

2002 BCSECCOM 688

Headnote

Mutual Reliance Review System for Exemptive Relief Applications – Relief granted from requirement to deliver to security holders annual financial statements – statements filed with Commission and available on SEDAR – short time period between filing of prospectus and issuer’s year-end

Applicable British Columbia Provisions

Securities Act, R.S.B.C. 1996, c. 418, s. 91(1)(b)

**IN THE MATTER OF THE SECURITIES LEGISLATION OF ONTARIO,
BRITISH COLUMBIA, ALBERTA, QUÉBEC, SASKATCHEWAN,
MANITOBA, 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 HIGH INCOME PRINCIPAL AND YIELD
SECURITIES CORPORATION**

MRRS DECISION DOCUMENT

WHEREAS the local securities regulatory authority or regulator (the “Decision Maker”) in each of Ontario, British Columbia, Alberta, Saskatchewan, Manitoba, Québec, Nova Scotia and Newfoundland and Labrador (the “Jurisdictions”) has received an application from High Income Principal And Yield Securities Corporation (the “Company”) for a decision under the securities legislation (the “Legislation”) of the Jurisdictions that the Company be exempted from delivering to security holders annual financial statements and be exempted from the preparation, filing and delivery of an annual report, where applicable, for the period ended March 31, 2002, as would otherwise be required pursuant to applicable Legislation;

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 Company has represented to the Decision Maker that:

1. The Company was incorporated under the laws of the province of Ontario on December 7, 2001. The fiscal year-end of the Company is March 31.

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2. The Company is authorized to issue an unlimited number of Class A Shares, Subordinate Shares, Equity Shares and Preferred Shares of which, as at the date hereof, 1,000 Class A Shares, 375,000 Subordinate Shares, 2,670,000 Equity Shares and 2,670,000 Preferred Shares are outstanding. The Preferred Shares and Equity Shares of the Company are together referred to as the “Shares”.
3. The Class A Shares are the only voting shares of the Company. The holders of the Shares and Subordinate Shares may only vote in certain circumstances. Lawrence Asset Management Inc. (“LAMI”) owns 500 Class A Shares, and two individuals who are both officers and directors of the Company each hold 250 Class A Shares. LAMI is the promoter of the Company as well as the manager.
4. The Company became a reporting issuer or the equivalent in each of the Jurisdictions by virtue of it filing with the securities regulatory authority in each of the provinces of Canada a long form prospectus dated February 27, 2002 (the “Prospectus”) qualifying the issuance of up to a maximum of 4,000,000 Preferred Shares and up to a maximum of 4,000,000 Equity Shares (the “Offering”) (plus up to 10% of the number of each of Preferred Shares and Equity Shares issued at the closing of the Offering). In addition, the Prospectus disclosed that the Company would complete a private placement of Subordinate Shares to LAMI, the proceeds of which would be invested in the Managed Equity Portfolio (defined below) so that the funds available for investment in the Managed Equity Portfolio, after expenses of the Offering, would be approximately 1.4 times the gross proceeds of the Offering of the Equity Shares.
5. On March 19, 2002, the Company issued 2,670,000 Preferred Shares and 2,670,000 Equity Shares at an issuance price of \$25.00 per Preferred Share and \$20.00 per Equity Share pursuant to the closing of the Offering. The Shares were listed on The Toronto Stock Exchange on March 18, 2002.
6. Simultaneously with the closing of the Offering, the Company completed a private placement of 375,000 Subordinate Shares to LAMI at an issuance price of \$20.00 per Subordinate Share (the “Private Placement”).
7. The principal undertaking of the Company is the holding of a diversified portfolio consisting principally of equity securities issued by companies which form part of the S&P/TSE 60 Index or the Standard & Poor’s 500 Composite Stock Price Index (the “Managed Equity Portfolio”) and a portfolio of equity securities agreed upon by the Company and an affiliate of Canadian Imperial Bank of Commerce that the Company will acquire with approximately 40% of the gross proceeds of the Offering and the Private Placement.

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8. The Shares and the Subordinate Shares are redeemable at the option of the holder on a monthly basis at a price computed by reference to the value of a proportionate interest in the net assets of the Company. As a result, the Company is a “mutual fund” under the securities legislation of certain provinces of Canada (excluding the Province of Québec).

9. The Prospectus included an audited balance sheet of the Company as at February 27, 2002 and an unaudited pro forma balance sheet as at February 27, 2002 prepared on the basis of the completion and sale of up to 4,000,000 Preferred Shares and up to 4,000,000 Equity Shares, the maximum number of Shares of the Company being qualified for distribution by the Prospectus as well as the Private Placement of up to 625,000 Subordinate Shares. On March 19, 2002, the Company actually issued 2,670,000 Preferred Shares and 2,670,000 Equity Shares pursuant to the Offering and completed a private placement of 375,000 Subordinate Shares. A press release was issued by the Company on March 19, 2002 announcing to the public the actual number of Shares that were issued by the Company pursuant to the Offering and the actual number of Subordinate Shares that were issued by way of private placement.

10. Although the Company came into existence on December 7, 2001, up to the time of closing of the Offering and the Private Placement, the Company had no significant assets or operations. The Company had only seven business days of operations after the closing of the Offering and Private Placement prior to the end of the period for which the annual financial statements would be required.

11. The benefit to be derived by the security holders of the Company from receiving the annual financial statements and the annual report, where applicable, would be minimal given (i) the extremely short period from the date of the Prospectus to the end of the applicable period; (ii) that the Company had not yet fully invested its funds by the end of the applicable period; (iii) the disclosure already provided in the Prospectus; and (iv) there were no material changes in the affairs of the Company from March 19, 2002 to the date of this application.

12. The expense to the Company of printing and delivering to its security holders the annual financial statements and of preparing, filing and delivering the annual report, where applicable, would not be justified in view of the minimal benefit to be derived by the security holders from receiving such statements and would be detrimental to security holders in light of the unnecessary costs that would as a consequence be incurred by the Company.

AND WHEREAS pursuant to the System, this MRRS Decision Document evidences the decision of each Decision Maker (collectively, the “Decision”);

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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 Company is exempted from delivering to its security holders annual audited financial statements and is exempted from, where applicable, the preparation, filing and delivering to its security holders of the annual report for the period ended March 31, 2002.

DATED at this 18th day of July, 2002.

Paul M. Moore

Robert W. Korthals