

2009 BCSECCOM 94

February 2, 2009

Headnote

Mutual Reliance Review System for Exemptive Relief Applications - Securities Act s. 88 - Cease to be a reporting issuer in BC - The securities of the issuer are beneficially owned by more than 50 persons and are not traded through any exchange or market - The issuer became a wholly owned subsidiary of another company; the issuer has debt securities outstanding that are held by more than 50 holders; there is no evidence that there are any Canadian holders of the debt securities; there is no market for the debt securities; the issuer is not required under the terms of the debt instrument to provide any continuous disclosure to the holders of the debt securities as long as the securities are outstanding or to remain a reporting issuer; the issuer does not intend to do a public offering of its securities to Canadian residents; the issuer will not be a reporting issuer in any Canadian jurisdiction

Applicable British Columbia Provisions

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

In the Matter of
the Securities Legislation of
Québec, British Columbia and Saskatchewan
(the “Jurisdictions”)

and

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

and

In the Matter of
Solectron Corporation
(the “Applicant or Solectron”)

MRRS Decision Document

Background

The local securities regulatory authority or regulator (the “Decision Maker”) in each of the Jurisdictions has received an application from Solectron for a decision under the securities legislation of the Jurisdictions (the “Legislation”) that the Applicant is not a reporting issuer under the Legislation (the “Order”).

2009 BCSECCOM 94

Under the Mutual Reliance Review System for Exemptive Relief Applications:

- (a) the Autorité des marchés financiers 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* have the same meaning in this decision unless they are defined in this decision or the context otherwise requires.

Representations

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

1. The Applicant was formed under the laws of California in August 1977 and continued under the laws of Delaware on February 1, 1997.
2. The Applicant's head office is located at 847 Gibraltar Drive, Milpitas, California, 95035.
3. The Applicant became a reporting issuer in each of the Jurisdictions as a result of an "exchangeable share" transaction involving the Applicant and C-MAC Industries Inc. ("C-MAC") whereby C-MAC shareholders were issued either exchangeable shares of Soletron Global Services Canada Inc. (each an "Exchangeable Share") or common shares of the Applicant (each a "Soletron Common Share").
4. Pursuant to a merger agreement between Flextronics International Ltd. ("Flextronics") and the Applicant (the "Transaction"), Flextronics acquired all of the issued and outstanding shares of the Applicant effective October 1, 2007. Immediately prior to the Transaction, all of the Exchangeable Shares were exchanged for Soletron Common Shares. Further, the one issued Series B Preferred Share of the Applicant, which was held by Computershare Trust Company of Canada and entitled the holder to one vote per Exchangeable Share, was cancelled. Therefore, the Applicant became a direct wholly-owned subsidiary of Flextronics and Soletron Global Services Canada Inc. became an indirect wholly-owned subsidiary of the Applicant.
5. The Applicant has no outstanding securities other than the Soletron Common Shares and approximately \$15.5 million of previously issued debt securities held primarily by U.S. investors.

2009 BCSECCOM 94

Common Share Holders:

6. All of the Applicant's outstanding Common Shares are held directly by Flextronics.

Debt Securities Holders:

7. Soletron has outstanding the following debt securities as at September 12, 2008 (the "Debt Securities"):
 - (a) Soletron 0.5% Notes issued on August 15, 2004 in outstanding principal amount of US\$ 40,000;
 - (b) Soletron 0.5% Notes issued on February 15, 2005 in outstanding principal amount of US\$ 2,533,000 (subparagraphs (a) and (b) collectively referred to as the "0.5% Notes");
 - (c) Soletron Liquid Yield Option Notes issued on May 8, 2000 in outstanding principal amount of US\$ 11,533,000;
 - (d) Soletron Liquid Yield Option Notes issued on November 20, 2000 in outstanding principal amount of US\$ 1,414,000 (subparagraphs (c) and (d) collectively referred to as the "Liquid Yield Option Notes").
8. All of the Debt Securities are registered in the name CEDE & Co., as the registered holder for the brokers, other custodians and other Depository Trust Company ("DTC") participants who hold their positions on the book entry system of DTC.
9. Based upon the Applicant's review of the participant position listings provided by DTC as of September 12, 2008 for each of the Debt Securities, with the exception of one DTC participant resident in India, the remaining 30 DTC participants are based in the U.S. Based on significant efforts made to obtain such information, the Applicant has no information which would indicate that any of the beneficial owners reside in Canada. Based on consultations with the Applicant's investment banking firm, the Applicant believes that the holders of all of these debt issues are overwhelmingly comprised of large institutional investors, including insurance companies, mutual funds, banks and hedge funds, located in the U.S.
10. The Applicant has consulted with the trustees responsible for the Debt Securities indentures (the "Indentures") and their investment bankers to

