

Headnote

Mutual Reliance Review System for Exemptive Relief Applications - Relief from registration and prospectus requirements granted for certain trades and distributions of securities in connection with a statutory arrangement where exemptions not available for technical reasons. First trade in certain securities acquired under decision deemed a distribution unless certain conditions in Multilateral Instrument 45-102 - Resale of Securities - are satisfied.

Applicable Ontario Statutory Provisions

Securities Act, R.S.O. 1990, c.S.5, as am., sections 25, 53 and 74(1)

Applicable Ontario Rules

Ontario Securities Commission Rule 45-501 - Exempt Distributions - section 2.8

Applicable Instruments

Multilateral Instrument 45-102 - Resale of Securities - section 2.6

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

AND

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

AND

**IN THE MATTER OF
CONTRANS INCOME FUND, CONTRANS CORP., CONTRANS HOLDING
COMPANY CORP., CONTRANS OPERATING TRUST
AND CONTRANS HOLDING LIMITED PARTNERSHIP**

MRRS DECISION DOCUMENT

WHEREAS the local securities regulatory authority or regulator (the "Decision Maker") in each of Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland and Labrador, the Northwest Territories, Nova Scotia, Nunavut, Ontario, Prince Edward Island, Saskatchewan and the Yukon Territory (the "Jurisdictions") has received an application from Contrans Income Fund (the "Fund"), Contrans Corp. ("Contrans" or the "Company"), Contrans Holding Company Corp. ("Newco"), Contrans Operating Trust (the "Operating Trust") and Contrans Holding Limited Partnership (the "Partnership") (collectively, the "Applicants") for a decision under the securities legislation of the Jurisdictions (the "Legislation") that the requirements under the Legislation to be registered to trade in a security (the "Registration Requirement") and to file and obtain a receipt for a preliminary prospectus and a prospectus (the "Prospectus Requirement") shall not apply to certain trades and distributions of securities to be made in connection with the acquisition of all of the issued and outstanding Class A subordinate voting shares (the "Subordinate Voting Shares") and Class B multiple voting shares (the "Multiple Voting Shares") of the Company pursuant to a plan of arrangement (the "Plan of Arrangement") under section 182 of the *Business Corporations Act* (Ontario) (the "OBCA") involving the Company and its shareholders (the "Transaction");

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

AND WHEREAS the Applicants have represented to the Decision Makers that:

1. the Fund is an unincorporated open-ended limited purpose trust established under the laws of the Province of Ontario pursuant to a declaration of trust dated as of April 16, 2002. The Fund was created for the purpose of acquiring and holding certain investments. The head and principal offices of the Fund are located at 1179 Ridgeway Road, Woodstock, Ontario N4S 8P6;
2. on June 14, 2002, the Fund filed a preliminary prospectus in each of the Jurisdictions in connection with an initial public offering of subordinate voting trust units (the "Subordinate Voting Trust Units"). The Fund will file a (final) prospectus in each of the Jurisdictions prior to closing of the Transaction. Upon receipt of the MRRS decision document with respect to such (final) prospectus, the Fund will become a reporting issuer or the equivalent in each of the Jurisdictions;
3. the Fund was established with nominal capitalization and currently has only nominal assets and no liabilities. The only activity currently anticipated to be carried on by the Fund will be the holding of units (the "Operating Trust Units") and notes (the "Operating Trust Notes") of the Operating Trust;
4. the Fund is authorized to issue an unlimited number of Subordinate Voting Trust Units, an unlimited number of series A subordinate voting rights (the "Subordinate Voting Rights") and a limited number of series B multiple voting rights (the "Multiple Voting Rights"). As of the close of business on June 21, 2002, one Subordinate Voting Trust Unit and no Subordinate Voting Rights or Multiple Voting Rights (together, the "Special Voting Rights") were issued and outstanding;
5. in connection with the Transaction, the Fund will indirectly issue Subordinate Voting Trust Units to shareholders of the Company (the "Shareholders") (other than Shareholders electing to receive Partnership Units). Subordinate Voting Trust Units are redeemable at any time on demand by the holders thereof (the "Unitholders"). In certain instances, such a redemption may be paid and satisfied by way of a distribution in *specie* of a pro rata number of securities of the Operating Trust held by the Fund and a pro rata share of any other assets after taking into account all liabilities of the Fund;
6. it is anticipated that the redemption right described above will not be the primary mechanism for holders of Subordinate Voting Trust Units to dispose of their Subordinate Voting Trust Units. Securities of the Operating Trust will not be listed on any stock exchange;

