

# **2004 BCSECCOM 260**

## **Headnote**

Mutual Reliance Review System for Exemptive Relief Application – relief from the take-over bid and issuer bid requirements to permit purchases of issuer's shares from employees and consultants within the meaning of Multilateral Instrument 45-105 – Trades to Employees, Senior Officer, Directors and Consultants under the terms of a shareholders' agreement – issuer has less than 50 shareholders, excluding holders who are employees and consultants

## **Applicable British Columbia Provisions**

*Securities Act*, R.S.B.C.1996, c. 418, s. 114(2)

### **IN THE MATTER OF THE SECURITIES LEGISLATION OF BRITISH COLUMBIA, ALBERTA, SASKATCHEWAN, MANITOBA, ONTARIO, QUÉBEC, 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 INVESTORS GROUP INC., 4221079 CANADA INC. AND IPC FINANCIAL NETWORK INC.**

## **MRRS DECISION DOCUMENT**

WHEREAS the local securities regulatory authority or regulator (the "Decision Maker") in each of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Québec, Nova Scotia and Newfoundland and Labrador (the "Jurisdictions") has received an application (the "Application") from Investors Group Inc. ("Investors Group") for a decision pursuant to the securities legislation of the Jurisdictions (the "Legislation") that Investors Group, 4221079 Canada Inc., a wholly-owned subsidiary of Investors Group ("IPC Holdco") and their affiliates from time to time, with respect to certain transfers of shares of IPC Holdco, be exempt from the requirements in the Legislation respecting issuer bids and take-over bids (collectively, the "Issuer Bid and Take-over Bid Requirements");

AND WHEREAS pursuant to the Mutual Reliance Review System for Exemptive Relief Applications (the "System"), the Ontario Securities Commission is the Principal Regulator for the Application;

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

AND WHEREAS Investors Group and IPC Holdco have represented to the Decision Makers as follows:

1. Investors Group was incorporated under the *Canada Business Corporations Act* on August 3, 1978. Its registered and principal office is located in Winnipeg, Manitoba.
2. Investors Group is a reporting issuer, or its equivalent, in all provinces and territories of Canada.
3. Investors Group is not in default of any requirement of the Legislation and is not on the list of defaulting reporting issuers in any Jurisdiction in which such a list is maintained.
4. IPC Financial Network Inc. ("IPC") was incorporated under the *Canada Business Corporations Act* on May 14, 1998. IPC's registered and principal office is located in Mississauga, Ontario.
5. IPC is a reporting issuer, or its equivalent, in British Columbia, Alberta, Saskatchewan, Ontario, Québec and Nova Scotia.
6. IPC is not on the list of defaulting reporting issuers in any Jurisdiction in which such a list is maintained.
7. IPC and its subsidiaries presently conduct (and will continue to conduct) business across Canada through a network of financial advisors (the "Advisors").
8. According to an information memorandum provided to Investors Group by IPC, there are currently 92 Advisors in British Columbia, 26 Advisors in Alberta, 4 Advisors in Saskatchewan, 9 Advisors in Manitoba, 454 Advisors in Ontario, 3 Advisors in Québec, 4 Advisors in New Brunswick, 41 Advisors in Nova Scotia, 9 Advisors in Newfoundland and Labrador and 1 Advisor in Prince Edward Island. IPC has advised Investors Group that approximately 175 Advisors currently hold common shares of IPC ("IPC Shares").
9. Although some of the Advisors are not employees of IPC, all Advisors have a written contract with IPC pursuant to which they devote a substantial amount of their time and attention to IPC's business.

