

IN THE MATTER OF
THE SECURITIES LEGISLATION OF BRITISH COLUMBIA, ALBERTA,
SASKATCHEWAN, MANITOBA, ONTARIO, QUEBEC, NOVA SCOTIA, NEW
BRUNSWICK, PRINCE EDWARD ISLAND AND NEWFOUNDLAND AND LABRADOR

AND

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

AND

IN THE MATTER OF
OPEN TEXT CORPORATION

MRRS DECISION DOCUMENT

WHEREAS the local securities regulatory authority or regulator (the "Decision Maker") in each of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Quebec, Nova Scotia, New Brunswick, Prince Edward Island and Newfoundland and Labrador (collectively, the "Jurisdictions") has received an application from Open Text Corporation (the "Applicant") for a decision under the securities legislation of the Jurisdictions (the "Legislation") that:

(i) the requirements in the Legislation (the "CD GAAP and GAAS Requirements") to file annual and interim financial statements prepared in accordance with Canadian GAAP and, in the case of the annual financial statements, audited in accordance with Canadian GAAS; and

(ii) the requirements contained in the Legislation (the "Prospectus GAAP and GAAS Requirements") to include in a short form prospectus annual and interim financial statements prepared in accordance with Canadian GAAP and, in the case of the annual financial statements, audited in accordance with Canadian GAAS,

will not apply to the Applicant;

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

AND WHEREAS unless otherwise defined, the terms herein have the meanings set out in National Instrument 14-101 Definitions;

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

1. The Applicant is a global supplier of collaboration and knowledge management software for the enterprise.

2. The Applicant is a corporation incorporated under the laws of Ontario, Canada and has its registered office in Waterloo, Ontario.
3. The Applicant's shares are listed on the Toronto Stock Exchange and quoted on the Nasdaq National Market.
4. The Applicant is a reporting issuer in all of the provinces in Canada, other than Newfoundland and Labrador.
5. To the best of its knowledge, the Applicant is not in default of any requirements of the Legislation.
6. The Applicant is qualified to file a short form prospectus under National Instrument 44-101 *Short Form Prospectus Distributions*.
7. The Applicant has a class of securities registered under Section 12 of the 1934 Act. The Applicant is not registered or required to be registered as an investment company under the *Investment Company Act of 1940* (the "Investment Company Act 1940") of the United States of America.
8. The Applicant's year end for fiscal 2003 is June 30, 2003. On November 19, 2003, the Applicant filed with the Decision Makers its interim financial statements for the interim period ended September 30, 2003.
9. The Applicant currently prepares its annual and interim financial statements in accordance with Canadian GAAP, without reconciliation to generally accepted accounting principles in the United States that the SEC has identified as having substantial authoritative support, as supplemented by Regulation S-X and Regulation S-B under the 1934 Act ("US GAAP"). The Canadian GAAP annual financial statements of the Applicant are currently audited in accordance with Canadian GAAS.
10. The Applicant also prepares its annual and interim financial statements in accordance with US GAAP, without reconciliation to Canadian GAAP. The US GAAP annual financial statements are currently audited in accordance with United States generally accepted audited standards, as supplemented by the SEC's rules on auditor independence ("US GAAS").
11. The Applicant proposes to file interim and annual financial statements prepared in accordance with US GAAP and, in the case of annual statements, audited in accordance with US GAAS, to satisfy its continuous disclosure requirements with respect to financial statements in each of the Jurisdictions.
12. The Applicant proposes to re-file its interim financial statements for the interim period ended September 30, 2003. The re-filed interim financial

statements will be prepared in accordance with US GAAP and the notes to the interim financial statements will:

- (a) explain the material differences between Canadian GAAP and US GAAP that relate to recognition, measurement and presentation;
- (b) quantify the effect of material differences between Canadian GAAP and US GAAP that relate to recognition, measurement and presentation, including a tabular reconciliation between net income reported in the financial statements and net income computed in accordance with Canadian GAAP; and
- (c) provide disclosure consistent with Canadian GAAP requirements to the extent not already reflected in the financial statements.

