



FRASER MILNER CASGRAIN LLP

May 28, 2008

British Columbia Securities Commission
Alberta Securities Commission
Saskatchewan Financial Services Commission
Manitoba Securities Commission
Ontario Securities Commission
Autorité des marchés financiers
New Brunswick Securities Commission
Superintendent of Securities, Prince Edward Island
Nova Scotia Securities Commission
Securities Commission of Newfoundland and Labrador
Registrar of Securities, Northwest Territories
Registrar of Securities, Yukon Territory
Registrar of Securities, Nunavut

Dear Sirs/Mesdames:

Subject: Proposed Amendments to National Instruments 45-106, 45-102 and Related Forms and Companion Policies – Response to Request for Comments

We are pleased to have the opportunity to comment on the proposal to amend National Instruments 45-106 and 45-102, and the related forms and companion policies. Our comment relates to a subject that is not addressed in the amendments as proposed but should, in our view, be considered in the context of the amendments.

As you are aware, in certain parts of National Instrument 45-102, it is sufficient for an issuer to be a reporting issuer in any jurisdiction in Canada in order for the applicable resale requirements to be met. However, in sections 2.10, 2.11 and 2.12 of the Instrument, this is not the case. The policy reason for this discrepancy is unclear to us. In the case of a securities exchange take-over bid, the securities regulatory authorities in seven jurisdictions addressed this issue in granting the relief requested in *In the Matter of James Richardson International Limited*, 2007 BCSECCOM 210, which is reproduced below for your convenience. Also reproduced below is an excerpt from OSC Staff Notice 51-706 *Corporate Finance Branch Report 2007*, (2007), 30 OSCB 9049 at 9072, in which the issue is discussed.

Accordingly, we recommend that, as part of the proposed amendments to National Instrument 45-102, consideration be given to adding the words “in a jurisdiction of Canada” after “reporting issuer” in sections 2.10, 2.11 and 2.12. If these changes are made, it will also be necessary to repeal section 1.14 of Companion Policy 45-102CP.

Thank you for considering this comment. If you have any questions or comments, please contact Ralph Shay at 416-863-4419 or at ralph.shay@fmc-law.com.

Yours truly,

FRASER MILNER CASGRAIN LLP

In the Matter of the Securities Legislation of Alberta, British Columbia,
Manitoba, New Brunswick, Nova Scotia, Ontario and Saskatchewan (the
"Jurisdictions")

and

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

and

In the Matter of James Richardson International Limited (the "Filer")

MRRS Decision Document

Background

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") that the Filer is a reporting issuer in each of the Jurisdictions upon filing a securities exchange take-over bid circular (the "Take-Over Bid Circular") in each Jurisdiction in connection with the securities exchange take-over bid to be made by the Filer for all issued and outstanding Limited Voting Common Shares (the "Common Shares") and the Series A Convertible Preferred Shares (the "Preferred Shares", and, together with the Common Shares and Preferred Shares, the "Securities") of United Grain Growers Limited, carrying on business as Agricare United ("Agricare") (the "Requested Relief").

Under the Mutual Reliance Review System for Exemptive Relief Applications:

- (a) The Manitoba Securities Commission 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 Filer:

1. The Filer is a corporation amalgamated under the *Canada Business Corporations Act* (the "CBCA"), with its head office in Winnipeg, Manitoba.
2. The Filer is not a reporting issuer in any jurisdiction that recognizes the concept of reporting issuer status.
3. All of the common shares of the Filer (the "JRI Shares") are currently owned by James Richardson & Sons, Limited ("JRSL").
4. Agricore was continued under the *United Grain Growers Act* in 1992 and has its head office in Winnipeg, Manitoba.
5. To the knowledge of the Filer, Agricore is a reporting issuer in each of the Jurisdictions that recognizes the concept of reporting issuer status.
6. The Common Shares and the Preferred Shares are listed and posted for trading on the Toronto Stock Exchange.
7. The Filer intends to make offers to acquire all of the outstanding Securities (the "Offers").
8. The consideration offered for each of the Securities under the Offers will be:
 - (a) \$6.50 per Common Share, plus 0.509 of a JRI Share; and
 - (b) \$24.00 per Preferred Share, plus any accrued and unpaid dividends.
9. The Offers will be conditional upon the JRI Shares being approved for listing on the Toronto Stock Exchange and the Filer becoming a reporting issuer in each province of Canada that has such concept.
10. The Take-Over Bid Circular will describe the terms and conditions attaching to the JRI Shares and will contain prospectus-level disclosure regarding the Filer. Upon filing of the Take-Over Bid Circular, it will be necessary for the Filer to comply with Canadian continuous disclosure requirements as it will be a reporting issuer in Québec and Newfoundland and Labrador (the "RI Jurisdictions") and, provided the Filer takes up and pays for the Common Shares under the Offers, in British Columbia, Manitoba and Saskatchewan (the "Take-up and Pay Jurisdictions") as well.
11. By virtue of the definitions of 'reporting issuer' contained in the securities legislation of the RI Jurisdictions, after the filing of the Take-Over Bid Circular, the Filer will become a reporting issuer in such RI Jurisdictions. The Filer will become a reporting issuer in the Take-up and Pay Jurisdictions only after the Filer takes up and pays for the Common Shares tendered to the Offers in accordance with the Take-Over Bid Circular, while the Filer will not become a reporting issuer in the remaining provinces as a result of the filing of the Take-Over Bid Circular or any subsequent taking up and subsequent payment for Common Shares.
12. Agricore has agreed to:

- (a) call a special meeting (the "Continuance Meeting") of shareholders of Agricore (the "Shareholders") to approve the continuance of Agricore under the CBCA; and
- (b) call a special meeting of Shareholders (the "Arrangement Meeting") to approve a plan of arrangement (the "Plan of Arrangement") that would provide for the acquisition by the Filer of the Securities on terms identical to those contained in the Offers and the subsequent amalgamation of the Filer and Agricore.

