

2012 BCSECCOM 451

August 27, 2010

Headnote

Multilateral Instrument 11-102 *Passport System* and National Policy 11-203 *Process for Exemptive Relief Applications in Multiple Jurisdictions* - National Instrument 52-107, s. 9.1 *Acceptable Accounting Principles, Auditing Standards and Reporting Currency* (IFRS Early Adoption Exemption) - An issuer wants relief from the requirement to prepare its financial statements in accordance with Canadian GAAP in order to use IFRS before the January 1, 2011 changeover date - The issuer has assessed the readiness of its staff, board, audit committee, auditors and investors; the issuer will provide detailed disclosure regarding its early adoption of IFRS as set out in CSA Staff Notice 52-320 in a news release or in restated and re-filed MD&A for its most recent interim period to be disseminated or re-filed within seven days of the decision; the Qualifying Transaction is a reverse acquisition and the issuer's accounting will be a continuation of the target's accounting which has been IFRS since inception

National Instrument 51-102, s. 13.1 *Continuous Disclosure Obligations* (Post-RTO Filing Exemption) - An issuer wants relief from the requirement to file audited annual financial statements for a particular period in connection with a reverse takeover transaction - The issuer has completed a reverse takeover; the target did not have any material operating expenses during its third most recently completed financial year; the target has prepared its financial statements in accordance with IFRS since its inception; the issuer will file alternative audited financial statements prepared in accordance with IFRS for the most recently completed two financial years with a note explaining that there were no material operating activities during its third most recently completed financial year

Applicable British Columbia Provisions

National Instrument 52-107, s.9.1 *Acceptable Accounting Principles, Auditing Standards and Reporting Currency*

National Instrument 51-102, s. 13.1 *Continuous Disclosure Obligations*

In the Matter of
the Securities Legislation of
British Columbia
(the Jurisdiction)

and

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

and

In the Matter of
Conifex Timber Inc.
(the Filer)

Decision

Background

- ¶ 1 The principal regulator in the Jurisdiction received an application from the Filer for a decision under the securities legislation of the Jurisdiction of the principal regulator (the Legislation) exempting the Filer from:
- (a) the requirement in section 3.1 of National Instrument 52-107 *Acceptable Accounting Principals, Auditing Standards and Reporting Currency* (NI 52-107) that financial statements be prepared in accordance with Canadian GAAP in order that the Filer may prepare its financial statements for financial periods beginning on or after January 1, 2010 in accordance with International Financial Reporting Standards as issued by the International Accounting Standards Board (IFRS-IASB) (the IFRS Early Adoption Exemption); and
 - (b) the requirement in section 4.10(2)(a)(ii) of National Instrument 51-102 *Continuous Disclosure Obligations* (NI 51-102) to file certain financial statements of the Target (defined below) as required in the form of prospectus that the Target would have been eligible to use prior to the Qualifying Transaction (defined below) in order that the Filer may file financial statements of the Target prepared in accordance with IFRS-IASB (the Post-RTO Filing Exemption);

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

- (a) the British Columbia Securities Commission is the principal regulator for this application; and
- (b) the Filer has provided notice that section 4.7(1) of Multilateral Instrument 11-102 *Passport System* (MI 11-102) is intended to be relied upon in Alberta (Passport Jurisdiction).

