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Headnote

Mutual Reliance Review System for Applications – Relief granted from take-over bid requirements for a take-over bid made in compliance with laws of Germany where bidder unable to determine number of Canadian security holders because offeree’s securities held in bearer form – de minimus exemption unavailable because Germany not a recognized jurisdiction

Applicable British Columbia Provisions

Securities Act, R.S.B.C. 1996, c. 418, ss. 105-108, 110 and 114(2)(c)

IN THE MATTER OF THE SECURITIES LEGISLATION OF ONTARIO, BRITISH COLUMBIA, ALBERTA, SASKATCHEWAN, MANITOBA ONTARIO, QUEBEC, NOVA SCOTIA, AND NEWFOUNDLAND AND LABRADOR

AND

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

AND

IN THE MATTER OF PROCTER & GAMBLE GERMANY MANAGEMENT GmbH

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, Quebec, Nova Scotia and Newfoundland and Labrador (the “Jurisdictions”) has received an application from Procter & Gamble Germany Management GmbH (the “Applicant”) for a decision under securities legislation of the Jurisdictions (the “Legislation”) that the formal take-over bid requirements in the Legislation, 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 benefits (collectively, the “Take-over Bid Requirements”) do not apply to the proposed take-over bid offer (the “Offer”) by the Applicant for the remaining ordinary shares, and the preference shares of Wella AG (the “Target”);

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AND WHEREAS under the Mutual Reliance Review 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 herein have the meaning set out in National Instrument 14-101;

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

1. The Applicant is a corporation incorporated under the laws of the Federal Republic of Germany. The Applicant is an indirect, wholly-owned subsidiary of The Procter & Gamble Company (“P&G”), a corporation incorporated in the United States, with its shares listed for trading on the New York Stock Exchange. P&G is a recognized leader in the development, distribution and marketing of home and beauty care products, marketing nearly 300 brands in more than 160 countries.
2. The Applicant’s registered office is located at D-65823 Schwalbach am Taunus, Germany and P&G’s registered office is located at Cincinnati, Ohio.
3. The Applicant is not a reporting issuer or the equivalent in any of the Jurisdictions. The Applicant’s securities are not listed or quoted for trading on any Canadian or foreign stock exchange.
4. The Target is a corporation incorporated under the laws of the Federal Republic of Germany, with its shares listed on the Deutsche Börse. The Target is a leading beauty care company selling its products in more than 150 countries.
5. The Target’s registered office is located at Darmstadt, Germany.
6. The Target’s issued capital consists of 44,135,676 ordinary shares and 23,381,670 preference shares.
7. The Target is not a reporting issuer or the equivalent in any of the Jurisdictions. The Target’s securities are not listed or quoted for trading on any Canadian stock exchange.
8. On March 17, 2003, the Applicant entered into share purchase agreement to purchase a controlling interest from the majority voting shareholders of the Target.

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9. On March 18, 2003, the Applicant announced its intention to launch a voluntary cash take-over bid for the acquisition of the Target's remaining ordinary shares for a cash value of Euro 92.25 per share, and its remaining preference shares for a cash value of Euro 61.50 per share.
10. The Offer is being made in accordance with the laws of the Federal Republic of Germany, and in particular, in compliance with the German Securities Acquisition and Takeover Act.
11. As permitted by German law, the Target has issued bearer securities and does not maintain a share register. Accordingly, any information about the Target's shareholdings in Canada can only be determined on a limited enquiry basis by the Target. Based on such enquiry, the Target has confirmed to the Applicant that they believe that they have two shareholders resident in Canada, one holding 79,585 ordinary shares (approx. 0.2% of the 44,135,676 ordinary shares outstanding) and the other holding 12,800 preference shares (approx. 0.05% of the 23,318,670 preference shares outstanding). The Target is unable to determine in what Province these shareholders reside. The Applicant has no reason to believe that holders of 2% or more of the Target's shares are resident in Canada.
12. All material relating to the Offer that is to be sent by the Applicant to holders of the Target's shares in Germany will be sent to holders of such shares residing in the Jurisdictions including an English convenience translation and will be concurrently filed with the Decision Makers.
13. The *de minimis* exemption is not available to the Target since the bid is not being made in compliance with the laws of a jurisdiction that is recognized by the Decision Makers for the purposes of the *de minimis* exemption. Also, because the Target does not maintain a share register, the Applicant is unable to determine conclusively the number of holders of the Target's shares resident in each of the Jurisdictions, or the number of shares held by any such persons.
14. All of the holders of the Target's shares to whom the Offer is made will be treated equally.
15. If the requested relief is not granted, holders of the Target's shares resident in the Jurisdictions will not have the opportunity to participate in the Offer.

AND WHEREAS under the MRRS, this Decision Document evidences the decision of each of the Decision Makers (the "Decision");

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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 the Applicant is exempt from the Take-over Bid Requirements in making the Offer to the shareholders of the Target who are resident in the Jurisdictions provided that:

- (a) the Offer and all amendments to the Offer are made in compliance with the laws of Germany; and
- (b) all material relating to the Offer that is sent to the holders of the Target's shares in Germany will be sent to the holders of the Target's shares resident in the Jurisdictions, as well as an English convenience translation, and copies thereof filed concurrently with the Decision Maker in each Jurisdiction.

Dated May 2, 2003.

Paul M. Moore

Robert L. Shirriff