13. The consideration paid to the Shareholders for their Securities that are acquired under the Plan of Arrangement will be identical to the consideration offered to the Shareholders under the Offers: \$6.50 in cash plus 0.509 of a JRI Share in exchange for each Common Share held and \$24.00 per Preferred Share plus any accrued and unpaid dividends.

14. The Continuance Meeting and the Arrangement Meeting will be held on the business day following the initial expiry time under the Offers or on such other business day following the receipt of the regulatory approvals required in connection with the Offers as may be agreed by the Filer, JRSL and Agricore.

15. The Filer has elected to structure its acquisition and subsequent combination with Agricore by way of take-over bid followed by a plan of arrangement (rather than simply by way of plan of arrangement) for strategic reasons and in order to achieve a timely acquisition of 100% of the Common Shares if the proposed transactions are successful.

16. The first trade of the JRI Shares issued to the Shareholders in the Jurisdictions (other than Manitoba) will be subject to Section 2.6 of National Instrument 45-102 -- *Resale of Securities* ("NI 45-102"), with the result that such JRI Shares would be subject to a four month seasoning period following the Filer becoming a reporting issuer in those jurisdictions, unless an exemption from the requirements of that Section is available.

17. Pursuant to Section 2.11 of NI 45-102, first trades that would otherwise be subject to Section 2.6 of NI 45-102 are exempt from the seasoning period provided that, among other things, a securities exchange take-over bid circular relating to the distribution of the security was filed by the offeror on SEDAR and the offeror was a reporting issuer on the date the securities of the offeree issuer were first taken up under the take-over bid.

18. The differences between the definitions of reporting issuer in the RI Jurisdictions and the Jurisdictions in conjunction with the exemption under Section 2.11 of NI 45-102 results in the Shareholders holding Common Shares in the RI Jurisdictions receiving JRI Shares that are freely-tradable (i.e., not subject to a four-month seasoning period) whereas the Shareholders receiving Common Shares in the Jurisdictions, other than Manitoba to which Sections 2.6 of NI 45-102 does not apply, (the "Seasoning Period Jurisdictions") will receive JRI Shares that are subject to the seasoning period under Section 2.6 of NI 45-102.

19. Section 2.9 of NI 45-102 provides favourable resale treatment for transactions that are structured as arrangements or amalgamations by allowing selling securityholders to include the period of time that one of the parties to the amalgamation or arrangement was a reporting issuer immediately before the amalgamation or arrangement for the purposes of calculating the seasoning period under Section 2.6 of NI 45-102. As noted in paragraph 12, the Filer has elected to structure its transaction as a take-over bid to be followed by an arrangement. As a result, the exemption under Section 2.6 of NI 45-102 would be available to Shareholders that acquire JRI Shares under the Plan of Arrangement, but not to those Shareholders in the Seasoning Period Jurisdictions that acquire JRI Shares pursuant to the Offers.

20. Some of the Common Shares may be acquired as an initial step by the Filer pursuant to the Offers, while the balance would be subsequently acquired under the Plan of Arrangement. Absent the Requested Relief being granted, the consideration received by Shareholders holding Common Shares in the Seasoning Period Jurisdictions pursuant to the Offers would be subject to different resale treatment than the consideration received by the other Shareholders holding Common Shares, notwithstanding the fact that such consideration is identical and the fact that all Shareholders will receive the same prospectus-level disclosure regarding the Filer and the JRI Shares.

21. Except to the extent that the Requested Relief is granted and relief from the identical consideration requirement for take-over bids is granted in the Jurisdictions and in Québec and Newfoundland and Labrador, the Offers will be made in compliance with the requirements under the Legislation governing take-over bids.

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, in connection with the Offers, the Requested Relief is granted so that the Filer is a reporting issuer in each of the Jurisdictions with the effective date being the date upon which the Filer files the Take-Over Bid Circular provided that at such time the Filer has received conditional approval for the listing of its common shares on the Toronto Stock Exchange.

Chris Besko

Deputy Director

The Manitoba Securities Commission

OSC STAFF NOTICE 51-706

CORPORATE FINANCE BRANCH REPORT 2007 (excerpt)

4. Applications for Exemptive Relief

B. Current Issues

(iii) Becoming a reporting issuer in Ontario through a securities exchange take-over bid

We have received applications where the filer is undertaking a securities exchange take-over bid of an offeree issuer. The filer is not a reporting issuer in a Canadian jurisdiction, but the structure of the take-over bid will result in the filer becoming a reporting issuer at different dates in different Canadian jurisdictions.

The relief requested is for the filer to be ordered to be a reporting issuer in all applicable Canadian jurisdictions on the same date. This will ensure that the securities of the filer issued under the securities exchange take-over bid are subject to the same resale treatment in all Canadian jurisdictions.

Securities issued under the securities exchange take-over bid are subject to a seasoning period under section 2.6 of NI 45-102, which deems the first trade in securities to be a distribution unless certain conditions are met. Section 2.11 of NI 45-102 provides an exemption from a seasoning period, provided that, among other things, the offeror was a reporting issuer on the date the securities of the offeree issuer were first taken up under the take-over bid.

The relief is needed so the issuer does not find itself with a four-month seasoning period in Ontario while the securities are freely tradeable elsewhere.

For examples of this relief, see *In the matter of James Richardson International Limited* dated March 28, 2007 and *In the matter of US Gold Canadian Acquisition Corporation* dated June 1, 2006.