In addition, the Applicant proposes to file a supplement to the Management Discussion and Analysis ("MD&A") relating to the interim period ended September 30, 2003 that will restate, based on financial information of the Applicant prepared in accordance with or reconciled to Canadian GAAP, those parts of those MD&A that:

- (d) are based on financial statements of the Applicant prepared in accordance with US GAAP; and
- (e) would contain material differences if they were based on financial statements of the Applicant prepared in accordance with Canadian GAAP;

13. The Applicant will continue to comply with the requirements of its jurisdiction of incorporation (Ontario) as they relate to the preparation and audit of annual financial statements in accordance with Canadian GAAP and Canadian GAAS, respectively (and the delivery thereof), which requirements are prescribed by the *Business Corporations Act* (Ontario).

14. The Applicant is satisfied that it has obtained and applied the necessary level of expertise of US GAAP to support the preparation of US GAAP financial statements.

15. The Applicant's audit committee has taken steps to ensure it has, or has access to, the necessary expertise in relation to US GAAP and that management has put in place systems to ensure that the appropriate levels and numbers of staff have and will maintain the level of expertise in US GAAP necessary to prepare reliable, high quality financial statements.

16. The Applicant's audit committee has satisfied itself as to the adequacy of the expertise of the audit engagement team and the audit firm in relation to the application of US GAAP and US GAAS.

AND WHEREAS under the System, this MRRS Decision Document evidences the decisions of each Decision Maker (collectively, the "Decisions");

AND WHEREAS each of the Decision Makers is satisfied that the text contained in the Legislation that provides the Decision Maker with the jurisdiction to make the Decisions has been met;

THE DECISION of the Decision Makers (other than the Decision Maker in British Columbia) under the Legislation is that the CD GAAP and GAAS Requirements will not apply to the Applicant's annual and interim financial statements required to be filed under the Legislation provided that:

- (a) the Applicant's common shares are registered under Section 12 of the 1934 Act and the Applicant is not registered or required to register as an investment company under the *Investment Company Act 1940*;
- (b) the Applicant's annual and interim financial statements required to be filed under the Legislation are prepared in accordance with US GAAP and, in the case of annual financial statements, audited in accordance with US GAAS;
- (c) the Applicant re-files its interim financial statements and MD&A for the period ended September 30, 2003 in accordance with representation 12, above;
- (d) the Applicant's financial year end remains June 30;
- (e) the notes to the Applicant's annual comparative financial statements for its 2004 and 2005 financial years, and the notes to the interim financial statements for the interim periods ended December 31, 2003, March 31, 2004 and all interim periods during the 2005 financial year:
 - (i) explain the material differences between Canadian GAAP and US GAAP that relate to recognition, measurement and presentation;
 - (ii) quantify the effect of material differences between Canadian GAAP and US GAAP that relate to recognition, measurement and presentation, including a tabular reconciliation between net income reported in the financial statements and net income computed in accordance with Canadian GAAP; and

(iii) provide disclosure consistent with Canadian GAAP requirements to the extent not already reflected in the financial statements;

(f) any comparative financial information contained in the financial statements referred to in paragraphs (c) and (e), above, are presented in accordance with US GAAP and supported by an accompanying note that

(i) explains the material differences between Canadian GAAP and US GAAP that relate to the recognition, measurement and presentation; and

(ii) quantifies the effect of material differences between Canadian GAAP and US GAAP that relate to recognition, measurement and presentation, including a tabular reconciliation between net income as previously reported in the financial statements in accordance with Canadian GAAP and net income as restated and presented in accordance with US GAAP;

(g) the notes to the financial statements identify the accounting principles used to prepare the financial statements;

(h) the Applicant files a supplement to the MD&A relating to each of the financial statements referred to in paragraph (e) above that will restate, based on financial information of the Applicant prepared in accordance with or reconciled to Canadian GAAP, those parts of those MD&A that:

(i) are based on financial statements of the Applicant prepared in accordance with US GAAP; and

