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October 14, 2005

Headnote

Mutual Reliance Review System for Exemptive Relief Applications - National Instrument 44-101, s. 15.1 - Short Form Prospectus Distributions - An issuer wants relief from the qualification criteria in NI 44-101 so it can file a short form prospectus - The issuer satisfies all of the eligibility criteria to use the short form system in NI 44-101 except the aggregate market capitalization test in item 3 of section 2.2; if the issuer could include the holdings of three significant shareholders in the calculation of its aggregate market capitalization, it would satisfy the test in item 3 of section 2.2; the issuer has a significant analyst following; the issuer will use the short form system to complete a rights offering to its shareholders

Applicable British Columbia Provisions

National Instrument 44-101, ss. 2.1, 2.2, 2.9 and 15.1
Securities Act, R.S.B.C. 1996, c. 418, s. 11

In the Matter of
the Securities Legislation
of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario and Québec
(the Jurisdictions)

and

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

and

In the Matter of Western Forest Products Inc. (the Filer)

MRRS Decision Document

Background

¶ 1 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) that

- (a) the requirement in the Legislation that the aggregate market value of the Filer's equity securities, calculated in accordance with National Instrument 44-101 *Short Form Prospectus Distributions* (NI 44-101), be \$75,000,000 or more does not apply to the Filer so as to permit the Filer to complete a

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rights offering (the Rights Offering) using the short form prospectus system; and

(b) the Filer's application and this decision be kept confidential until the earlier of

(i) the Filer announcing the Rights Offering, and

(ii) November 30, 2005;

(the Requested Relief).

Under the Mutual Reliance Review System for Exemptive Relief Applications:

(a) the British Columbia Securities Commission is the principal regulator for this application; and

(b) this MRRS decision document evidences the decision of each Decision Maker.

Interpretation

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

Representations

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

1. the Filer is a major integrated softwood forest products company operating in the solid wood and pulp businesses in British Columbia;
2. the Filer's head office is in Duncan, British Columbia;
3. the Filer's common shares trade on the Toronto Stock Exchange (the TSX);
4. the Filer is a reporting issuer in British Columbia, Alberta, Saskatchewan, Ontario and Québec (the Reporting Jurisdictions) and is not in default under the Legislation in the Reporting Jurisdictions;
5. with respect to Manitoba, the Filer has filed continuous disclosure documents and an undertaking in accordance with item 1.(b) of section 2.2 of NI 44-101;

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6. on April 28, 2005 the Filer's annual information form dated as of March 24, 2005 was accepted by Manitoba and the Reporting Jurisdictions as an initial AIF under NI 44-101;
7. the Filer's authorized share capital consists of an unlimited number of common shares and an unlimited number of preferred shares, of which, as of September 29, 2005, 25,631,795 common shares and no preferred shares were outstanding;
8. the Filer has U.S.\$221,000,000 principal amount of 15% secured bonds due 2009 (the Secured Bonds) outstanding which are redeemable on and after July 28, 2005;
9. to the Filer's knowledge,
 - (a) Harbert Distressed Investment Master Fund, Ltd., HMC Distressed Investment Offshore Manager, L.L.C. and HMC Investors L.L.C. (collectively, Harbert), exercise control or direction over 8,065,910 common shares or 31.5% of the outstanding common shares,
 - (b) Tricap Management Limited (Tricap), manager of the Tricap Restructuring Fund (the Tricap Fund), exercises control or direction over 5,138,228 common shares or 20.5% of the outstanding common shares, and
 - (c) Merrill Lynch Investment Management, L.P. (MLIM) (as manager, together with its affiliate Fund Asset Management L.P. of certain investment funds) controls but does not own 3,205,162 common shares or 12.5% of the outstanding common shares;
10. to the Filer's knowledge,
 - (a) the Tricap Fund is a co-investment fund composed of financial institutions, institutional investors and private client accounts, and
 - (b) the 5,138,228 common shares Tricap has control and direction over are indirectly beneficially owned by the investors in the Tricap Fund, none of whom hold more than 10% of the outstanding common shares;
11. Mr. Peter Gordon, an officer of Tricap, is also a director of the Filer;
12. to the Filer's knowledge,

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- (a) MLIM is an eligible institutional investor under National Instrument 62-103 (NI 62-103) and none of the investment funds it reports on behalf of under NI 62-103 hold in excess of 10% of the outstanding common shares, and
 - (b) MLIM is registered with the Securities and Exchange Commission as an investment adviser and the Ontario Securities Commission as an International Adviser;
- 13. to the Filer's knowledge, Harbert is an eligible institutional investor under NI 62-103;
- 14. the Filer's aggregate market capitalization as of September 29, 2005 is approximately \$69 million and in the 60 days before September 29, 2005 has been as high as \$103 million;
- 15. the aggregate market value of the Filer's common shares that are listed on the TSX calculated in accordance with section 2.9 of NI 44-101 is less than the \$75 million required by item 3 of section 2.2 because of the holdings of Harbert, Tricap and MLIM;
- 16. the Filer would, but for the requirement contained in item 3 of section 2.2 of NI 44-101, be qualified to file a prospectus in the form of a short form prospectus under NI 44-101 in each of the Jurisdictions;
- 17. the Filer mailed
 - (a) copies of its annual general meeting materials together with its annual financial statements and annual management's discussion and analysis to its shareholders in accordance with National Instrument 54-101 *Communication with Beneficial Owners of Securities of a Reporting Issuer*; and
 - (b) copies of its first and second quarter interim financial statements and related management's discussion and analysis to those shareholders that requested them;
- 18. to the Filer's knowledge it is followed by Canadian and U.S. analysts and has been the subject of a number of articles in the press and receives a fair amount of media attention;
- 19. the Filer is contemplating acquiring Cascadia Forest Products Inc. from Brascan Corporation for approximately \$265 million (the Acquisition);

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20. the Filer has not reached a definitive agreement for the Acquisition or announced the Acquisition to the public;
21. the Filer is also contemplating substantial changes to its capital structure to fund the Acquisition and redeem the Secured Bonds, including
 - (a) the Rights Offering,
 - (b) a possible private placement of common shares or subscription receipts for common shares to Tricap Fund (the Private Placement),
 - (c) a bridge loan of approximately \$370 million from Brascan Bridge Lending Fund (the Bridge Loan), and
 - (d) an increase in the Filer's credit facility with CIT Business Credit Canada Inc. to \$200 million,(together with the Acquisition, the Transactions);
22. the Filer expects to raise \$270 million through the Rights Offering and possibly the Private Placement;
23. Tricap is also providing a stand-by commitment to purchase any subscription receipts not subscribed for in the Rights Offering;
24. the Filer intends to use the Bridge Loan partly to finance redeeming the Secured Bonds and partly to finance the Acquisition;
25. the increased credit facility will provide the Filer with additional working capital;
26. as a result of the Transactions, the Filer expects Tricap Fund's interest in the Filer to increase to at least 45% and Harbert's interest to decrease to approximately 20%; and
27. until the Filer decides to proceed with the Transactions, it would be premature for it to release information regarding the Transactions, including the Rights Offering, to the public.

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Decision

- ¶ 4 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.

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