

# 2010 BCSECCOM 332

## Headnote

An issuer is issuing debentures under a trust indenture and wants an exemption from the trust indenture requirements contained in sections 90 to 101 of the *Business Corporations Act* - A prospectus, securities exchange issuer circular, or take over bid circular has been filed under the *Securities Act* in respect of the debentures; the trust indenture will be governed by the *Trust Indenture Act of 1939* of the United States, which contains provisions that are substantially similar to the requirements of the Act

## Exemption Order

### Teck Resources Limited

#### Section 91 of the *Business Corporations Act*, S.B.C. 2002, c. 57

## Background

- ¶ 1 Teck Resources Limited (Teck Resources) has applied for an exemption from sections 90 to 101 of the *Business Corporations Act* (British Columbia) (the Act).

## Representations

- ¶ 2 Teck Resources represents that:
1. it is amalgamated under the *Canada Business Corporations Act*, is a reporting issuer under the *Securities Act* (British Columbia) and is not in default of any requirement of the *Securities Act* (British Columbia) or the *Securities Rules*, B.C. Reg. 194/97;
  2. as at April 16, 2010, its authorized capital consisted of an unlimited number of Class A common shares, an unlimited number of Class B subordinate voting shares and an unlimited number of preference shares, issuable in series, of which 9,353,470 Class A common shares, 580,043,777 Class B subordinate voting shares and no preference shares were outstanding;
  3. it may distribute debt securities in the United States from time to time under a registration statement to be filed under the Multijurisdictional Disclosure System (the distributions);
  4. it will also file a shelf prospectus in British Columbia in connection with the distributions;

## 2010 BCSECCOM 332

5. it may also distribute debt securities to a small number of Canadian residents pursuant to exemptions, if required, from the prospectus and registration requirements of applicable Canadian securities legislation;
6. the debt securities will be issued under a trust indenture expected to be entered into on or about June 4, 2010, as amended or supplemented from time to time (the trust indenture), between Teck Resources and The Bank of New York Mellon, a banking corporation duly organized and existing under the laws of the State of New York (the trustee);
7. the trust indenture will be governed by the laws of the State of New York and the *Trust Indenture Act of 1939*, as amended by the *Trust Indenture Reform Act of 1990* (the TIA), which contains provisions that are substantially similar to the provisions of sections 90 to 101 of the Act;
8. the trust indenture will permit the issuance of an unlimited amount of debt securities;
9. the trust indenture will provide that the terms of any series of debt securities to be issued thereunder, including whether the payment of the debt securities will be guaranteed by any other person and the terms of any such guarantee or whether the debt securities will have the benefit of any security interest created pursuant to the trust indenture, may be set forth in, or determined in a manner provided in, an officers' certificate or established in one or more supplemental or amending indentures, each of which complies with the terms of the trust indenture;
10. any issuance of the debt securities will comply with the applicable laws of the jurisdiction in which they are being issued and any distribution of debt securities in Canada or to a resident of Canada, will be completed in compliance with applicable securities legislation, rules and published policies; and
11. application has been made to the Deputy Director under the *Canada Business Corporations Act* for a decision exempting Teck Resources from the trust indenture provisions of Part VIII of the *Canada Business Corporations Act* in connection with the trust indenture.

## 2010 BCSECCOM 332

### **Order**

- ¶ 3 Considering that it is not prejudicial to the public interest, the executive director orders under section 91(3) of the Act that sections 90 to 101 of the Act do not apply to the trust indenture, provided that the trust indenture complies in all material respects with the provisions of the TIA that are substantially similar to the provisions of sections 90 to 101 of the Act.
- ¶ 4 May 28, 2010

Martin Eady, CA  
Director, Corporate Finance  
British Columbia Securities Commission