7. the Fund has received conditional approval from the Toronto Stock Exchange (the "TSX") for the listing on the TSX of the Subordinate Voting Trust Units issuable in connection with the Transaction subject to, among other things, completion of the Transaction. The Subordinate Voting Trust Units issued pursuant to the Transaction or issuable from time to time in exchange for units of the Partnership issued pursuant to the Transaction will also be listed on the TSX, subject to receipt of final approval from the TSX;
8. the Operating Trust is an unincorporated open-ended trust established under the laws of the Province of Ontario pursuant to a declaration of trust dated as of April 16, 2002. The head and principal offices of the Operating Trust are located at 1179 Ridgeway Road, Woodstock, Ontario N4S 8P6. The beneficial interests in the Operating Trust constitute a single class of units described and designated as Operating Trust Units. The initial holder of the Operating Trust Units is the Fund. The Operating Trust was formed to serve as the conduit through which investment and initial business purposes of the Fund will be carried out;
9. the Operating Trust will, from time to time, have debt obligations outstanding to the Fund. The debt will be evidenced by Operating Trust Notes issued under a note indenture. The Fund will be the initial holder of the Operating Trust Notes, and entitled to the payments and rights of an unsecured creditor;
10. the Operating Trust is not a reporting issuer (or equivalent) in any of the Jurisdictions;
11. the Company was incorporated under the OBCA on July 23, 1982. The Company operates in the transportation industry, principally in the truckload market as a provider of freight transportation services. The head and principal offices of the Company are located at 1179 Ridgeway Road, Woodstock, Ontario N4S 8P6;
12. the authorized capital of the Company consists of an unlimited number of Subordinate Voting Shares, an unlimited number of Multiple Voting Shares and an unlimited number of preference shares, issuable in series of which, as at June 21, 2002, 4,070,068 Subordinate Voting Shares, 366,931 Multiple Voting Shares and no preferred shares were outstanding. Each Subordinate Voting Share entitles the holder thereof to one vote at all meetings of Shareholders and each Multiple Voting Share entitles the holder thereof to ten votes at all meetings of Shareholders;

13. the Subordinate Voting Shares are presently listed on the TSX and the Company is a reporting issuer (or the equivalent) in each of the Jurisdictions. Following the effective date of the Transaction, the Subordinate Voting Shares will be delisted from the TSX and the Company will apply to cease to be a reporting issuer, where applicable;
14. Newco was incorporated under the OBCA for the purpose of participating in the Transaction. The authorized capital of Newco consists of an unlimited number of common shares (the "Newco Common Shares"). The head and principal offices of Newco are located at 1179 Ridgeway Road, Woodstock, Ontario N4S 8P6;
15. Newco Common Shares and notes of Newco ("Newco Notes") will be issued to holders of Subordinate Voting Shares and Multiple Voting Shares (together, "Contrans Shares") who elect to receive Subordinate Voting Trust Units pursuant to the Transaction. Such Newco Common Shares and Newco Notes will be subsequently (but within the Arrangement) transferred by the holders to the Fund in exchange for Subordinate Voting Trust Units and subsequently sold by the Fund to the Operating Trust in exchange for Operating Trust Units and Operating Trust Notes;
16. subsequent to the steps described above and as part of the Plan of Arrangement, Newco and Contrans will amalgamate to form Contrans Corp. ("New Contrans");
17. New Contrans will be formed by way of articles of amalgamation pursuant to the laws of the Province of Ontario upon the amalgamation of Contrans and Newco. New Contrans will be a holding company and will own Class C limited partnership units of the Partnership (the "Class C LP Units") and notes of the Partnership. New Contrans will also be the administrator of the Fund and the Operating Trust and manager of the Partnership and various limited partnerships formed, or to be formed, in connection with the Arrangement as the Operating Entities;
18. New Contrans will be authorized to issue an unlimited number of common shares ("New Contrans Common Shares"), an unlimited number of Class A special shares ("New Contrans Series A Special Shares") and an unlimited number of Class B special shares ("New Contrans Series B Special Shares") (collectively, the "New Contrans Special Shares"). Upon completion of the Plan of Arrangement, the issued and outstanding securities of New Contrans will consist of New Contrans Common Shares, notes of New Contrans (the "New Contrans Notes") and the New Contrans Special Shares. New Contrans will issue New Contrans Common Shares and New Contrans Notes to the Operating Trust in an amount equal to that number of Special Voting Rights issued by the Fund to the holders of Partnership Units. The New Contrans Special Shares will be held by the Partnership;

