

# 2005 BCSECCOM 375

April 28, 2005

## Headnote

Mutual Reliance Review System for Exemptive Relief Applications - NI 51-102 *Continuous Disclosure Obligations*, s. 13.1 - Financial statement requirements in information circular - An issuer wants relief from the requirement to include prospectus-level disclosure in an information circular to be circulated in connection with an arrangement, reorganization, acquisition or amalgamation - The issuer is engaged in a reverse takeover; the information circular requires three years of audited financial statements for both the issuer and the target; there is an automatic exemption for a transition year of at least nine months; the target will change its year end to match the issuer's year end but the resulting transition year will be only eight months; the issuer wants to include financial statements for the target's transition year as one of the three years

## Applicable British Columbia Provisions

National Instrument 51-102 *Continuous Disclosure Obligations*, s. 13.1, s. 14.2 of Form 51-102F5

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

and

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

and

In the Matter of Goldsat Mining Inc.

## MRRS Decision Document

## Background

1. The local securities regulatory authority or regulator (the "Decision Maker") in each of the Jurisdictions has received an application from Goldsat Mining Inc. ("Goldsat") for a decision (the "Decision"), under the securities legislation of the Jurisdictions (the "Legislation"), that Goldsat be exempt from the requirement in the Legislation to include certain

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audited financial statements for Alexis Resources Limited (“Alexis”) in an information circular of Goldsat to be disseminated to its shareholders in connection with a reverse take over of Alexis (the “Requested Relief”).

2. Under the Mutual Reliance Review System for Exemptive Relief Applications:
  - (a) the Alberta Securities Commission is the principal regulator for this application; and
  - (b) this MRRS Decision Document evidences the decision of each Decision Maker.

### **Interpretation**

3. Unless otherwise defined, the terms herein have the meanings set out in National Instrument 14-101 – *Definitions*

### **Representations**

4. Goldsat has represented to the Decision Makers that:
  - 4.1 Goldsat was duly incorporated under the laws of Canada on March 15, 1996;
  - 4.2 Goldsat’s head office is located in Calgary, Alberta;
  - 4.3 Goldsat is a reporting issuer in each of British Columbia and Alberta;
  - 4.4 The common shares of Goldsat (the “Goldsat Shares”) are listed and posted for trading on the TSX Venture Exchange under the trading symbol “GOM”;
  - 4.5 To its knowledge, Goldsat is not in default of any of the requirements of the applicable securities legislation in any of the provinces in which it is a reporting issuer;
  - 4.6 Alexis was formed under the laws of the British Virgin Islands;
  - 4.7 Alexis is a holding company which, through subsidiaries and joint venture enterprises (the ‘Alexis Subsidiaries’) is principally engaged in the business of mining of base metals in Hami, Xinjiang Province, in the People’s Republic of China.

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- 4.8 Alexis is owned as to 50.56% by Belmont Holdings Group Limited and 49.44% by Simsen (China) investment Limited (collectively the “Vendors”).
- 4.9 The Vendors and Goldsat are dealing at arm’s length.
- 4.10 Goldsat and each of the Vendors have entered into agreements dated February 7, 2005 pursuant to which Goldsat will acquire from each of the Vendors all of their shares and certain shareholders loans in Alexis (the “Acquisition”) for a consideration that includes the issuance of an aggregate of 27,007,500 post consolidation Goldsat Shares, subject to adjustments in certain events, at a deemed price of \$0.40 per share. Upon completion of the Acquisition, Goldsat shall own 100% of the issued and outstanding shares of Alexis;
- 4.11 An information circular (the “Information Circular”) detailing the Acquisition is anticipated to be mailed to the shareholders of Goldsat in May 2005 for a special meeting to be held on in June 2005. The Information Circular must include prospectus level disclosure on Alexis and, subject to the relief requested herein, the appropriate financial statement disclosure;
- 4.12 The financial year of Goldsat ends on December 31. The financial year of the Alexis Subsidiaries ends on December 31. The financial year of Alexis ends on April 30. Subject to the relief sought in this application, it is proposed to change Alexis fiscal year end to December 31, effective for the 2004 year, so as to align it with the year end of Goldsat and of the Alexis Subsidiaries.
- 4.13 With respect to reverse takeover transactions, section 14.2 of Form 51-102F5 of National Instrument 51-102, Continuous Disclosure Obligations (“NI-51-102”) requires disclosure as prescribed by the appropriate prospectus form for the reverse takeover acquirer. Accordingly, the financial statements of Goldsat and Alexis to be included in the Information Circular must comply with the applicable provisions in OSC Rule 41-501 and NI 51-102, respectively, which require the following financial statements:
- (a) audited annual statements of income, retained earnings and cash flow for each of the 3 most recently completed financial years for each of (i) Goldsat; and (ii) Alexis;

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- (b) audited annual balance sheets for the two most recently completed financial years for each of Goldsat and Alexis;
- (c) comparative interim statements of income, retained earnings and cash flow for the most recently completed interim period (that ended more than 60 days before the date of the document) for each of Goldsat and Alexis;
- (d) a balance sheet for the interim period referred to in (c) above for each of Goldsat and Alexis;
- (e) pro forma financial statements, including a pro forma balance sheet as at the date of Goldsat's most recent balance sheet included in the Information Circular as if the Acquisition had taken place at the date; and
- (f) pro forma income statements (including on a per share basis):
  - (i) as at December 31, 2004; and
  - (ii) as at the most recent interim period,as if the Acquisition had taken place January 1, 2004.

4.14 Alexis has changed its year end from April 30 to December 31, effective December 31, 2004, so as to coincide with Goldsat's year end.

4.15 Pursuant to Section 6.9 of OSC Rule 41-501:

*"Exception to Disclosure Requirements for Significant Acquisitions if Financial Year End Changed – Despite section 6.6, if a business changed its financial year end once during any of the financial years for which financial statements are required to be included in the prospectus, the issuer may include financial statements for the transition year in satisfaction of the financial statements for one of the years under section 6.6 provided that the transition year is at least nine months."*

4.16 Goldsat seeks an exemption from the application of Section 6.9 of OSC Rule 41-501 so as to be enabled to include in the Information Circular the financial statements of Alexis for its financial year

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ended December 31, 2004 to count as one of the three financial years required pursuant to section 6.6 of OSC Rule 41-501, despite the fact that such financial year is only eight months.

### **Decision**

5. 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;

5.1.1 The Decision of the Decision Makers under the Legislation is that the Requested Relief is granted provided that Goldsat includes the following in the Information Circular:

- (a) audited annual statements of income, retained earnings and cash flow for each of Goldsat's three most recently completed financial years;
- (b) audited annual statements of income, retained earnings and cash flow for each of Alexis' financial years ended April 30, 2003, April 30, 2004 and December 31, 2004;
- (c) audited annual balance sheets for the two most recently completed financial years for each of Goldsat and Alexis;
- (d) comparative interim statements of income, retained earnings and cash flow for the most recently completed interim period (that ended more than 60 days before the date of the Information Circular, if any) for each of Goldsat and Alexis;
- (e) a balance sheet for the interim period referred to in (c) above for each of Goldsat and Alexis;
- (f) pro forma financial statements, including a pro forma balance sheet as at the date of Goldsat's most recent balance sheet included in the Information Circular as if the Acquisition had taken place at the date; and
- (g) pro forma income statement (including on a per share basis):
  - (i) as at December 31, 2004; and

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(ii) as at the most recent interim period, (if applicable)

as if the Acquisition had taken place January 1, 2004.

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