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Headnote

Mutual Reliance Review System for Exemptive Relief Application – relief granted from the registration, prospectus and take over bid requirements to permit an offer made in compliance with laws of Germany to be made in BC - offeror unable to determine the number of BC holders or percentage of securities held by BC holders - number of BC holders and percentage of securities held believed to be *de minimis*

Applicable British Columbia Provisions

Securities Act, R.S.B.C.1996, c. 418, ss. 34(1)(a), 48, 61, 76, 105-108, 110 and 114(2)(c)

**IN THE MATTER OF THE SECURITIES LEGISLATION OF ONTARIO,
BRITISH COLUMBIA, ALBERTA, SASKATCHEWAN, MANITOBA,
QUÉBEC, NOVA SCOTIA, NEW BRUNSWICK, PRINCE EDWARD
ISLAND AND NEWFOUNDLAND AND LABRADOR**

AND

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

AND

IN THE MATTER OF OPEN TEXT CORPORATION

MRRS DECISION DOCUMENT

WHEREAS the local securities regulatory authority or regulator (the “Decision Maker”) in each of the provinces of Ontario, British Columbia, Alberta, Saskatchewan, Manitoba, Québec, Nova Scotia, Newfoundland and Labrador, New Brunswick and Prince Edward Island (the “Jurisdictions”) has received an application from Open Text Corporation (the “Applicant”) for a decision under the securities legislation of the Jurisdictions (the “Legislation”) that the following requirements in the Legislation do not apply to trades made in connection with the proposed offer (the “Offer”) by a wholly owned subsidiary of the Applicant for the outstanding common shares (the “Common Shares”) of IXOS Software AG (the “Target”): (i) the formal take-over bid requirements, including the provisions relating to delivery of an offer and take-over bid circular and any notices of change or variation thereto, delivery of a directors’ circular and any notices of change or variation thereto, minimum deposit periods and withdrawal rights, take-up of and payment for securities tendered to a take-over bid, disclosure, financing, restrictions upon purchases of securities, identical consideration and collateral

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benefits (collectively, the “Take-over Bid Requirements”), (ii) the dealer registration requirements (the “Registration Requirements”), and (iii) the prospectus requirements (the “Prospectus Requirements”);

AND WHEREAS under the Mutual Reliance System for Exemptive Relief Applications (the “MRRS”), the Ontario Securities Commission (the “Commission”) is selected as the principal regulator for this application;

AND WHEREAS, unless otherwise defined, the terms have the meaning set out in National Instrument 14-101 or in Québec Commission Notice 14-101;

AND WHEREAS the Applicant has represented to the Decision Makers that:

1. The Applicant is a corporation incorporated under the laws of Ontario, Canada and has its registered office in Waterloo, Ontario.
2. The Applicant’s common shares are listed on the Toronto Stock Exchange and quoted on the Nasdaq National Market.
3. The Applicant is a reporting issuer in the Jurisdictions and is not in default of any of the requirements of the Legislation. The Applicant is also subject to the reporting requirements of the federal securities legislation of the United States and is not in default of any of the requirements of the United States federal securities legislation.
4. The Target is incorporated under the laws of the Federal Republic of Germany.
5. As at November 3, 2003, the Target’s stated registered capital was EUR 21,530,499 represented by 21,530,499 Common Shares. As at November 3, 2003, the Target had granted outstanding stock options to employees and members of its management board exercisable to acquire, in the aggregate, 1,408,840 Common Shares. No Canadian residents hold any such stock options.
6. The Common Shares are listed on the Frankfurt Stock Exchange. The Target also has an American Depositary Share (“ADS”) program through the Bank of New York. The Target’s ADS are quoted on the Nasdaq National Market. The Common Shares are not listed for trading on any Canadian stock exchange.
7. The Target is not a reporting issuer or equivalent in any of the Jurisdictions. The Target’s securities are not listed for trading on any Canadian stock exchange.