19. the Partnership is to be a limited partnership formed under the laws of the Province of Ontario. The general partner will be Contrans Holding GP Inc., which will be a wholly-owned subsidiary of New Contrans. The head and principal offices of the Partnership are located at 1179 Ridgeway Road, Woodstock, Ontario N4S 8P6;
20. the Partnership will be authorized to issue three classes of partnership interests, Class A limited partnership units ("Class A LP Units"), Class B limited partnership units ("Class B LP Units") and Class C LP Units. Upon completion of the Transaction, all issued and outstanding Class C LP Units will be held by New Contrans and all Class A LP Units and Class B LP Units (together, "Partnership Units") will be held by former holders of Contrans Shares who have elected to exchange such shares for Class A LP Units and Class B LP Units;
21. the Partnership is not a reporting issuer (or its equivalent) in any of the Jurisdictions;
22. the Transaction will be effected by way of the Plan of Arrangement, which requires (i) Shareholder approval (which approval was obtained at a special meeting of Shareholders held on May 21, 2002 (the "Meeting")), and (ii) the final approval of the Ontario Superior Court of Justice (the application in respect of which was heard on July 5, 2002);
23. the management information circular (the "Circular") delivered to Shareholders in connection with the Meeting has been prepared in conformity with the provisions of the OBCA, applicable securities laws and an interim order of the Court and contains prospectus-level disclosure of the business and affairs of the Fund, the Company and the Partnership and a detailed description of the Transaction and the Plan of Arrangement and was mailed to shareholders in connection with the Meeting on April 16, 2002;
24. on the Plan of Arrangement becoming effective, in accordance with elections made or deemed to be made by holders of Contrans Shares, the outstanding Contrans Shares will be indirectly (after giving effect to various steps of the Transaction which are to occur in immediate succession) exchanged for Partnership Units (and related Special Voting Rights), Subordinate Voting Trust Units or a combination of the foregoing;
25. the rights, privileges, restrictions and conditions attaching to the Partnership Units under the limited partnership agreement (the "Limited Partnership Agreement") governing the Partnership, together with the Exchange Agreements and the Investment Exchange Agreement described below, will provide holders thereof with a security having economic rights which are, as nearly as practicable, equivalent to those of Subordinate Voting Trust Units. This alternative has been provided in order to give holders of Contrans Shares who are residents of

Canada the opportunity to pursue certain tax efficiencies with respect to the exchange of their Contrans Shares. The Partnership Units will be exchangeable by a holder thereof for Subordinate Voting Trust Units on a one-for-one basis at any time at the option of such holder and will be required to be exchanged upon the occurrence of certain events;

26. the Limited Partnership Agreement will provide that the Partnership Units will be non-voting (except as required by the Limited Partnership Agreement or by applicable law) and each Partnership Unit will entitle the holder to distributions from the Partnership payable at the same time as, and equivalent to, each distribution paid by the Fund on a Subordinate Voting Trust Unit. On the liquidation, dissolution or winding-up of the Partnership, a holder of Partnership Units will be entitled to receive from the Partnership an amount equal to all declared and unpaid distributions on each such Partnership Unit held by the holder on any distribution record date prior to the date of liquidation, dissolution or winding-up and will be entitled to a return of his or her capital contribution upon the dissolution, wind-up or liquidation of the Partnership on a *pro rata* basis from the assets of the Partnership. Partnership Units may only be transferred in certain limited circumstances;
27. the Limited Partnership Agreement will further provide that upon certain actions, such as distributions of stock dividends, options, rights or warrants for the purchase of securities or other assets, subdivisions, reclassifications, reorganizations and other changes, being taken in respect of the Subordinate Voting Trust Units generally, the same or an economically equivalent action will be taken by the Partnership in respect of the Partnership Units. Pursuant to the Exchange Agreements (as hereinafter defined), the Fund has agreed that, to the extent further Class A LP Units are issued, it will issue a corresponding number of Subordinate Voting Rights to the holders thereof;
28. pursuant to the Plan of Arrangement, each of the holders of Class A LP Units will receive one Subordinate Voting Right for each Class A LP Unit and each of the holders of Class B LP Units will receive one Multiple Voting Right for each Class B LP Unit. Each Subordinate Voting Right will entitle the holder thereof to one vote at meetings of Unitholders and each Multiple Voting Right will entitle the holder thereof to ten votes at meetings of Unitholders. Special Voting Rights will have none of the other rights attached to Subordinate Voting Trust Units. The Special Voting Rights to be issued to the holders of Partnership Units may be transferred together with the associated Partnership Units only in certain circumstances, will be evidenced only by the certificates representing such Partnership Units and will be automatically redeemed for nominal consideration and cancelled upon the exchange of Partnership Units for Subordinate Voting Trust Units on a voluntary basis as well as upon the occurrence of certain other events giving rise to a Compulsory Exchange (as hereinafter defined), as described in the Circular;

