

# 2005 BCSECCOM 49

January 19, 2005

## **Headnote**

Mutual Reliance Review System for Exemptive Relief Applications - Securities Act s. 88 - The issuer became a reporting issuer by exchanging its securities with a BC reporting issuer or its shareholders as set out in the item (d) of the definition of “reporting issuer” in section 1(1) of the Securities Act and its securities are traded only through a market or exchange outside of Canada - On completion of the share exchange transaction, Canadian residents own less than 10% of the issuer's securities and represent less than 10% of the issuer's total number of security holders; the issuer does not intend to do a public offering of its securities to Canadian residents; the issuer is subject to the reporting requirements of Australian securities laws and all shareholders receive the same disclosure

## **Applicable British Columbia Provisions**

*Securities Act*, R.S.B.C. 1996, c. 418, s. 88

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

and

In the Matter of  
the Mutual Reliance Review System for Exemptive Relief Applications

and

In the Matter of Nord Pacific Limited (Nord) and Allied Gold Limited (Allied)  
(collectively, the Filers)

## **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 Filers for a decision under the securities legislation of the Jurisdictions (the Legislation) that:

### **Allied Reporting Issuer Relief**

1. In British Columbia, Alberta and Ontario, Allied is deemed to have ceased to be a reporting issuer (the Allied Requested Relief).

## 2005 BCSECCOM 49

### Nord Reporting Issuer Relief

2. In Alberta and Ontario, Nord is deemed to have ceased to be a reporting issuer (the Nord Requested Relief).

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 following facts represented by the Filers:

1. Nord was continued into the Province of New Brunswick, effective September 30, 1998 and is a reporting issuer in the provinces of Alberta and Ontario.
2. Effective December 27, 2004, Nord surrendered its reporting issuer status in the Province of British Columbia.
3. On September 20, 2004 Nord and Allied completed an arrangement whereby Allied became the sole shareholder of Nord in exchange for its shares issued to Nord security holders (the "Acquisition").
4. The principal office of Nord is located in Welshpool, Western Australia since the completion of the arrangement with Allied.
5. No securities of Nord are traded on a marketplace as defined in National Instrument 21-101 - Marketplace Operation.
6. Nord is authorized to issue an unlimited number of common shares (the "Common Shares") of which 37,172,346 Common Shares were issued and outstanding as of December 13, 2004.

## 2005 BCSECCOM 49

7. As of the date hereof, all of the issued and outstanding Common Shares are held by Allied such that Nord is 100% owned by Allied.
8. Other than the Common Shares, there are no other securities of Nord, including debt securities, outstanding.
9. Nord is currently subject to cease trade orders issued by the Ontario Securities Commission and Alberta Securities Commission on July 23, 2001 (as extended on August 3, 2001) and August 17, 2001, respectively, for failure to file financial statements.
10. Allied is a corporation incorporated on May 26, 2003 under the *Corporations Act 2001* (Western Australia).
11. The principal office of Allied is located in Welshpool, Western Australia.
12. Allied is the equivalent of a reporting issuer in Western Australia and its ordinary shares (the "Ordinary Shares") are listed on the Australian Stock Exchange ("ASX") under the symbol "ALD".
13. The authorized capital of Allied consists of an unlimited number of Ordinary Shares of which 64,745,178 Ordinary Shares were issued and outstanding as of November 25, 2004. (i.e. post arrangement).
14. There is no public market in Canada for the Ordinary Shares and no such public market is expected to develop.
15. Allied only became a reporting issuer in the provinces of Alberta, British Columbia and Ontario upon the completion of the arrangement with Nord on September 20, 2004.
16. Allied is not in default of any of its obligations under the Legislation as a reporting issuer.
17. Prior to the arrangement, Allied had no shareholders in Canada. Upon completion of the arrangement Allied entered Nord security holders on its books as holders of Allied Ordinary Shares against receipt of Nord share certificates. Based on searches by Allied of beneficial and registered security holders on November 25, 2004, of the 1,620 shareholders of Allied, the following is the shareholding in Canada:

## 2005 BCSECCOM 49

Province	Number of Registered and Beneficial Holders	Percentage of Total Holders	Number of Ordinary Shares held	Percentage of Ordinary Shares
Alberta	2	0.12%	6,600	0.01%
British Columbia	13	0.80%	1,315,900	2.00%
Ontario	7	0.43%	81,410	0.12%
Yukon	1	0.06%	300	0.00%
Quebec	1	0.06%	5,400	0.00%
Total	24	1.48%	1,409,610	2.17%

18. To the best of Allied's knowledge, the beneficial holders of Ordinary Shares resident in Canada hold approximately 2.17% of the issued and outstanding Ordinary Shares and represent less than 2% of the total number of holders of Ordinary Shares of Allied.
19. To the best of Allied's knowledge, other than the Ordinary Shares listed above, no securities of Allied, including debt securities are held by residents in Canada.
20. On completion of the arrangement Allied became a "foreign private issuer", as defined under the securities laws of the United States of America, subject as such to the securities laws of the United States of America.
21. Allied is a "SEC foreign issuer", as defined in National Instrument 71-102 - *Continuous Disclosure and Other Exemptions Relating to Foreign Issuers*.
22. Neither Allied nor Nord intends to make a public offering of securities to Canadian residents.
23. Allied is subject to the reporting requirements of the applicable securities legislation of Australia, the ASX and the Australian Securities and Investment Commission.

## 2005 BCSECCOM 49

24. Allied will continue to provide to its shareholders residents in Canada, the continuous disclosure documents required to be provided to the Allied shareholders resident in Australia under applicable Australian laws.
25. The only market for Allied securities is over the ASX in Australia.

### **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.

#### Allied Reporting Issuer Relief

1. The decision of the Decision Makers in British Columbia, Alberta and Ontario under the Legislation is that the Allied Requested Relief is granted.

#### Nord Reporting Issuer Relief

2. The further decision of the Decision Makers in Alberta and Ontario under the Legislation is that the Nord Requested Relief is granted.

Suresh Thakrar  
Commissioner  
Ontario Securities Commission

Robert W. Davis  
Commissioner  
Ontario Securities Commission