREAS the local securities regulatory authority or regulator (the “Decision Maker”) in each of British Columbia, Alberta, Saskatchewan and Ontario (the “Jurisdictions”) has received an application from Imperial Metals Corporation (the “Filer”) for a decision under the securities legislation of the Jurisdictions (the “Legislation”) that the requirement contained in the Legislation to have a “current AIF” (a “Current AIF”) as defined in Multilateral Instrument 45-102 *Resale of Securities* (“MI 45-102”) filed on SEDAR to be a “qualifying issuer” (a “Qualifying Issuer”) under MI 45-102 shall not apply to the Filer;
- ¶ 2 AND WHEREAS under the Mutual Reliance Review System for Exemptive Relief Applications (the “System”), the British Columbia Securities Commission is the principal regulator for this application;
- ¶ 3 AND WHEREAS, unless otherwise defined, the terms herein have the meaning set out in National Instrument 14-101 *Definitions* or in Québec Commission Notice 14-101;
- ¶ 4 AND WHEREAS the Filer has represented to the Decision Makers that:

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1. the Filer was incorporated under the *Company Act* (British Columbia) on December 6, 2001;
2. its authorized share capital is 200,000,000 shares divided into:
  - (a) 100,000,000 common shares without par value, of which 15,769,411 are currently outstanding;
  - (b) 50,000,000 first preferred shares without par value, issuable in series, none of which are currently outstanding; and
  - (c) 50,000,000 second preferred shares without par value, issuable in series, none of which are currently outstanding;
3. it is a reporting issuer in British Columbia, Ontario, Québec and Saskatchewan and is not in default of any requirement under the securities legislation in those jurisdictions;
4. its common shares trade through the facilities of the TSX;
5. the former Imperial Metals Corporation, now IEI Energy Inc., (“Old Imperial”) completed a Plan of Arrangement (the “Plan”) under the *Company Act* (British Columbia) and the *Companies’ Creditors Arrangement Act* in April 2002;
6. Old Imperial was a reporting issuer in British Columbia, Ontario, Saskatchewan, Nova Scotia and Québec prior to implementing the Plan and its shares were listed on the TSX;
7. Old Imperial held a number of oil and gas interests, a number of mining interests and some marketable securities; under the Plan, Old Imperial retained ownership of the oil and gas interests and marketable securities, but transferred ownership of the mining interests to the Filer;
8. to be a Qualifying Issuer under MI 45-102, the Filer must have a Current AIF that contains audited financial statements for the Filer’s most recently completed financial year filed on SEDAR;
9. the Filer has will file an annual information form in the form required by Form 44-101F1 which will include its unaudited financial statements for the six month period ended June 30, 2002 and which will refer to the audited financial statements of Old Imperial for its financial year ended December 31, 2001 (the “AIF”);

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10. as the Filer has not yet completed a full financial year, its AIF cannot contain audited financial statements for its most recently completed financial year; and
11. Old Imperial was in business for over 20 years and its December 31, 2001 audited financial statements, which are available on SEDAR, reflect the business carried on by the Filer, with the exception of the oil and gas business and marketable securities retained by Old Imperial under the Plan;
- ¶ 5 AND WHEREAS under the System, this MRRS Decision Document evidences the decision of each Decision Maker (collectively, the “Decision”);
- ¶ 6 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;
- ¶ 7 THE DECISION of the Decision Makers under the Legislation is that the requirement in the Legislation to have a Current AIF filed on SEDAR in order to be a Qualifying Issuer under MI 45-102 shall not apply to the Filer provided that:
- (a) the Filer has filed the AIF, and a notice advising that it has filed the AIF in reliance on this Decision and identifying the SEDAR project number under which it was filed, on SEDAR,
  - (b) the Filer files a Form 45-102F2 on or before the tenth day after the distribution date of any securities certifying that it is a Qualifying Issuer except for the requirement that the Filer have a Current AIF, and
  - (c) this Decision expires 140 days after the Filer’s financial year ended December 31, 2002.
- ¶ 8 DATED October 25, 2002.

Brenda Leong  
Director