29. certain exchange rights will be granted by the Fund and the Operating Trust to the holders of Partnership Units and by the holders of Partnership Units to the Operating Trust pursuant to an agreement (the "Exchange Agreement") to be entered into by the Operating Trust and each holder of Partnership Units contemporaneously with the closing of the Transaction. Under each Exchange Agreement, the Operating Trust will grant to the holders of the Partnership Units an exchange right (an "Exchange Right"), exercisable at any time, to require the Operating Trust to exchange all or any part of a holder's Partnership Units for Subordinate Voting Trust Units on the basis of one Subordinate Voting Trust Unit for each Partnership Unit exchanged. In addition, each Special Voting Right attached to the Partnership Units being exchanged by a holder will be automatically redeemed by the Operating Trust for nominal consideration and cancelled;
30. under the Exchange Agreements, the Operating Trust may force the exchange (a "Compulsory Exchange") of Partnership Units for Subordinate Voting Trust Units in certain circumstances, as described in the Circular. Upon the Operating Trust effecting a Compulsory Exchange, a holder of Partnership Units will be entitled to receive from the Operating Trust Subordinate Voting Trust Units on the basis of one Subordinate Voting Trust Unit for each Partnership Unit exchanged. In addition, each Special Voting Right attached to the Partnership Units being exchanged by the Operating Trust will be automatically redeemed for nominal consideration and cancelled;
31. in the event that the Operating Trust is unable for any reason to exchange Partnership Units for Subordinate Voting Trust Units in connection with the exercise of an Exchange Right or a Compulsory Exchange, the holders of Partnership Units may be permitted to deal directly with the Fund in order to effect such exchange;
32. contemporaneously with the closing of the Transaction, the Fund and the Operating Trust will enter into an agreement (the "Investment Exchange Agreement") which will provide that the Fund will purchase certain securities of the Operating Trust in exchange for Subordinate Voting Trust Units in sufficient numbers to allow the Operating Trust to meet its obligations, from time to time, in respect of the Exchange Right and the Compulsory Exchange under the Exchange Agreements;
33. the steps under the Transaction and the attributes of the Partnership Units contained in the Limited Partnership Agreement, the Exchange Agreement and the Investment Exchange Agreement involve or may involve a number of trades of securities, including the trades noted below (collectively the "Trades") and there may be no registration or prospectus exemptions available under the Legislation for certain of the Trades:

Trades in connection with the initial issuance of Subordinate Voting Trust Units

- (a) the issuance of Newco Common Shares and Newco Notes by Newco to Shareholders and the transfer of Contrans Shares by Shareholders to Newco in exchange;
- (b) the issuance of Subordinate Voting Trust Units by the Fund to holders of Newco Common Shares and Newco Notes and the transfer of Newco Common Shares and Newco Notes by holders to the Fund in exchange;
- (c) the sale of Newco Common Shares and Newco Notes by the Fund to the Operating Trust and the issuance of Operating Trust Units and Operating Trust Notes by the Operating Trust to the Fund as consideration;

Trades in connection with the amalgamation of Contrans and Newco

- (d) the issuance of New Contrans Common Shares and New Contrans Notes by New Contrans to the Operating Trust and the transfer of Newco Common Shares and Newco Notes by the Operating Trust in exchange;
- (e) the issuance of New Contrans Series A Special Shares by New Contrans to holders of Subordinate Voting Shares (or shareholders of an eligible holding company holding Subordinate Voting Shares) and the transfer of Subordinate Voting Shares (or shares of an eligible holding company) by Shareholders in exchange;
- (f) the issuance of New Contrans Series B Special Shares by New Contrans to holders of Multiple Voting Shares (or shareholders of an eligible holding company holding Multiple Voting Shares) and the transfer of Multiple Voting Shares (or shares of an eligible holding company) by Shareholders in exchange;

Trades in connection with the issuance of Partnership Units and associated Special Voting Rights

- (g) the issuance of Class A LP Units, or a combination of Class A LP Units and exchange notes, which exchange notes are immediately and automatically exchanged for Subordinate Voting Trust Units, by the Partnership to holders of New Contrans Series A Special Shares (or shareholders of an eligible holding company holding New Contrans Series A Special Shares) and the transfer of New Contrans Series A Special Shares (or shares of an eligible Holding Company) by holders in exchange;

