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Headnote

Mutual Reliance Review System for Exemptive Relief Application – relief from issuer bid requirements in connection with a proposed purchase of preference shares – the transaction originally structured as a conversion of preference shares to common shares, which would have been an exempt issuer bid – due to tax considerations, the preference shares were purchased on the same terms as the conversion – all of the preference shareholders are sophisticated investors and each agreed that receipt of issuer bid materials and compliance with the issuer bid requirements would be of no benefit to them – relief also granted to provide that, in British Columbia, the prospectus requirement shall not apply to first trade of common shares acquired under the transaction provided that the conditions in subsections (3) or (4) of MI 45-102 are satisfied

Applicable British Columbia Provisions

Securities Act, R.S.B.C. 1996, c. 418, s. 114(2)(c)

IN THE MATTER OF THE SECURITIES LEGISLATION OF ONTARIO AND BRITISH COLUMBIA

AND

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

AND

IN THE MATTER OF YAMANA RESOURCES INC.

AND

IN THE MATTER OF MINERA YAMANA INC.

MRRS DECISION DOCUMENT

WHEREAS the local securities regulatory authority or regulator (the “Decision Maker”) in each of Ontario and British Columbia (the “Jurisdictions”) has received an application (the “Application”) from Yamana Resources Inc. (“Yamana”) and Minera Yamana Inc. (“Minera” and, together with Yamana, the “Applicants”) for a decision under the securities legislation of the Jurisdictions (the “Legislation”) that, in connection with a proposed indirect issuer bid by Yamana, the Applicants be exempted from the provisions of the Legislation relating to delivery of an offer and issuer bid circular and any notices of change or variation thereto, minimum deposit periods and withdrawal rights, take-up of and

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payment for securities tendered to an issuer bid, disclosure, restrictions upon purchases of securities, identical consideration and collateral benefits (collectively, the “Issuer Bid Requirements”) and that the requirements contained in the British Columbia Legislation to file and obtain a receipt for a preliminary prospectus and a prospectus (the “Prospectus Requirement”) shall not apply to first trades of such securities by the holders thereof (the “First Trades”);

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

AND WHEREAS, unless otherwise defined, the terms herein have the meaning set out in National Instrument 14-101 Definitions or in Quebec Commission Notice 14-101;

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

1. Formerly Wiscan Resources Inc., Yamana was incorporated under the *Canada Business Corporations Act* on February 7, 1995. Its head office is located in Toronto, Ontario.
2. The authorized capital of Yamana consists of an unlimited number of Common Shares (the “Common Shares”) and 8,000,000 First Preference Shares, Series 1 (the “Preference Shares”). As at March 27, 2003, 81,286,553 Common Shares and 6,760,000 Preference Shares were issued and outstanding.
3. Yamana is a reporting issuer or the equivalent under the securities legislation of every province of Canada (the “National Legislation”) and is not in default of the National Legislation. The Common Shares are listed on the Toronto Stock Exchange (“TSX”). The Preference Shares are not listed on any stock exchange.
4. Minera was incorporated under the Ontario *Business Corporations Act* on March 17, 1994. Its head office is located in Toronto, Ontario.
5. The authorized capital of Minera consists of 100,000,000 Common Shares, of which 9,714,736 were issued and outstanding as at March 27, 2003, all of which are held by Yamana.
6. Minera is not a reporting issuer or the equivalent under the National Legislation.

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7. The Preference Shares were originally issued in February 2001, to sophisticated purchasers in Canada pursuant to exemptions from the requirements contained in the Legislation to be registered to trade (the “Registration Requirements”) and the Prospectus Requirements of the Legislation, as well as to accredited investors pursuant to registration exemptions in the United States and to investors abroad. Each Preference Share was issued together with one share purchase warrant entitling the holder thereof to purchase one Common Share at a price of US\$0.15 expiring on February 9, 2004 (a “Warrant”).
8. There are a total of 25 holders of the Preference Shares (“Preference Shareholders”), all of whom deal with Yamana on an arm’s length basis. Of such holders, one resides in British Columbia and one resides in London, England but holds his Preference Shares in an account with an address located in Ontario (collectively, the “Canadian Holders”). The Canadian Holders own an aggregate of approximately 11.5% of the issued and outstanding Preference Shares. Each of the Canadian Holders qualifies as an accredited investor under the relevant Legislation.
9. Pursuant to the rights and restrictions attached to the Preference Shares, such shares:
 - (a) are non-voting;
 - (b) bear cumulative dividends at the rate of US\$0.0375 per share per annum as and when declared by the Directors out of “Available Cash Flow” as defined in the rights and restrictions and payable at the option of the holder in Common Shares;
 - (c) are redeemable at the option of Yamana at a price of US\$0.125 per share together with unpaid cumulative dividends, and they are mandatorily redeemable if Available Cash Flow exceeds the aggregate amount of dividends required to be declared, such that one-third of such excess shall be allocated to such mandatory redemption on a pro rata basis;
 - (d) are convertible at the option of the holder into Common Shares at a prescribed ratio, presently one Common Share for each Preference Share; and
 - (e) may be purchased for cancellation at the lowest price at which, in the opinion of the Directors, such shares are obtainable but not exceeding US\$0.125 per share plus all unpaid cumulative dividends.

