



Citation: 2019 BCSECCOM 316

**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 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

**Applicable British Columbia Provisions**

*Business Corporations Act*, ss. 90 to 101

September 5, 2019

**Exemption Order**

**Methanex Corporation**

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

**Background**

¶ 1 Methanex Corporation (the Applicant) has applied for an exemption from sections 90 to 101 of the *Business Corporations Act* (British Columbia) (the Act).

¶ 2 **Representations**

The Applicant represents that:

1. the Applicant is a corporation existing under the *Canada Business Corporations Act* (the CBCA);
2. it is a reporting issuer under the securities legislation of each province and territory of Canada and is not in default of any requirements under applicable securities legislation in any of the jurisdictions of Canada;
3. the Bank of New York Mellon (the Trustee) is a United States financial institution organized under the laws of the State of New York and is not (i) resident in British

Columbia, (ii) authorized to do business in British Columbia, or (iii) authorized to carry on trust business under the *Financial Institutions Act* (British Columbia);

4. the Trustee is the trustee under a trust indenture between the Applicant and the Trustee (the Indenture) dated as of June 20, 1995, as such indenture may be amended or supplemented from time to time;
5. the Applicant filed a final short form base shelf prospectus (the Prospectus) with the British Columbia Securities Commission on August 22, 2019 under National Instrument 44-101 *Short Form Prospectus Distributions* and National Instrument 44-102 *Shelf Distributions* to qualify the distribution of debt securities;
6. in connection with the distribution of debt securities under the Indenture in the United States, the Applicant intends to utilize one or more registration statements (a Registration Statement) filed from time to time with the U.S. Securities and Exchange Commission under the Multijurisdictional Disclosure System, and the Prospectus or any other corresponding prospectus filed with the British Columbia Securities Commission from time to time;
7. distributions of debt securities under the Indenture are principally expected to be made in the United States pursuant to public offers and sales of the debt securities made pursuant to a Registration Statement, but may also be made in other jurisdictions or one or more of the provinces and territories of Canada pursuant to exemptions, if required, from the prospectus and registration requirements of applicable Canadian securities legislation;
8. the Indenture permits the issuance of an unlimited amount of debt securities;
9. the Indenture is subject to and governed by the United States *Trust Indenture Act of 1939*, as amended (the TIA), which contains provisions that are substantially similar to the provisions of Sections 90 to 101 of the Act;
10. the Indenture provides that the terms of any series of debt securities to be issued thereunder may be set forth in, or determined in a manner provided in, an officers' certificate or established in one or more supplemental indentures, which will comply with the terms of the Indenture; and
11. any issuance of the debt securities will be made in compliance with the applicable laws of the jurisdiction in which they are issued.

### ¶ 3 **Order**

Because it is not prejudicial to the public interest, the Executive Director orders under subsection 91(3) of the Act that sections 90 to 101 of the Act do not apply to the Indenture (as amended or supplemented from time to time), provided that the 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.

John Hinze  
Director, Corporate Finance  
British Columbia Securities Commission