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8. As of November 12, 2003, there were 1,246,513 Target ADS outstanding, representing the right to receive an equal number of Common Shares. Common Shares deliverable upon exchange of the ADS are held on deposit by the Bank of New York, as depository under the Target's ADS.
9. On October 21, 2003, the Applicant entered into a Business Combination Agreement with the Target and a wholly-owned subsidiary of the Applicant pursuant to which, subject to the receipt of certain regulatory approvals, the Applicant made a binding commitment to commence a tender offer under the laws of Germany to purchase all of the outstanding Common Shares. Under the Offer, holders of Common Shares (including ADS) may elect to receive either 9 euros per Common Share or, in the alternative, 0.5220 of a common share in the capital of the Applicant and 0.1484 of a warrant (each warrant exercisable to purchase one common share in the capital of the Applicant).
10. The Offer is being made, and the offer document (the "Offer Document") reflecting the terms of the Offer was prepared, in compliance with the applicable securities legislation of the Federal Republic of Germany, and in particular, in compliance with the German Securities Acquisition and Takeover Act.
11. The Offer Document, which includes as an annex a prospectus prepared in accordance with German law, was approved by the applicable securities regulatory authority in Germany on November 28, 2003. The Offer Document, including the prospectus, was made available to the holders of the Common Shares on December 1, 2003 on the Internet at www.2016091ontario.de. Access to the English version of the Offer Document is restricted to individuals who confirm their status as either Canadian or U.S residents.
12. As permitted by German law, the Common Shares have been issued in the form of bearer securities. The Target does not maintain a share register and accordingly, any information in respect of the Target's shareholdings in Canada can only be determined on the basis of enquiries made to intermediaries or contacts likely or known by the Target to hold Common Shares. As a result, the Target and Applicant are unable to determine conclusively the number of Common Shares beneficially held by residents of Canada.
13. Based on information available to the Applicant as at November 18, 2003, there were 8,664,715 Common Shares held in foreign deposits in German depository banks. Less than 0.1% of the Common Shares held in foreign deposits are held for the benefit of Canadian residents.

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14. Based on information available to the Applicant as at November 12, 2003, there were nine beneficial holders of the Target's ADS resident in the provinces of Canada (seven in Ontario and two in Québec) holding an aggregate of approximately 481,503 of the Target's ADS, representing approximately 2.23% of the Common Shares. Ontario resident holders represent approximately 2.22% of the Common Shares, with the remainder being held for the benefit of Québec residents.
15. To the extent that any holder of the Common Shares (including by way of ADS) is resident in Canada, the Offer will constitute a "take-over bid" under the Legislation. The Legislation exempts a take-over bid from compliance with the formal requirements set out in the Legislation if the number of shareholders resident in a given province is fewer than 50 and their aggregate shareholding in such province is less than 2% of the outstanding shares of that class, provided that the bid is made in compliance with the laws of a jurisdiction that is recognized for such purposes.
16. The foregoing exemption is not available to the Applicant because Germany is not a recognized jurisdiction under the Legislation for such purposes and holders of Common Shares (including by way of ADS) resident in Ontario hold more than 2% of the Common Shares.
17. All of the holders of Common Shares to whom the Offer is made will be treated equally.
18. The Applicant formally launched the Offer on December 1, 2003. It will be open for acceptance under German laws until on or about January 16, 2004.
19. The Applicant issued a press release in Canada on December 2, 2003, describing the material terms of the Offer and the availability of the German language Offer Document and English convenience translation of the Offer Document to Target shareholders resident in the Jurisdictions (including those by way of ADS) on the websites of the German Financial Supervisory Authority and at www.2016091ontario.de.
20. An exemption from the Prospectus Requirements is not available in British Columbia, Québec, New Brunswick and Prince Edward Island for trades made in connection with the Offer.
21. An exemption from the Registration Requirements is not available in Québec, New Brunswick and Prince Edward Island for trades made in connection with the Offer.

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22. If the requested relief is not granted, holders of the Common Shares (including holders of the Target's ADS) resident in Canada will not have the opportunity to participate in the Offer.

AND WHEREAS under 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 under the Legislation is that:

- A. The Offer shall be exempt from the Take-over Bid Requirements, provided that:
 - (i) any material relating to the Offer that is made available to the holders of the Common Shares in Germany is made available to the holders of the Common Shares (including those by way of ADS) resident in the Jurisdictions in the same manner as those resident in Germany together with an English convenience translation of the Offer Document, and copies thereof are filed with the Decision Makers, and
 - (ii) the Offer and all amendments to the Offer are made in compliance with the laws of Germany;
- B. The Prospectus Requirements shall not apply to trades made in connection with the Offer provided that the first trade issued by the Applicant in connection with the Offer shall be a distribution or a primary distribution to the public unless:
 - (i) in all Jurisdictions other than Québec, the conditions of subsection (3) of section 2.6 of Multilateral Instrument 45-102 are satisfied, and
 - (ii) in Québec, the Applicant is and has been a reporting issuer in Québec for the twelve months immediately preceding the alienation and is not in default of any of the requirements of the securities legislation in Québec, and
 - 1. no unusual effort is made to prepare the market or to create a demand for the shares in the capital of the Applicant that are the subject of the alienation, and

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2. no extraordinary commission or consideration is paid to a person or company in respect of the alienation; and

C. The Registration Requirements shall not apply to trades made in connection with the Offer.

Dated this 12th day of December, 2003.

Paul M. Moore

Robert W. Davis