(ii) would contain material differences if they were based on financial statements of the Applicant prepared in accordance with Canadian GAAP;

(i) the Applicant uses US GAAP generally on a going-forward basis for all of its financial statements filed under its continuous disclosure requirements in the Jurisdictions;

(j) the Applicant files an auditor's report on the annual financial statements filed under paragraph (e) above that is prepared in accordance with US GAAS and that:

(i) contains an unqualified opinion,

(ii) identifies all financial periods presented for which the auditor has issued an auditor's report; if the Applicant has changed its auditor and one or more of the comparative periods presented in

the financial statements were audited by a different auditor, the auditor's report must refer to any former auditor's report(s) on the comparative periods, and

(iii) identifies the auditing standards used to conduct the audit and the accounting principles used to prepare the financial statements; and

(k) this Decision, as it relates to the jurisdiction of a Decision Maker, will terminate upon publication in final form of any legislation or rule of that Decision Maker dealing with acceptable accounting principles and auditing standards, including proposed National Instrument 52-107 *Acceptable Accounting Principles, Auditing Standards and Reporting Currency* provided that any requirement of such legislation or rule that is the same or substantially similar to those in paragraphs (e), (f) or (h) above will not apply to the Applicant's annual and interim financial statements required to be filed under the Legislation in respect of any financial year, or any interim period thereof, after the Applicant's 2005 financial year.

January 21, 2004.

"Paul M. Moore"

"Lorne Morphy"

AND THE FURTHER DECISION of the Decision Makers is that the Prospectus GAAP and GAAS Requirements will not apply to the Applicant's annual and interim financial statements included in a short form prospectus filed under National Instrument 44-101, provided that:

(a) the Applicant is in compliance with the conditions (a) through (j) of the Decision, above;

(b) the Applicant's annual and interim financial statements included in the prospectus are prepared in accordance with US GAAP and, in the case of annual financial statements, audited in accordance with US GAAS;

(c) the notes to the financial statements identify the accounting principles used to prepare the financial statements;

(d) the annual financial statements of the Applicant included in the prospectus are accompanied by an auditor's report that is prepared in accordance with US GAAS and that:

(i) contains an unqualified opinion,

(ii) identifies all financial periods presented for which the auditor has issued an auditor's report; if the Applicant has changed its auditor and one or more of the comparative periods presented in

the financial statements were audited by a different auditor, the auditor's report must refer to any former auditor's report(s) on the comparative periods, and

(iii) identifies the auditing standards used to conduct the audit and the accounting principles used to prepare the financial statements; and

(e) this Decision, as it relates to the jurisdiction of a Decision Maker, will terminate upon publication in final form of any legislation or rule of that Decision Maker dealing with acceptable accounting principles and auditing standards, including proposed National Instrument 52-107 *Acceptable Accounting Principles, Auditing Standards and Reporting Currency* provided that any requirement of such legislation or rule that is the same or substantially similar to those in paragraphs (e), (f) or (h) of the above Decision will not apply to the Applicant's annual and interim financial statements required to be filed under the Legislation in respect of any financial year, or any interim period thereof, after the Applicant's 2005 financial year.

January 21, 2004.

"Cameron McInnis"

Headnote

Mutual Reliance Review System for Exemptive Relief Applications -- securities of issuer registered under section 12 of the 1934 Act -- issuer not required to register under United States Investment Company Act of 1940 -- relief granted from requirement to file annual and interim financial statements prepared in accordance with Canadian GAAP and audited in accordance with Canadian GAAS -- relief granted from requirement to include in a short form prospectus annual and interim financial statements prepared in accordance with Canadian GAAP and audited in accordance with Canadian GAAS -- relief conditional upon issuer preparing annual and interim financial statements in accordance with US GAAP and audited in accordance with US GAAS.

Statutes Cited

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 77, 78, 80(b)(iii).

Regulations Cited

R.R.O. 1990, Reg. 1015, as am., s. 2.

Instruments Cited

National Instrument 44-101 Short Form Distributions (2000) 23 O.S.C.B. (supp.) 867.

