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March 20, 2012

Headnote

Multilateral Instrument 11-102 *Passport System* and National Policy 11-203
Process for Exemptive Relief Applications in Multiple Jurisdictions

Multilateral Instrument 62-104, Part 6 *Issuer Bids* - Exemption from the formal Issuer Bid requirements - Issuer Bid - General - An issuer requires an exemption from all issuer bid requirements in order to purchase its common shares under an odd-lot purchase program - The issuer will only offer the program to shareholders holding less than 100 common shares; all odd-lot holders will be given the same information and will be treated identically; if successful, the repurchase program will reduce the administrative burden on the issuer; the repurchase price will be determined by a formula based on the market price for the shares

1996 Securities Act s. 169 - *Confidentiality* - An applicant wants to keep an application and order confidential for a limited amount of time after the order is granted - The record provides intimate financial, personal or other information - The disclosure of the information before a specific transaction would be detrimental to the person affected - The information will be made available after a specific date

Applicable Legislative Provisions

Multilateral Instrument 62-104, Part 6 *Issuer Bids* - Exemption from the formal Issuer Bid requirements

1996 Securities Act s. 169 - Confidentiality

In the Matter of
the Securities Legislation of
British Columbia and Ontario
(the Jurisdictions)

and

In the Matter of
the Process for Exemptive Relief Applications in Multiple Jurisdictions

and

In the Matter of
MFC Industrial Ltd.

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(the Filer)

Decision

Background

- ¶ 1 The securities regulatory authority or regulator in each of the Jurisdictions (Decision Maker) has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the Legislation) that:
- (a) the requirements in the Legislation relating to issuer bids (the issuer bid requirements) do not apply to the Filer's offer to purchase common shares of the Filer (Common Shares) from shareholders of the Company (Shareholders) who own fewer than 100 Common Shares (the Odd-Lot Holders) of the Filer pursuant to an odd-lot repurchase program (Issuer Bid Relief); and
 - (b) the application and this decision be held in confidence by the Decision Makers (the Confidentiality Relief).

Under the Process for Exemptive Relief Applications in Multiple Jurisdictions (for a dual application):

- (a) the British Columbia Securities Commission is the principal regulator for this application;
- (b) the Filer has provided notice that Subsection 4.7(1) of Multilateral Instrument 11-102 *Passport System* (MI 11-102) is intended to be relied upon in Alberta, Saskatchewan, Manitoba, Québec, New Brunswick, Nova Scotia, Prince Edward Island, Newfoundland and Labrador, Yukon, Northwest Territories and Nunavut; and
- (c) the decision is the decision of the principal regulator and evidences the decision of the securities regulatory authority or regulator in Ontario.

Interpretation

- ¶ 2 Terms defined in National Instrument 14-101 *Definitions* and MI 11-102 have the same meaning if used in this decision, unless otherwise defined.

Representations

- ¶ 3 This decision is based on the following facts represented by the Filer:
- 1. the Filer exists under the laws of British Columbia and has a head office located in Vancouver, British Columbia;

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2. the Filer is a reporting issuer in British Columbia, Alberta and Québec; the Filer is not in default of securities legislation in any jurisdiction;
3. the Filer's Common Shares are listed on the New York Stock Exchange (the NYSE) under the symbol "MIL"; the Filer's Common Shares are not listed on any exchange in Canada;
4. the Filer's authorized capital consists of an unlimited number of Common Shares, class A common shares and class A preference shares, issuable in series; on February 7, 2012, the Filer had 62,561,421 Common Shares issued and outstanding;
5. on January 13, 2012, registered and unregistered holders of Common Shares resident in Canada held approximately 1,390,096 Common Shares, representing approximately 2.22% of the Filer's total issued and outstanding Common Shares;
6. on January 13, 2012, the Filer had approximately 5,699 registered and unregistered Odd-Lot Holders holding an aggregate of 162,247 Common Shares representing approximate 0.3% of the Filer's total issued and outstanding Common Shares;
7. the Filer intends to offer to purchase and cancel all of the Common Shares held by the Odd-Lot Holders, including those holding such Common Shares in registered and unregistered form (the Program); the Program would be conducted through the Filer's registrar and transfer agent; the Program would be commenced by the Filer through issuing a press release, which would include the relevant details of the Program;
8. after announcing the Program, the Filer would send to both registered and unregistered Odd-Lot Holders an information package consisting of a letter providing details of the Program and a letter of transmittal/response card to be completed by the Odd-Lot Holders that wish to tender their Common Shares to the Filer under the Program;
9. the Filer would offer the Program for a six week period, during which period both registered and unregistered Odd-Lot Holders would be able to notify the Filer through its transfer agent if they wish to participate in the Program; the Filer may extend the Program for an additional six week period, on the same terms, if the board of directors of the Filer determines that to do so would be in the best interests of the Filer;

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10. Odd-Lot Holders resident in Canada will be treated identically to other Odd-Lot Holders;
11. the Program would be conducted in accordance with U.S. securities laws and the policies of the NYSE; the Filer has advised the NYSE of its intention of conducting the Program and the terms of the Program and the NYSE has not objected to the Program;
12. the Filer believes the Program would be beneficial to the Odd-Lot Holders as it is a voluntary program allowing Shareholders holding less than 100 Common Shares to dispose of such shares without incurring prohibitive brokerage and other fees;
13. the Filer believes that, if the Program is successful, both the Company and all of its securityholders would benefit from the potential cost-savings respecting annual mailings and other securityholder communications as a result of a reduced number of Shareholders;
14. under the Program, the Filer would offer Odd-Lot Holders an amount equal to the weighted average closing price of the Common Shares on the NYSE for the week prior to the week of receipt of Common Shares by the Filer under the Program; as such, no premium will be paid to Odd-Lot Holders who tender their Common Shares pursuant to the Program;
15. under Rule 13e-4(h)(5) of the *United States Securities Exchange Act of 1934*, the Program would be exempt from the “tender offer” rules in the United States; there is no similar applicable exemption from the formal issuer bid requirement in Canada; and
16. as the Common Shares are traded in the United States, the Company cannot obtain the information necessary to ascertain whether it can rely on the de minimus exemption from the formal issuer bid requirements contained in the Legislation.

Decision

- ¶ 4 Each of the Decision Makers is satisfied that the decision meets the test set out in the Legislation for the Decision Maker to make the decision.

The decision of the Decision Makers under the Legislation is that:

- (a) the Issuer Bid Relief is granted; and
- (b) the Confidentiality Relief is granted until the earlier of:

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- (i) the date on which the Filer publicly files a press release announcing the details of the Program;
- (ii) the date the Filer advises the principal regulator that there is no longer any need for the application and this decision to remain confidential;
and
- (iii) the date that is 60 days from the date of this decision.

Martin Eady, CA
Director, Corporate Finance
British Columbia Securities Commission