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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 is a corporation incorporated under the laws of Canada on May 17, 2007;
 2. the registered office of the Filer is located at #1000 - 925 West Georgia Street, Vancouver, British Columbia, V6C 3L2;
 3. the Filer's securities are listed on the TSX Venture Exchange (TSXV);
 4. the Filer was a capital pool company listed on the TSXV under the name West Fourth Capital Inc. until June 3, 2010 when it completed its qualifying transaction under TSXV Policy 2.4 *Capital Pool Companies* (Qualifying Transaction) with the target DTR Wood Acquisitionco Ltd. (Target);
 5. the Filer changed its name to Conifex Timber Inc. on June 3, 2010;
 6. the Target is a corporation incorporated under the laws of British Columbia on October 22, 2004; the Target has never been a reporting issuer; the Target is not in default under securities legislation of any jurisdiction;
 7. upon completion of the Qualifying Transaction, the Target became a subsidiary of the Filer and the Filer continued to carry on its business through the Target;
 8. the filing statement of the Filer dated May 25, 2010 describing the Qualifying Transaction contained the following financial statements:
 - (a) audited consolidated financial statements of the Target for the financial year ended December 26, 2009 and for the period from incorporation on October 22, 2004 to December 31, 2008 prepared in accordance with IFRS-IASB (the Target Financial Statements);
 - (b) audited financial statements of the Filer for the financial years ended December 31, 2009 and 2008 and the period from incorporation on May 17, 2007 to December 31, 2007, prepared in accordance with Canadian GAAP (the Filer Financial Statements); and

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- (c) a pro forma consolidated balance sheet of the Filer as at December 31, 2009 prepared in accordance with IFRS-IASB;
- 9. the Filer analyzed the Target Financial Statements and determined that there would have been no material differences, in recognition or measurement, had these statements been prepared in accordance with Canadian GAAP;
- 10. the Filer analyzed the Filer Financial Statements and determined that there would have been no material differences, in recognition or measurement, had these statements been prepared in accordance with IFRS-IASB;
- 11. the Filer received exemptions from the policies of the TSXV that would have otherwise required the inclusion in the filing statement of:
 - (a) an income statement, statements of retained earnings and cash flows and financial statement notes of the Target for the financial years ended 2008 and 2007; and
 - (b) an unqualified auditor's report with respect to the financial information in (a);
- 12. the Target has been preparing its financial statements in accordance with IFRS-IASB since its incorporation; the financial statements of the Target for the financial year ended 2009 were prepared in accordance with IFRS-IASB and were audited in such form; all interim financial reports prepared by the Target have been prepared in accordance with IAS 34 *Interim Financial Reporting* as issued by the IFRS-IASB;
- 13. the Qualifying Transaction is a reverse takeover; on closing of the Qualifying Transaction, the Filer changed its fiscal year end to December 31;
- 14. completion of the Qualifying Transaction triggered the requirements of section 4.10(2)(a)(ii) of NI 51-102, which requires the Filer to file financial statements of the Target as required in the form of prospectus that the Target would have been eligible to use prior to the Qualifying Transaction; the applicable form of prospectus for the Target is Form 41-101F1 *Information Required in a Prospectus* (Form 41-101F1);
- 15. prior to the Qualifying Transaction, the Filer had not previously prepared financial statements that contain an explicit and unreserved statement of compliance with IFRS-IASB;

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16. the Canadian Accounting Standards Board has confirmed that publicly accountable enterprises will be required to prepare their financial statements in accordance with IFRS-IASB for fiscal years beginning on or after January 1, 2011;
17. NI 52-107 sets out acceptable accounting principles for financial reporting under the Legislation by domestic issuers, foreign issuers, registrants and other market participants; under NI 52-107, a domestic issuer must use Canadian GAAP with the exception that an SEC registrant may use US GAAP; under NI 52-107, only foreign issuers may use IFRS-IASB;
18. in CSA Staff Notice 52-321 *Early Adoption of International Financial Reporting Standards, Use of US GAAP and Reference to IFRS-IASB*, staff of the Canadian Securities Administrators recognized that some issuers may wish to prepare their financial statements in accordance with IFRS-IASB for periods beginning prior to January 1, 2011 and indicated that staff were prepared to recommend exemptive relief on a case by case basis to permit a domestic issuer to do so, despite section 3.1 of NI 52-107;
19. subject to obtaining the Exemption Sought, the Filer will adopt IFRS-IASB concurrent with the completion of the Qualifying Transaction;
20. the Filer believes that the use of a single accounting standard will eliminate complexity and cost from the Filer's financial statement preparation process;
21. since the Target has historically prepared its financial statements in accordance with IFRS-IASB, a conversion plan is not necessary;
22. the Filer has carefully assessed the readiness of its staff, board of directors, audit committee, auditors, investors and other market participants for the adoption by the Filer of IFRS-IASB concurrent with the completion of the Qualifying Transaction and has concluded that they will be adequately prepared for the Filer's adoption of IFRS-IASB concurrent with the completion of the Qualifying Transaction;
23. the Filer has considered the implication of using IFRS-IASB concurrent with the completion of the Qualifying Transaction and on its obligations under securities legislation including, but not limited to, those relating to CEO and CFO certifications, business acquisition reports, offering documents and previously released material forward looking information;
24. within 7 days after the issuance of this decision, the Filer will disseminate a news release providing relevant information about its changeover to IFRS-