- (h) the issuance of Class B LP Units, or a combination of Class B LP Units and exchange notes, which exchange notes are immediately and automatically exchanged for Subordinate Voting Trust Units, by the Partnership to holders of New Contrans Series B Special Shares (or shareholders of an eligible holding company holding New Contrans Series B Special Shares) and the transfer of New Contrans Series B Special Shares (or shares of an eligible holding company) by holders in exchange;
- (i) the issuance of Subordinate Voting Rights by the Fund to holders of Class A LP Units;
- (j) the issuance of Multiple Voting Rights by the Fund to holders of Class B LP Units;
- (k) the issuance of New Contrans Common Shares by New Contrans to the Operating Trust for each Subordinate Voting Right and Multiple Voting Right issued by the Fund;

Trades in connection with the Exchange Agreements and Investment Exchange Agreement

- (l) the grant by the Operating Trust to the holders of Partnership Units, pursuant to the Exchange Agreements, of the Exchange Right;
- (m) the creation of the right to effect a Compulsory Exchange in favour of the Operating Trust;
- (n) the issuance and intra-group transfers of Subordinate Voting Trust Units and related issuances of securities of the Operating Trust in consideration therefor, all by and between the Fund and the Operating Trust, from time to time to enable the Operating Trust to deliver Subordinate Voting Trust Units to a holder of Partnership Units upon the exchange of Partnership Units pursuant to the Exchange Right or the Compulsory Exchange (i.e., the Fund will issue and contribute Subordinate Voting Trust Units to the Operating Trust and in consideration therefor, the Operating Trust will issue securities of the Operating Trust to the Fund; the Operating Trust will then have Subordinate Voting Trust Units to deliver to holders of Partnership Units upon exercise of the Exchange Right or Compulsory Exchange);
- (o) the transfer of Subordinate Voting Trust Units by the Operating Trust to the holders of Partnership Units upon the exercise of the Exchange Right or the Compulsory Exchange;

- (p) the transfer of Partnership Units by the holder to the Operating Trust upon the exchange of Partnership Units pursuant to the Exchange Right or the Compulsory Exchange;
- (q) the redemption, from time to time, of Partnership Units by the Partnership in the event that the Operating Trust is unable to acquire Partnership Units upon exercise of the Exchange Right or the Compulsory Exchange;
- (r) the issuance of Subordinate Voting Trust Units by the Fund, from time to time, in connection with the redemption of Partnership Units by the Partnership, and the subsequent delivery thereof by the Fund upon such exercise of the redemption right;
- (s) the redemption, from time to time, of Special Voting Rights of the Fund upon the exchange of the associated Partnership Units;
- (t) the exchange, from time to time, of Multiple Voting Rights for Subordinate Voting Rights in certain circumstances; and

Post-Transaction Trades

- (u) the distribution by the Fund, from time to time, to the holders of Partnership Units of Subordinate Voting Rights upon the issuance of further Class A LP Units to such holders in order to maintain the equivalency of the Partnership Units to the Subordinate Voting Trust Units.
34. in addition, there are trades in connection with the redemption of Subordinate Voting Trust Units (the "Redemption Trades") for which there are no prospectus exemptions available under the legislation, being:
- (a) the redemption, from time to time, of Subordinate Voting Trust Units by the Fund upon a request by a holder; and
 - (b) the distribution by the Fund, from time to time, to the former holders of Subordinate Voting Trust Units redeemed by the Fund as a distribution *in specie* of Operating Trust Notes.

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:

1. the Registration Requirement and the Prospectus Requirement shall not apply to the Trades or the Redemption Trades provided that the first trade in Subordinate Voting Trust Units, Partnership Units and Operating Trust Notes acquired under this Decision shall be deemed to be a distribution or primary distribution to the public; and
2. the Prospectus Requirement shall not apply to the first trade of Subordinate Voting Trust Units acquired under this Decision provided that the conditions in subsections (3) or (4) of section 2.6 of Multilateral Instrument 45-102 Resale of Securities ("MI 45-102") are satisfied, except that for the purposes of determining the period of time that the Fund has been a reporting issuer under section 2.6 of MI 45-102, the period of time that the Company was a reporting issuer in at least one of the jurisdictions listed in Appendix B of MI 45-102 immediately before the Transaction may be included.

DATED July 19, 2002

“ Paul M. Moore”

“Harold P. Hands”

