

**IN THE MATTER OF
THE SECURITIES LEGISLATION OF
ONTARIO, BRITISH COLUMBIA, ALBERTA, SASKATCHEWAN, MANITOBA,
NOVA SCOTIA, NEW BRUNSWICK, PRINCE EDWARD ISLAND, NEWFOUNLAND
AND LABRADOR, YUKON TERRITORY, NORTHWEST TERRITORIES AND
NUNAVUT**

AND

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

AND

**IN THE MATTER OF
ADB SYSTEMS INTERNATIONAL INC.
AND ADB SYSTEMS INTERNATIONAL LTD.**

MRRS DECISION DOCUMENT

WHEREAS the local securities regulatory authority or regulator (the "Decision Makers") in each of Ontario, British Columbia, Alberta, Saskatchewan, Manitoba, Nova Scotia, New Brunswick, Prince Edward Island, Newfoundland and Labrador, Yukon Territory, Northwest Territories and Nunavut (the "Jurisdictions") has received an application from ADB Systems International Inc. ("ADB") and ADB Systems International Ltd. ("New ADB") (collectively, the "Filers") for a decision under Multilateral Instrument 45-102 *Resale of Securities* ("MI 45-102") that the requirement to have a "current AIF" filed on SEDAR (as hereinafter defined) for purposes of the definition of "qualifying issuer" in MI 45-102 shall not apply to New ADB, subject to certain conditions;

AND WHEREAS the Ontario Securities Commission (the "OSC") has received an application from New ADB for a decision under subsection 59(2) of Schedule 1 ("Schedule 1") of the regulation to the *Securities Act* (Ontario) that New ADB is exempt from the requirement to pay the fee otherwise payable under section 7.7 of OSC Rule 45-501 *Exempt Distributions* ("OSC Rule 45-501") and subsection 23(1) of Schedule 1;

AND WHEREAS under the Mutual Reliance Review System for Exemptive Relief Applications (the "System") the OSC is the principal regulator for this application;

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

1. ADB is a corporation amalgamated under the laws of Ontario on January 9, 1997. The principal business offices of ADB are located at 6725 Airport Road, Suite 201, Mississauga, Ontario L4V 1V2.

2. New ADB is a corporation incorporated under the laws of Ontario on August 20, 2002 for the sole purpose of participating in an inter-company reorganization with ADB. New ADB will in all material respects carry on the business of ADB.

3. Effective October 31, 2002 (the "Effective Date"), ADB and New ADB reorganized by way of a plan of arrangement pursuant to an agreement dated as of August 23, 2002, among ADB and New ADB. As a result, ADB became a wholly-owned subsidiary of New ADB (the "Arrangement"), holding the assets used in the on-line business-to-consumer retail operations (the "Bid.Com Assets") and liabilities associated with the on-line business-to-consumer retail operations (the "Bid.Com Liabilities"), and New ADB became the owner of all of the issued and outstanding shares of ADB, holding, directly or indirectly, the same assets (other than those attributable to the Bid.Com Assets) and being subject to the same liabilities as ADB prior to the Arrangement (other than those attributable to the Bid.Com Liabilities).

4. An information circular dated September 20, 2002, containing the disclosure that would be required in a prospectus if the information circular were a prospectus of ADB and New ADB, with necessary modifications, was sent to the holders of the shares of ADB in connection with the meeting held on October 22, 2002 to approve the Arrangement. The Arrangement was approved by a special resolution of shareholders at that meeting.

5. On October 24, 2002, ADB obtained the Final Order of the Ontario Superior Court of Justice approving the Arrangement.

6. On the Effective Date of the Arrangement, certain actions occurred and were deemed to have occurred by operation of law, including the following in the order set forth below:

(a) each share of ADB (other than shares held by dissenting shareholders) was deemed to be exchanged with New ADB for the sole consideration of a share of New ADB on a one for one basis;

(b) each issued convertible security of ADB, whether vested or not vested, outstanding on the Effective Date of the Arrangement was exchanged for a security of New ADB that is convertible into, or carries the right of the holder to purchase, or of the issuer to cause the purchase of, a security of New ADB, having the same terms and conditions, and the obligations of ADB thereafter terminated; and

(c) ADB transferred all of its assets, other than the Bid.Com Assets, to New ADB as a return of capital and New ADB assumed and will fulfil and perform all of the liabilities of ADB, other than the Bid.Com Liabilities.

7. The Arrangement was an inter-company reorganization that did not result in a change in the beneficial ownership of the securities of ADB, since the beneficial owners of the securities of ADB immediately prior to the Arrangement were the same beneficial owners of the securities of New ADB when the Arrangement became effective.

