

2005 BCSECCOM 110

January 21, 2005

Headnote

Mutual Reliance Review System for Exemptive Relief Applications - Securities Act s. 171 - Revoke or Vary Decision - An issuer wants to vary a previous decision it received to revise the conditions to the relief granted - The applicant previously obtained relief from certain requirements in securities legislation; the policy reasons for granting that relief have not changed, but certain of the conditions to the relief are no longer appropriate because of a change in the issuer's circumstances; the previous relief would no longer be available to the applicant; alternative conditions can be structured that address the issuer's new circumstances

Applicable British Columbia Provisions

Securities Act, R.S.B.C. 1996, c. 418, s. 171

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

and

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

and

In the Matter of
Wells Fargo Financial Canada Corporation (the Filer)

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 Filer for a decision under the securities legislation of the Jurisdictions (the Legislation) for a variation of a decision document dated October 31, 2003 (Original Decision Document) issued by the Decision Makers granting certain exemptive relief to the Filer (the Requested Relief).

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

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- (a) the Ontario Securities Commission is 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*, in Québec Commission Notice 14-101, or in the Original Decision Document have the same meaning in this decision unless they are defined in this decision.

Representations

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

1. The Filer is an indirect, wholly owned subsidiary of Wells Fargo & Company (WFC).
2. The principal executive offices of the Filer are now located in Mississauga, Ontario.
3. The Original Decision Document provided, among other things, that the Material Change Requirements, Proxy Requirements, Insider Reporting Requirements, Annual Filing Requirements, and Interim Financial Statement Requirements do not apply to the Filer in connection with any Notes (the Relief).
4. The business of the Filer is described in paragraph 5 of the Original Decision Document. Under one of the conditions to receiving the Relief, the Filer must not carry on business other than to raise capital for its Canadian affiliates for use in their consumer finance and related businesses and to provide commercial revolving lines of credit to small businesses in Canada.
5. The Filer wishes to vary the Original Decision Document by adding to its consumer finance and related businesses the raising of capital for commercial purposes and for its U.S. affiliates.
6. The Filer has established a medium term note program (the MTN Program) under a short form base shelf prospectus dated November 24, 2003. The Filer may issue up to \$1,500,000,000 principal amount of Notes (or the equivalent thereof in U.S. dollars) under the prospectus from time to time over a twenty-five month period which began on November 26, 2003.

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7. The Filer proposes to increase the principal amount of Notes that may be issued under the prospectus to \$4,000,000,000 (or the equivalent thereof in U.S. dollars) by filing a prospectus amendment (Prospectus Amendment). The Filer also proposes to raise capital for its U.S. affiliates through the issuance in Canada of medium term notes and commercial paper. The Filer currently engages in such financing activities for its Canadian affiliates. In addition, the Filer's Canadian affiliates propose to increase their commercial lending activities. Presently, the Filer's Canadian affiliates have engaged primarily in consumer finance activities. In all other respects, the MTN Program remains the same.
8. The Filer and WFC are in compliance, and will continue to comply, with the remaining terms and conditions of the Original Decision Document.

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 and paragraph 5 of the Original Decision Document is amended as follows:

- (a) in the second sentence, the word "Toronto" is replaced with "Mississauga";
- (b) in the third sentence, the phrase "and commercial" is inserted after the word "consumer"; and
- (c) in the third sentence, the words "and U.S." are inserted after the word "Canadian" and before the word "affiliates",

provided that each of the Filer and WFC continue to comply with all terms and conditions contained in the Original Decision Document, except as varied by this decision.

Robert L. Shirriff, Q.C.

H. Lorne Morphy, Q.C.

Ontario Securities Commission