

2005 BCSECCOM 724

October 17, 2005

Headnote

Mutual Reliance Review System for Exemptive Relief Applications - *Securities Act*, s. 11 – extension of confidentiality period

Applicable British Columbia Provisions

Securities Act, R.S.B.C. 1996, c. 418, s. 11

In the Matter of
the Securities Legislation
of Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland and
Labrador, Northwest Territories, Nova Scotia, Nunavut, Ontario, Prince Edward
Island, Québec, Saskatchewan and Yukon (the “Jurisdictions”)

and

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

and

In the Matter of Royal Bank of Canada
and
RBC Capital Trust II

MRRS Decision Document

Background

The local securities regulatory authority or regulator (the “Decision Maker” and, collectively, the “Decision Makers”) in each of the Jurisdictions has received an application (the “Application”) from Royal Bank of Canada (the “Bank”) and RBC Capital Trust II (the “Trust”) (collectively, the “Filers”) for a decision (the “Requested Relief”), pursuant to the securities legislation of the Jurisdictions (the “Legislation”), that:

- A. the confidentiality treatment being accorded to a decision granted by the Decision Makers to the Bank and the Trust on September 19, 2005 (the “Initial Decision”) be extended until November 1, 2005; and
- B. the Application and this MRRS Decision Document be held in confidence by the Decision Makers until November 1, 2005.

Under the Mutual Reliance Review System for Exemptive Relief Applications:

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- (a) the Autorité des marchés financiers du Québec 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.

Representations

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

The Bank

1. The Bank is a Schedule I Bank under the *Bank Act* (Canada) and such act is its charter and governs its operations. The head office of the Bank is located in Montreal, Quebec.
2. The authorized share capital of the Bank consists of an unlimited number of: (i) common shares (“Bank Common Shares”); (ii) an unlimited number of First Preferred Shares without nominal or par value that may be issued for a maximum aggregate consideration of \$10 billion; and (iii) an unlimited number of Second Preferred Shares without nominal or par value that may be issued for a maximum aggregate consideration of \$5 billion (collectively, the “Bank Preferred Shares”).
3. The Bank Common Shares are listed on the Toronto Stock Exchange, the New York Stock Exchange and the Swiss Exchange.
4. The Bank is a reporting issuer in each province and territory of Canada that provides for a reporting issuer regime and is not, to its knowledge, in default of any requirement thereof.

The Trust

5. The Trust is an open-end trust established under the laws of the Province of Ontario pursuant to a declaration of trust made as of June 23, 2003 of the Royal Trust Company (the “Trustee”), as amended and restated and supplemented from time to time (the “Declaration of Trust”). In July, 2003, the Trust completed a public offering of \$900 million of Trust Capital Securities – Series 2013 (the “RBC TruCS – Series 2013”). The authorized capital of the Trust consists of: (i) an unlimited number of RBC TruCS –

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Series 2013; and (ii) an unlimited number of special trust securities (the “Special Trust Securities”).

6. The Trust is a reporting issuer in each province of Canada that provides for a reporting issuer regime and is not, to its knowledge, in default of any requirement thereof. The head office of the Trust is located in Toronto, Ontario.
7. All of the Special Trust Securities of the Trust are held by the Bank (the Special Trust Securities and the Trust Capital Securities being collectively referred to herein as the “Trust Securities”). The Trust may, from time to time, issue further series of Trust Capital Securities having terms substantially similar to the RBC TruCS – Series 2013.
8. The Initial Decision granted by the Decision Makers permits the Trust to utilize the short form prospectus system provided in National Instrument 44-101 to effect public offerings of certain types of securities of the Trust.
9. Following the grant of the Initial Decision, the Canada Revenue Agency (“CRA”) announced a moratorium on the issuance of advance income tax rulings for certain flow-through vehicles.
10. The CRA tax ruling moratorium applies to the Trust.
11. Prior to the grant of the Initial Decision, the Trust had submitted an application to CRA for an advance income tax ruling in respect of a proposed loan-based offering of securities that would qualify as Tier 1 capital of the Bank under applicable guidelines promulgated by the Office of the Superintendent of Financial Institutions.
12. As a result of the CRA tax ruling moratorium, the Trust and the Bank have elected not to proceed with the proposed loan-based offering referred to in the Initial Decision and, instead, the Bank has determined to pursue an asset-based Tier 1 capital offering involving the Bank and RBC Capital Trust.
13. The Bank and RBC Capital Trust have filed a preliminary prospectus dated September 30, 2005 in respect of a proposed asset-based Tier 1 capital offering and it is expected that closing of the offering will occur on or about October 31, 2005.
14. It would potentially be confusing to the public markets for the Initial Decision, which refers to a loan-based offering, to be published at a time at which the

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asset-based Tier 1 capital offering currently being pursued by the Bank and RBC Capital Trust has not been completed.

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 Requested Relief is granted.

The further decision of the Decision Makers under the Legislation is that this Application and this decision shall be held in confidence by the Decision Makers until November 1, 2005.

Anne-Marie Beaudoin
Director of the secretariat