

## Headnote

Mutual Reliance Review System for Exemptive Relief Applications -- Issuer has no securities, including debt securities, outstanding other than the securities held by parent issuer -- Issuer deemed to have ceased to be a reporting issuer under applicable securities laws.

## Applicable Ontario Statutory Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., s. 1(10).

February 15, 2007

**IN THE MATTER OF  
THE SECURITIES LEGISLATION OF  
ALBERTA, SASKATCHEWAN, MANITOBA, ONTARIO,  
QUEBEC, NEW BRUNSWICK, NOVA SCOTIA AND  
NEWFOUNDLAND AND LABRADOR  
(the "Jurisdictions")**

**AND**

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

**AND**

**IN THE MATTER OF  
NBS TECHNOLOGIES INC. (the "Applicant")**

**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 Applicant, for a decision under the securities legislation of the Jurisdictions (the "**Legislation**") to be deemed to have ceased to be a reporting issuer in the Jurisdictions in accordance with the Legislation.

Under the Mutual Reliance Review System for Exemptive Relief Applications:

- (a) the Ontario 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 factual information below as provided by the Applicant.

1. The Applicant is a corporation existing under the *Business Corporations Act* (Ontario) (the "**OBCA**").
2. The Applicant's registered and principal office is located at 703 Evans Avenue, Suite 400, Toronto, Ontario M9C 5E9.
3. The Applicant is a reporting issuer under the Legislation in each of the Jurisdictions. On January 18, 2007, the Applicant filed a notice in British Columbia under BC Instrument 11-502 - *Voluntary Surrender of Reporting Issuer Status* stating that the Applicant will cease to be a reporting issuer in British Columbia on January 29, 2007.
4. On November 6, 2006, the Applicant and Brookfield Asset Management Inc. ("**Brookfield**") issued a joint press release announcing that the Applicant had entered into an agreement with Brookfield to effect a going private transaction by way of an amalgamation (the "**Amalgamation**") of the Applicant with 1716303 Ontario Limited, an indirect wholly-owned subsidiary of Brookfield, whereby Brookfield would acquire all of the outstanding common shares ("**NBS Shares**") of the Applicant not already owned by Brookfield or its affiliates.
5. On November 6, 2006, a special committee (the "**Special Committee**") of independent directors of the Applicant unanimously recommended to the board of directors of the Applicant that the board of directors approve the Amalgamation and recommend that shareholders vote in favour of the Amalgamation. The board of directors of the Applicant, with the directors affiliated with Brookfield abstaining from voting, unanimously approved the terms of the Amalgamation and unanimously recommended that shareholders vote in favour of the special resolution approving the Amalgamation.
6. The Amalgamation was approved at a special meeting of shareholders of the Applicant held on December 18, 2006 and the Amalgamation was completed on December 27, 2006.
7. As a result of the Amalgamation, all of the outstanding securities of the Applicant, including debt securities, are beneficially owned by Brookfield.

8. The NBS Shares were delisted from the Toronto Stock Exchange at the close of trading on December 28, 2006 and no securities of the Applicant are traded on a marketplace as defined in National Instrument 21-101 -- *Marketplace Operation*.

9. The Applicant is applying for relief to cease to be a reporting issuer in all of the jurisdictions in Canada in which it is currently a reporting issuer.

10. The Applicant is not in default of any of its obligations under the Legislation other than with respect to the failure to make its annual filings in respect of its fiscal year ended September 30, 2006 under National Instrument 51-102 and its related certifications under Multilateral Instrument 52-109.

11. Pursuant to the Amalgamation, shareholders of the Applicant other than Brookfield and its subsidiaries ("**Minority Shareholders**") became entitled to receive, for each NBS Share held, Cdn. \$1.00 in cash and the contingent consideration. The contingent consideration provides each Minority Shareholder with the right to receive an amount equal to their *pro rata* portion, based on the number of NBS Shares held by the Minority Shareholder immediately prior to the completion of the Amalgamation, of the net proceeds received by the Applicant, to the extent such proceeds relate to the period prior to the completion of the Amalgamation, from the final adjudication or final settlement of all matters related to the claims and counterclaims of the Card Technology Corporation v. DataCard Corporation litigation involving the Applicant and the related request for information and proceedings of the United States Department of Justice (the "**Litigation**"), all as more fully described in the management information circular (the "**Circular**") of the Applicant dated November 20, 2006. (the "**Contingent Consideration**")

12. The principal characteristics of the Contingent Consideration are as follows:

a) the Contingent Consideration is not assignable or transferable by a Minority Shareholder (except by operation of law) and does not represent a right of equity in or ownership of the Applicant or any of its property or assets, or a security interest in the Applicant;

b) any amounts owing in respect of the Contingent Consideration will constitute unsecured obligations of the Applicant and will not be evidenced by the issuance of a certificate or other instrument;

c) the sole right of a Minority Shareholder is to be paid its share of the Contingent Consideration, if, and when, any Contingent Consideration materializes, which right will terminate on the earlier of seven years after the effective date of the Amalgamation and the abandonment of the Litigation by the Applicant;

d) there is no decision or action that a Minority Shareholder is entitled or required to make in order to receive the Contingent Consideration;

e) the Applicant is entitled to pursue, abandon, release, defend or settle the Litigation as it determines in its best interests, without regard to the rights of the Minority Shareholders and without their consent or approval; and

f) the independent directors of Brookfield will oversee the administration and payment of any amounts in respect of the Contingent Consideration, and their discretion in that regard will be final and binding.

## **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 Applicant is deemed to have ceased to be a reporting issuer under the Legislation.

"David L. Knight"  
Commissioner

"Paul K. Bates"  
Commissioner