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IASB as contemplated by CSA Staff Notice 52-320 *Disclosure of Expected Changes in Accounting Policies Relating to Changeover to International Financial Reporting Standards* including:

- (a) an explanation that the Qualifying Transaction is a reverse acquisition;
 - (b) the Filer's accounting will be a continuation of the Target's accounting which has been IFRS since inception; and
 - (c) the Target will account for the Filer as a reverse asset acquisition and present consolidated financial statements;
25. the Filer filed interim financial statements for the first quarter ended March 27, 2010 of the Target prepared in accordance with IFRS-IASB;
26. there were no material operating expenses during the Target's 2007 financial year;
27. the Filer is a reporting issuer in the Jurisdiction and the Passport Jurisdiction;
28. the Filer is not in default under the securities legislation of any jurisdiction, except that:
- (a) it has filed financial statements of the Target that were not prepared in accordance with Canadian GAAP; and
 - (b) it has not filed the financial statements of the Target as required by section 4.10(2)(a)(ii) of NI 51-102; and
29. the Filer acknowledges that any rights of action available to any person or company or securities regulatory authority against the Filer for failure to provide financial statements prepared in accordance with Canadian GAAP are not terminated or altered as a result of this decision.

Decision

- ¶ 4 The principal regulator is satisfied that the decision meets the test set out in the Legislation for the principal regulator to make the decision.

The decision of the principal regulator under the Legislation is that:

- (a) the IFRS Early Adoption Exemption is granted provided that:

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- (i) the Filer prepares its annual financial statements for years beginning on or after January 1, 2010 in accordance with IFRS-IASB;
 - (ii) the Filer prepares its interim financial statements for interim periods ending on or after the completion of the Qualifying Transaction in accordance with IFRS-IASB, except that if the Filer files interim financial statements for interim periods ending on or after the completion of the Qualifying Transaction prepared in accordance with Canadian GAAP, the Filer will restate and re-file those interim financial statements in accordance with IFRS-IASB together with the related restated interim management's discussion and analysis and the certificates required by National Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings*; and
 - (iii) the Filer provides the communication set out in representation 24; and
- (b) the Post-RTO Filing Exemption is granted provided that the Filer files the following within 30 days of this decision:
 - (i) audited statements of comprehensive loss, changes in equity and cash flows for financial years ended 2008 and 2009 prepared in accordance with IFRS-IASB;
 - (ii) audited statements of financial position as at the end of 2008 and 2009 prepared in accordance with IFRS-IASB;
 - (iii) notes to the audited statements in (b)(i) and (b)(ii) prepared in accordance with IFRS-IASB;
 - (iv) a note to the audited statements in (b)(i) and b(ii) that the statements of comprehensive loss, changes in equity and cash flows for the financial year ended 2007 were not provided because there were no material operating activities; and
 - (v) the Target's interim financial report for the interim period ended March 27, 2010 prepared in accordance with IFRS-IASB.

Noreen Bent
Acting Director, Corporate Finance
British Columbia Securities Commission