2009 BCSECCOM 94

determine whether it is practicable to obtain additional information. In addition, counsel to the Applicant has contacted an information agent to investigate further what additional actions could be taken to obtain information regarding the beneficial owners of the Debt Securities. From these efforts, the Applicant understands that DTC participants are under an obligation to respect the confidentiality of the beneficial owners for whom they hold these Securities. Accordingly, even if the Applicant were to contact the DTC participants or hire an information agent to contact the DTC participants, the Applicant has been advised that these DTC participants generally could be expected not to share information about their customers. Finally, the Applicant notes that certain of the beneficial owners are institutions who file public reports listing their positions. Based on these reports, there are proprietary databases that compile this data (e.g., Bloomberg). However, such data is not current, nor does it represent the entire class of the beneficial owners. The Applicant reviewed a report from a proprietary database, which did not reveal any further data that was informative.

Convertibility of the Debt Securities:

11. As a result of the acquisition of Solectron by Flextronics, pursuant to the conversion features of the indentures, the Debt Securities are not exchangeable or convertible into shares or any other Securities.

Distribution of the Debt Securities:

12. To the Applicant's best knowledge, the Liquid Yield Option Notes were sold pursuant to a registered offering, principally to U.S. institutions and the 0.5% Notes initially were sold pursuant to Rule 144A under the 1933 Act and then a registered exchange offer was completed. The offerings were primarily targeted to U.S. institutional investors. The Applicant reviewed its historical Debt Securities offering documents and there was no indication of any offering and sale to Canadian residents.

Public Markets for Applicant's Securities:

13. The Solectron Common Shares were listed on the New York Stock Exchange (the "NYSE"), but were de-listed on October 15, 2007.
14. The 0.5% Notes are not listed on any marketplace. The Liquid Yield Option Notes were previously listed on the NYSE, but were delisted on October 15, 2007 in connection with Flextronics's acquisition of the Applicant.

2009 BCSECCOM 94

15. The securities of the Applicant, including the Debt Securities, are not listed on a marketplace as defined in *National Instrument 21-101 – Marketplace Operation*.

Applicant's Reporting Obligations:

16. Prior to the Transaction, the Applicant was subject to the continuous disclosure requirements of the 1934 Act.
17. Effective October 15, 2007, pursuant to Rules 12g-4(a)(1)(i) and 12h-3(b)(1)(i) under the 1934 Act, the Applicant is no longer required to make any filings with the SEC.
18. The Applicant has no obligation under the Indentures to ensure the creation or the maintenance of a marketplace for the Debt Securities anywhere in the world. While the Applicant's Liquid Yield Option Notes were listed for trading on the NYSE upon issuance, the Applicant had no obligation to ensure continued listing.
19. The Indentures do not require the Applicant to remain a reporting issuer in the United States or in any other jurisdiction of Canada or foreign jurisdiction.
20. The Indenture for each of the Debt Securities provides that the debt holders receive such information as is filed with the SEC.
21. Accordingly, following the suspension of the Applicant's reporting obligations in the United States, the Applicant is no longer, under United States federal securities laws, or contractually, under the terms of the Indentures, obligated to file with the SEC and with any other securities regulatory authority, or to deliver to the trustees or to holders of the Debt Securities, whether resident in the United States, Canada or any other foreign jurisdiction, any continuous disclosure documentation.
22. On June 10, 2008, the Applicant issued a press release announcing that it had applied to the Decision Makers for an order that it is not a reporting issuer under the Legislation.
23. On June 12, 2008, the Applicant filed on SEDAR a notice under section 4.9 of *National Instrument 51-102 – Continuous Disclosure Obligations* that indicates it has applied to the regulatory authorities in the Jurisdictions for a decision that it is not a reporting issuer in Canada.

2009 BCSECCOM 94

24. Prior to the Transaction, the Applicant's financial year-end was August 31. Effective on the October 1, 2007 closing date of the Transaction, the Applicant's financial year-end changed to March 31 for financial reporting purposes to correspond with the financial year-end of Flextronics.
25. The Applicant is not in default of any of its obligations under the Legislation except that it has not filed, since the completion of the Transaction: the management discussion & analysis and audited annual financial statements for the financial year ending August 31, 2007, a notice of change of year-end, the management discussion and analysis and interim financial statements for the interim periods ending on September 28, 2007, December 31, 2007, June 30, 2008 and September 30, 2008 and the management discussion and analysis and audited annual financial statements for the financial year ending March 31, 2008, as well as the applicable certificates under *Multilateral Instrument 52-109 Certification of Disclosure in Issuers' Annual and Interim Filings*.

Other:

26. The Applicant has not taken any steps in the past 12 months that indicate there is a market for its securities in Canada.
27. The Applicant has no intention of distributing its securities in any jurisdiction in Canada through a public or private offering.

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 Order is granted.

Louis Morisset
Superintendent – Securities Markets