

2006 BCSECCOM 733

December 1, 2006

Headnote

Mutual Reliance Review System for Exemptive Relief Applications - *Securities Act*, ss. 48 and 76 - Exemption from registration and prospectus requirements - Other than a corporate acquisition or reorganization, trades to business associates, debt settlements or trades involving employee investment plans and consultants - Trades in short-term debt securities that have more than one rating with only one rating being an approved rating - The issuer issues short term debt that has at least one rating at an approved rating, as defined in NI 81-102; the issuer has another rating below an approved rating; the issuer will only issue short-term debt that is not convertible or exchangeable other than into short-term debt; the issuer will have at least one approved rating; the decision will terminate on the earlier of three years after the date of the decision or 90 days after NI 45-106 is amended

Applicable British Columbia Provisions

Securities Act, R.S.B.C. 1996, c. 418, ss. 34, 48, 61 and 76

In the Matter of
the Securities Legislation of Alberta, British Columbia,
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
H & R Block Canada, 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) for:

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- 1.1 an exemption from the dealer registration requirement in respect of a trade in negotiable promissory notes or commercial paper of the Filer maturing not more than one year from the date of issue (the Notes); and
- 1.2 an exemption from the prospectus requirements in respect of the distribution of the Notes

(the Requested Relief).

2. Under the Mutual Reliance Review System for Exemptive Relief Applications (MRRS):
 - 2.1 the Alberta Securities Commission is the principal regulator for this application; and
 - 2.2 this MRRS decision document evidences the decision of each Decision Maker.

Interpretation

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

Representations

4. This decision is based on the following facts represented by the Filer:
 - 4.1 The Filer is incorporated under the laws of Canada and is extra-provincially registered in the Province of Alberta.
 - 4.2 The Filer's head office is located in Calgary, Alberta.
 - 4.3 The Filer is not a reporting issuer in any of the Jurisdictions.
 - 4.4 The Notes will mature not more than one year from the date of issue and will not be convertible or exchangeable into or accompanied by a right to purchase another security.
 - 4.5 The Notes will be offered for purchase and sale pursuant to exemptions from the dealer registration requirements and prospectus requirements contained in the Legislation. One such exemption is the Short Term Debt Exemption (as defined below).

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- 4.6 Subsection 2.35(1)(b) of National Instrument 45-106 *Prospectus and Registration Exemptions* (NI 45-106) provides that exemptions from the registration and prospectus requirements of the Legislation for short term debt (the Short Term Debt Exemption) are available only where such short term debt “has an approved credit rating from an approved credit rating organization”. NI 45-106 incorporates by reference the definitions for “approved credit rating” and “approved credit rating organization” that are used in National Instrument 81-102 *Mutual Funds* (NI 81-102).
- 4.7 The definition of an "approved credit rating" in NI 81-102 requires, among other things, that (a) the rating assigned to short term debt must be "at or above" certain prescribed short term ratings, and (b) such debt must not have been assigned a rating by any "approved credit rating organization" that is not an "approved credit rating".
- 4.8 The Filer commissioned the Dominion Bond Rating Service (DBRS) to provide it with a credit rating. The Filer received an "R-1 (low)" rating from DBRS on January 27, 2006 that meets the prescribed threshold in NI 81-102.
- 4.9 The Filer also received a credit rating of P-2 from Moody's Investor Service (Moody's) on December 14, 1999, which is a lower rating than required by the Short Term Debt Exemption. Accordingly, the Short Term Debt Exemption is not available to the Filer.

Decision

- 5. 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.
- 6. The decision of the Decision Makers under the Legislation is that the Requested Relief is granted provided that the Notes:
 - 6.1 mature not more than one year from the date of issue;
 - 6.2 are not convertible or exchangeable into or accompanied by a right to purchase another security other than Notes; and
 - 6.3 have a rating issued by one of the following rating organizations, or any of their successors, at or above one of the following rating categories or a rating category that replaces a category listed below:

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Rating Organization	Rating
Dominion Bond Rating Service Limited	R-1 (low)
Fitch Ratings	F2
Moody's Investors Service	P-2
Standard & Poor's	A-2

7. For each Jurisdiction, this decision will terminate on the earlier of:
- 7.1 90 days after the coming into force of any rule, other regulation or blanket order or ruling under the Legislation of the Jurisdiction that amends section 2.35 of NI 45-106 or provides an alternate exemption; and
- 7.2 three years from the date of this decision.

Glenda A. Campbell, Q.C., Vice-Chair
Alberta Securities Commission

Stephen R. Murison, Vice-Chair
Alberta Securities Commission