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10. In the summer of 2002, Yamana proposed an alteration to its capital providing for the immediate conversion of the Preference Shares to Common Shares at an improved conversion ratio per Preference Share of 1.28205 Common Shares plus one Common Share for each US\$.0975 of accrued and unpaid dividends (the “Capital Alteration”). Concurrently, Yamana proposed to alter the terms of the Warrants by reducing their exercise price to US\$0.125 and extending their terms until December 31, 2004 (the “Warrant Amendment” and, together with the Capital Alteration, the “Proposed Conversion”). The Capital Alteration was approved by a written consent resolution signed by all the Preference Shareholders, and all of such holders also agreed to the Warrant Amendment in writing.
11. The Proposed Conversion was conditionally approved by the TSX on July 11, 2002.
12. Following such conditional approval, Yamana received advice from its Canadian tax advisor that the Preference Shareholders might receive improved tax treatment if, in lieu of the Proposed Conversion, Minera purchased the Preference Shares on the same terms. Therefore, in lieu of the Proposed Conversion, Yamana proposed a transaction (the “Proposed Purchase”) under which Minera would purchase the Preference Shares on the same terms as under the Proposed Conversion.
13. The Proposed Purchase is a non-exempt issuer bid under the Legislation and must therefore comply with the Issuer Bid Requirements.
14. The Proposed Conversion would have qualified as an exempt issuer bid, as the Preference Shares would have been acquired in accordance with terms and conditions attaching thereto. However, the Applicants cannot now rely on this exemption from the Issuer Bid Requirements because of the change in structure occasioned by tax considerations.
15. The Applicants cannot rely on the “de minimis” exemption from the Issuer Bid Requirements in the Legislation because although there is only one Canadian Holder in each Jurisdiction, each of them holds over 2% of the outstanding Preference Shares in the respective Jurisdiction.
16. In order to gain the concurrence of all Preference Shareholders, Yamana was required to negotiate different consideration with two non-Canadian Preference Shareholders as follows:
 - (a) one holder wishes to tender 50% of its Preference Shares pursuant to the terms of the Proposed Purchase and in exchange for the other 50%

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wishes to take a 2% net smelter return on a property in the Santa Cruz Province of Argentina; and

- (b) one holder wishes to tender its Preference Shares in exchange for a convertible promissory note, payable in cash on or before October 1, 2003 and bearing interest at 15% from October 1, 2002. The conversion price is US\$0.055 per share.

(the “Proposed Ancillary Purchase”)

17. The terms of the Proposed Purchase have been conveyed to the Preference Shareholders and, other than the Preference Shareholders referred to in paragraph 16 above, they have accepted the terms thereof. However, the Proposed Purchase and the Proposed Ancillary Purchase have not been carried out.
18. All Preference Shareholders have voluntarily agreed to sell their Preference Shares. The Canadian Holders are aware of the differential treatment being accorded to the two Preference Shareholders under the Proposed Ancillary Purchase referred to in paragraph 16 above.
19. Each of the Preference Shareholders has agreed that the receipt of issuer bid materials from Yamana would be of no assistance to it in assessing the proposed transaction and, accordingly, would result in unnecessary expense to Yamana and that compliance with the other Issuer Bid Requirements would similarly be of no benefit to them.
20. No further approval from the TSX is required in connection with the Proposed Purchase.
21. The issuance of Common Shares to the Preference Shareholders upon the sale of the Preference Shares to Minera will be effected in reliance on exemptions from the Registration Requirements and the Prospectus Requirement of the Legislation.
22. The Canadian Holders have been advised of the Application and do not object to it.
23. Yamana has filed an annual information form and fulfils its other continuous disclosure obligations pursuant to the National Legislation such that current information about the business and affairs of Yamana is in the public domain.

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24. As each Preference Shareholder is a sophisticated investor, he is able to assess the merits of the transaction without the need for protection from the Issuer Bid Requirements.

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 Proposed Purchase and the Proposed Ancillary Purchase are exempt from the Issuer Bid Requirements; and
2. in British Columbia, the Prospectus Requirement shall not apply to the first trade in Common Shares acquired pursuant to the Proposed Purchase and the Proposed Ancillary Purchase provided that the conditions in subsections (3) or (4) of section 2.6 of Multilateral Instrument 45-102 *Resale of Securities* are satisfied.

DATED this 4th day of April, 2003.

Paul M. Moore

Theresa McLeod