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10. IPC Holdco was incorporated under the *Canada Business Corporations Act* on February 10, 2004. Its registered and principal office is in Toronto, Ontario.
11. Investors Group and IPC entered into an acquisition agreement made as of February 24, 2004 pursuant to which Investors Group and IPC Holdco will, subject to certain conditions being met, acquire all of the shares of IPC by way of a proposed plan of arrangement (the “Plan”) among Investors Group, IPC and IPC Holdco. The Plan provides that IPC Holdco will acquire all of the issued and outstanding IPC Shares for, at the election of the IPC shareholder: (i) cash and/or common shares of Investors Group (“Investors Shares”), or (ii) cash, Investors Shares and/or common shares of IPC Holdco (“IPC Holdco Shares”), in the case of certain shareholders of IPC who are Advisors and members of IPC management (the “Officers”).
12. Upon the effective date of the Plan, the Advisors and the Officers (collectively, the “IPC Holdco Shareholders”) will not own, as a group, more than 30% of the outstanding IPC Holdco Shares, and Investors Group will own the balance of the outstanding IPC Holdco Shares. Pursuant to the Plan (i) certain of the Officers will receive IPC Holdco Shares and Investors Shares; and (ii) the other Officers and certain Advisors may elect to receive IPC Holdco Shares, cash, or a combination of cash and Investors Shares, for each IPC Share held. IPC Holdco Shares are being used as consideration under the Plan in order to maintain the ownership interest of the Officers and certain Advisors in the IPC business (indirectly through IPC Holdco).
13. Other than Investors Group and its affiliates, all of the IPC Holdco Shareholders are, and will continue to be, “employees”, “senior officers”, “directors”, “consultants” or “permitted assigns” for the purpose of Multilateral Instrument 45-105 - *Trades to Employees, Senior Officers, Directors and Consultants*.
14. As a condition to receiving IPC Holdco Shares under the Plan or, in the case of individuals who become IPC Holdco Shareholders in the future, subsequent to the implementation of the Plan, all potential IPC Holdco Shareholders will be required to enter into one or, in the case of certain IPC Holdco Shareholders, two shareholders’ agreements (collectively, the “Shareholders’ Agreements”) with IPC Holdco and Investors Group.
15. The proposed terms of the Shareholders’ Agreements include: (i) the right of each IPC Holdco Shareholder to cause IPC Holdco, Investors Group or an affiliate of Investors Group to purchase his or her IPC Holdco Shares from time to time; (ii) the right of one or possibly more of IPC Holdco, Investors

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Group or any affiliate of Investors Group to purchase IPC Holdco Shares from each IPC Holdco Shareholder from time to time; (iii) an obligation of each IPC Holdco Shareholder to sell his or her IPC Holdco Shares to IPC Holdco, Investors Group or an affiliate of Investors Group in certain circumstances; and (iv) the right of IPC Holdco, Investors Group or an affiliate of Investors Group to purchase IPC Holdco Shares from a IPC Holdco Shareholder upon the occurrence of certain triggering events, such as bankruptcy or insolvency and certain events of default of a IPC Holdco Shareholder (collectively, the “Transfers”).

16. The IPC Holdco Shareholders will, among other things, have access to a copy of the Shareholders’ Agreements prior to the IPC shareholder’s meeting called for the purpose of approving the Plan and, in the case of future IPC Holdco Shareholders, prior to receiving IPC Holdco Shares.
17. The letter of transmittal to be signed by each IPC Holdco Shareholder for the purpose of depositing his or her IPC Shares and receiving IPC Holdco Shares will contain an acknowledgment from the IPC Holdco Shareholder that he or she is aware that IPC Holdco will not become a reporting issuer, and that IPC Holdco will not be subject to the continuous disclosure requirements under the Legislation.
18. Pursuant to the terms of the Shareholders’ Agreements, each IPC Holdco Shareholder will receive copies of IPC Holdco’s quarterly and annual financial statements.
19. Unless relief is granted, the Transfers will be subject to the Issuer Bid and Takeover Bid Requirements because IPC Holdco’s purchase of IPC Holdco Shares from the IPC Holdco Shareholders will be issuer bids and purchase by Investors Group, or an affiliate of Investors Group, of IPC Holdco Shares from the other IPC Holdco Shareholders will be takeover bids and any such Transfers will not be exempt under the Legislation as there may be more than 50 IPC Holdco Shareholders, exclusive of employees.
20. If the Legislation treated the Advisers and the permitted assigns of IPC Holdco Shareholders in the same manner as employees, the Transfers would be exempt from the Issuer Bid and Takeover Bid Requirements.

AND WHEREAS pursuant to the System this MRRS Decision Document evidences the decision of each Decision Maker (collectively, 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 in the Jurisdictions pursuant to the Legislation is that the Issuer Bid and Takeover Bid Requirements shall not apply to Transfers pursuant to the Shareholders' Agreements.

Dated this 3rd day of May, 2004.

Paul M. Moore

Robert W. Davis