

2006 BCSECCOM 303

April 11, 2006

Headnote

Mutual Reliance Review System for Exemptive Relief Applications - Securities Act s. 48,76 Other - Exemption from registration and prospectus requirements for situations other than a corporate acquisition or reorganization; trades to business associates; debt settlements; or trades involving employee investment plans and consultants - Trades in short-term debt securities that have more than one rating with only one rating being an approved rating - The issuer issues short term debt that has at least one rating at an approved rating, as defined in NI 81-102; the issuer has another rating below an approved rating; the issuer will only issue short-term debt that is not convertible or exchangeable other than into short-term debt; the issuer will have at least one approved rating; the decision will terminate on the earlier of three years after the date of the decision or 90 days after NI 45-106 is amended

Applicable British Columbia Provisions

Securities Act, R.S.B.C. 1996, c. 418, ss. 34, 48, 61 and 76

In the Matter of
the Securities Legislation
of Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland and
Labrador, Nova Scotia, Nunavut, Northwest Territories, Ontario, Prince Edward
Island, Quebec, Saskatchewan and Yukon (collectively, the Jurisdictions)

and

In the Matter of
the Mutual Reliance Review System for Exemptive Relief Applications

and

In the Matter of
John Deere Credit Inc. (JDCI)
and
John Deere Limited (JDL)
(collectively, the Filers)

MRRS Decision Document

Background

The local securities regulatory authority or regulator (the Decision Maker) in each of the Jurisdictions has received an application from the Filers for a decision

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under the securities legislation of Jurisdictions (the Legislation) that trades of commercial paper/short-term debt (Commercial Paper) of the Filers be exempt from the dealer registration and prospectus requirements of the Legislation (the Requested Relief).

Under the Mutual Reliance Review System for Exemptive Relief Applications (MRRS):

- (a) the Ontario Securities Commission was selected as the principal regulator for this application, and
- (b) this MRRS decision document evidences the decision of each Decision Maker.

Interpretation

Defined terms contained in National Instrument 14-101 *Definitions* have the same meaning in this decision unless they are otherwise defined in this decision.

Representations

This decision is based on the following facts represented by the Filers:

1. JDL is a corporation under the *Canada Business Corporations Act* (the CBCA) with a head office and principal business office in Grimsby, Ontario. JDL is not a reporting issuer in any of the Jurisdictions.
2. JDCI is a corporation under the CBCA with a head office and principal business office in Burlington, Ontario. JDCI is a reporting issuer in each of the Jurisdictions, except Nunavut, Yukon and the Northwest Territories.
3. The Filers are not in default of any of their obligations under the Legislation except to the extent of possible non-compliance with the Legislation which may have arisen as a result of trades of Commercial Paper after September 14, 2005 (the date that National Instrument 45-106 *Prospectus and Registration Exemptions* (NI 45-106) came into force).
4. Subsection 2.35(1)(b) of NI 45-106 provides that the exemption from the dealer registration and prospectus requirements of the Legislation for short-term debt (the Commercial Paper Exemption) is available only where such short-term debt “has an approved credit rating from an approved credit rating organization”. NI 45-106 incorporates by reference the definitions for “approved credit rating” and “approved credit rating organization” that are used in National Instrument 81-102 *Mutual Funds* (NI 81-102).

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5. The definition of an “approved credit rating” in NI 81-102, requires, among other things, that (a) the rating assigned to such debt must be “at or above” certain prescribed short-term ratings, and (b) such debt must not have been assigned a rating by any “approved credit rating organization” that is not an “approved credit rating”.
6. Each of the Filer’s Commercial Paper has an “A-1(low)” from Standard & Poor’s, an “R-1(low)” from Dominion Bond Rating Service Limited and an “F1” from Fitch Ratings Ltd., which ratings all meet the prescribed threshold in NI 81-102.
7. The Commercial Paper of each of the Filers does not meet the “approved credit rating” in NI 81-102 because each Filer has a “P-2” rating from Moody’s Investor Service which is a lower rating than required by the Commercial Paper Exemption. Accordingly, section 2.35 of NI 45-106 has not been available to the Filers in respect of trades of Commercial Paper.

Decision

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 under the Legislation is that the Requested Relief is granted provided that the Commercial Paper:

- (a) matures not more than one year from the date of issue;
- (b) is not convertible or exchangeable into or accompanied by a right to purchase another security other than Commercial Paper;
- (c) has a rating issued by one of the following rating organizations, or any of their successors, at or above one of the following rating categories (or rating category that replaces a category listed below):

Rating Organization	Rating
Dominion Bond Rating Service Limited	R-1 (low)
Fitch Ratings Ltd.	F2
Moody's Investors Service	P-2
Standard & Poor's	A-2

For each Jurisdiction, this decision will terminate on the earlier of:

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- (a) 90 days after the coming into force of any rule, other regulation or blanket order or ruling under the Legislation of the Jurisdiction that amends section 2.35 of NI 45-106 or provides an alternate exemption; and
- (b) three years from the date of this decision.

Robert Davis
Commissioner
Ontario Securities Commission

David Knight
Commissioner
Ontario Securities Commission