

# **2004 BCSECCOM 215**

## **Headnote**

Mutual Reliance Review System for Exemptive Relief Applications – the securities of the issuer are beneficially owned by more than 50 persons and are not traded through any exchange or market – the issuer will not be a reporting issuer in any other jurisdiction

## **Applicable British Columbia Provisions**

*Securities Act*, R.S.B.C. 1996, c. 418, s. 88

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

**AND**

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

**AND**

**IN THE MATTER OF CINAR CORPORATION (the company formed by the amalgamation of CINAR CORPORATION and 4113683 Canada Inc.)**

## **MRRS DECISION DOCUMENT**

WHEREAS the local securities regulatory authority or regulator (the “Decision Maker” and collectively, the “Decision Makers”) in each of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Québec, Nova Scotia and Newfoundland & Labrador (the “Jurisdictions”) has received an application from Cinar Corporation (the “Applicant” or “Amalco”), the corporation formed by the amalgamation of CINAR Corporation (“CINAR”) and 4113683 Canada Inc., for a decision under the securities legislation of the Jurisdictions (the “Legislation”) that Amalco be deemed to have ceased to be a reporting issuer or the equivalent under the Legislation;

AND WHEREAS under the Mutual Reliance Review System for Exemptive Relief Applications (the “System”), the Agence nationale d’encadrement du secteur financier (the “Autorité”) is the principal regulator for this application;

AND WHEREAS, unless otherwise defined, the terms herein have the meaning set out in National Instrument 14-101 *Definitions*;

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

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1. CINAR was incorporated under the *Canada Business Corporations Act* (“CBCA”) on December 10, 1976.
2. The head office of the Applicant is located at 1055 René Levesque Blvd. East, Montreal, Québec.
3. On March 15, 2004, CINAR completed a transaction by way of an arrangement pursuant to section 192 of the CBCA (the “Arrangement”). Under the terms of the Arrangement, all of the outstanding shares of CINAR were acquired by 4113683 Canada Inc. (the “Purchaser”). As part of the Arrangement CINAR amalgamated with the Purchaser to form Amalco (the “Amalgamation”).
4. Prior to the Amalgamation, CINAR was a reporting issuer in each of the Jurisdictions. The Variable Multiple Voting Shares and the Limited Voting Shares of CINAR were listed for trading on the Toronto Stock Exchange and the Nasdaq National Market, but were delisted due to CINAR’s failure to meet listing requirements. In addition, the Securities Regulatory Authorities in each of Québec, Ontario, Manitoba, Alberta and British Columbia issued cease-trade orders in respect of the securities of CINAR in 2001. These Securities Regulatory Authorities varied or partially lifted these cease-trade orders to allow the completion of the Arrangement, and fully revoked these cease trade orders as of the effective time of the completion of the Arrangement.
5. As a result of the Amalgamation, Amalco is a reporting issuer or the equivalent in each of the Jurisdictions.
6. Amalco is seeking a decision from the Decision Makers that it cease to be a reporting issuer.
7. Amalco is authorized to issue an unlimited number of common shares and an unlimited number of non-voting common shares. Upon the Amalgamation, 3918203 Canada Inc. of which the Purchaser was a wholly-owned subsidiary, became the sole shareholder of Amalco. The common shares held by 3918203 Canada Inc. are the only issued and outstanding shares of the Applicant. 3918203 Canada Inc. is a private company with a small number of indirect investors including Michael Hirsh, Topper Taylor and TD Capital Canadian Private Equity Partners Fund.
8. Amalco has fewer than 15 beneficial holders of its securities, including debt securities, resident in any one Jurisdiction and fewer than 51 beneficial holders of securities, including debt securities, in total in Canada, in each case without

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regard to any provision of securities legislation deeming any person or company to beneficially own securities owned by a company controlled by it or its affiliates.

9. No securities of Amalco are traded on a marketplace (as defined in National Instrument 21-101 *Marketplace Operation*).
10. Amalco is not in default of any of its obligations under the Legislation as a reporting issuer. Immediately prior to the Amalgamation, CINAR was not in default of any of its continuous disclosure obligations under the Legislation except as follows: (i) CINAR has had to restate its financial statements for the year ended November 30, 1998, which restated statements have not been audited; (ii) CINAR has not issued consolidated audited financial statements for the years ended November 30, 1999 and November 30, 2000; (iii) CINAR has not fully complied with applicable requirements regarding the preparation, filing and delivery of Management's Discussion and Analysis of Financial Condition and Results of Operations; (iv) CINAR has not filed an Annual Information Form for the fiscal years ended November 30, 2002 and November 30, 2001; and (v) CINAR has not filed and sent to its securityholders the quarterly financial statements for the fiscal years ended November 30, 2000 and November 30, 2001.

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 Amalco is deemed to have ceased to be a reporting issuer or the equivalent under the Legislation.

DATED AT Montreal, on March 24, 2004.

Stéphanie Lachance  
La chef du Service du financement des sociétés