

2004 BCSECCOM 438

Headnote

Relief from registration and prospectus requirements to issue shares as consideration for the acquisition, by the issuer's wholly owned subsidiary, of a 100% interest in certain mineral properties – first trade subject to conditions

Exemption Order

MAG Silver Corp.

Sections 48 and 76 of the *Securities Act*, R.S.B.C. 1996, c. 418

Background

- ¶ 1 MAG Silver Corp. (MAG) applied for an exemption from the requirements to be registered to trade and to file and obtain receipts for a preliminary prospectus and prospectus in sections 34(1)(a) and 61 of the Act (the Registration and Prospectus Requirements) for certain intended trades.

Representations

- ¶ 2 MAG represents that:
1. it was incorporated in British Columbia on April 21, 1999;
 2. its authorized share capital consists of 1,000,000,000 common shares without par value, of which 24,429,150 common shares are issued and outstanding as at June 1, 2004;
 3. it is a reporting issuer under the Act and is not in default of any requirements of the Act or the *Securities Rules*, B.C. Reg. 194/97;
 4. its shares are listed for trading on the TSX Venture Exchange (the Exchange);
 5. it is the recorded owner of 99% of the issued and outstanding share capital of Minera Lagartos, S.A. de C.V. (Lagartos);

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6. the remaining 1% of Lagartos is owned by Dave Pearce, a director of MAG, in trust for MAG and, as a result, MAG is the beneficial owner of 100% of the issued and outstanding share capital of Lagartos;
7. Lagartos is a company incorporated under the laws of the Republic of Mexico and is not a reporting issuer under the Act;
8. MAG and Lagartos entered into an agreement dated December 14, 2003 (the Sierra de Ramirez Agreement) with Minera Rio Tinto, S.A. de C.V. (Tinto), under which Tinto granted to Lagartos an option to acquire a 100% interest in certain properties (the Sierra de Ramirez Property), subject to a 3% net smelter returns royalty;
9. as consideration for the option to earn an interest in the Sierra de Ramirez Property, MAG and Lagartos have agreed, among other things, that MAG will allot and issue to Tinto an aggregate of 20,000 common shares in the capital stock of MAG (the Sierra de Ramirez Shares) within five business days after the date the Sierra de Ramirez Agreement is accepted by the Exchange;
10. MAG and Lagartos entered into an agreement dated February 26, 2004 (the Adargas Agreement) with Minera Cascabel, S.A. de C.V. (Cascabel), under which Cascabel granted to Lagartos an option to acquire a 100% interest in certain properties (the Adargas Property), subject to a 2.5% net smelter returns royalty;
11. as consideration for the option to earn an interest in the Adargas Property, MAG and Lagartos have agreed, among other things, that MAG will allot and issue to Cascabel an aggregate of 75,000 common shares in the capital stock of MAG (the Adargas Shares) within five business days after the date the Adargas Agreement is accepted by the Exchange;
12. MAG and Lagartos entered into an agreement dated April 5, 2004 (the Cinco de Mayo Agreement) with Cascabel, under which Cascabel granted to Lagartos an option to acquire a 100% interest in certain properties (the Cinco de Mayo Property), subject to a 2.5% net smelter returns royalty;
13. as consideration for the option to earn an interest in the Cinco de Mayo Property, MAG and Lagartos have agreed, among other things, that MAG will allot and issue to Cascabel an aggregate of 75,000 common shares in the capital stock of MAG (the Cinco de Mayo Shares) within five business days after the date the Cinco de Mayo Agreement is accepted by the Exchange;

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14. the Exchange has provided conditional approval to the transactions contemplated by the Sierra de Ramirez Agreement, the Adargas Agreement and the Cinco de Mayo Agreement; and
15. the distribution of the Sierra de Ramirez Shares, the Adargas Shares and the Cinco de Mayo Shares by MAG would be exempt from the Registration and Prospectus Requirements under sections 45(2)(21) and 74(2)(18) of the Act if MAG, rather than Lagartos, was acquiring the Sierra de Ramirez, Adargas and Cinco de Mayo Properties;

Order

¶ 3 Because it is not prejudicial to the public interest, the Executive Director orders:

1. under sections 48 and 76 of the Act, MAG is exempt from the Registration and Prospectus Requirements for trades of the:
 - (a) Sierra de Ramirez Shares to Tinto under the Sierra de Ramirez Agreement;
 - (b) Adargas Shares to Cascabel under the Adargas Agreement; and
 - (c) Cinco de Mayo Shares to Cascabel under the Cinco de Mayo Agreement,provided that MAG files a Form 45-103F4 and pays the required fee within 10 days of distributing the Sierra de Ramirez Shares, the Adargas Shares and the Cinco de Mayo Shares or any portion thereof; and
2. under section 76 of the Act, any trade in the Sierra de Ramirez Shares, the Adargas Shares or the Cinco de Mayo Shares issued under this Order is deemed a distribution unless the conditions in subsection (2) of section 2.5 of Multilateral Instrument 45-102 *Resale of Securities* are satisfied.

¶ 4 July 26, 2004

Brenda Leong
Director