8. Neither ADB nor New ADB has received any proceeds from the trades or distribution of securities in connection with the Arrangement.

9. The shares of ADB were listed and posted for trading on the Toronto Stock Exchange ("TSX"). The shares of New ADB have now been listed and posted for trading on the TSX in substitution for the shares of ADB. New ADB has not been notified by the TSX that it does not meet the requirements to maintain that listing and is not designated inactive, suspended or the equivalent.

10. ADB is a "reporting issuer" under the Legislation of Ontario, British Columbia and Alberta and is not in default of any of the requirements of such Legislation. On the Effective Date, New ADB became a "reporting issuer" under the Legislation of Ontario, British Columbia and Alberta by operation of such Legislation. ADB intends to cease to be a "reporting issuer" under such Legislation.

11. ADB and New ADB are electronic filers under National Instrument 13-101 *System for Electronic Document Analysis and Retrieval*.

12. The continuous disclosure documents that ADB was required or permitted to file with, or deliver to, the securities regulatory authorities in Ontario, British Columbia and Alberta under the Legislation of such provinces since September 1997 are available for review on the System for Electronic Document Analysis and Retrieval ("SEDAR").

13. ADB has (i) an annual information form (an "AIF") in the form of a current annual report on Form 20-F under the *Securities Exchange Act of 1934 of the United States of America* (the "1934 Act") for its most recently completed financial year (the "ADB AIF") filed on SEDAR in the provinces of Ontario, British Columbia and Alberta, and (ii) securities registered under section 12 of the 1934 Act. As a result, the ADB AIF constitutes a current AIF within the meaning of MI 45-102 (a "current AIF"). ADB has not received a notice from any regulator that the ADB AIF is unacceptable. Accordingly, immediately prior to the Effective Date of the Arrangement, ADB was a qualifying issuer as defined under MI 45-102 (a "Qualifying Issuer"). However, New ADB is not a Qualifying Issuer since it does not have a current AIF for purposes of MI 45-102.

14. The trades in Ontario of the securities described in subparagraphs 6(a) and (b) above in connection with the Arrangement were made under the exemption contained in section 2.8 of OSC Rule 45-501. As a result, ADB is required to pay the fees prescribed by section 23 of Schedule 1. The fee payable by New ADB to the OSC in respect of the Arrangement is required to be calculated on the basis of 0.02% of the aggregate value of the securities distributed in Ontario in reliance upon that exemption, less 20%. The value of the shares of New ADB and the "convertible securities" of New ADB at the time the Arrangement became effective was approximately \$6,780,951 and will result in a fee of approximately \$1,084.95.

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 the requirement in the Legislation to have a current AIF filed on SEDAR in order to be a Qualifying Issuer under MI 45-102 shall not apply to New ADB provided that:

(a) New ADB files a Form 45-102F2 on or before the tenth day after the distribution date of any securities certifying that it was a Qualifying Issuer on such distribution date except that the requirement to have a current AIF does not apply to New ADB; and

(b) this Decision expires upon the earlier of

(i) the date that New ADB files a current AIF on SEDAR; and

(ii) May 20, 2003.

AND THE FURTHER DECISION of the Decision Maker in Ontario is that New ADB is exempt from the payment of the fees otherwise payable under section 7.7 of OSC Rule 45-501 and subsection 23(1) of Schedule 1 in respect of the trades described in subparagraphs 6(a) and (b) above in connection with the Arrangement.

DATED December 13, 2002.

"Margo Paul"

Headnote

Mutual Reliance Review System for Exemptive Relief Applications – issuer involved in plan of arrangement whereby issuer became wholly-owned subsidiary of new issuer ("Newco") – Newco to carry on the business of the issuer – prior to arrangement, issuer was "qualifying issuer" within meaning of Multilateral Instrument 45-102 – Newco does not have a current AIF filed on SEDAR for the purpose of Multilateral Instrument 45-102 – Newco exempt from current AIF requirement, subject to conditions – in Ontario, Newco exempt from payment of fees in connection with arrangement.

Applicable Ontario Statutory Provisions

Securities Act, R.S.O. 1990 c.S.5, as am.

Applicable Ontario Regulations

Regulation made under the Securities Act, R.R.O. 1990, Reg. 1015, as am., s. 59(1) of Schedule 1

Applicable Ontario Rules

Multilateral Instrument 45-102 Resale of Securities (2001) 24 OSCB 7029, sections. 1.1, 4.1