

2009 BCSECCOM 775

December 29, 2009

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* - An issuer wants relief from the requirement to audit acquisition statements in accordance with Canadian or U.S. GAAS - The issuer acquired or will acquire a business whose historical financial statements have not been audited in accordance with Canadian or U.S. GAAS; the acquired business' financial statements have been audited in accordance with International Standards on Auditing; for various reasons, it would be impractical to re-audit the business' financial statements in accordance with Canadian or U.S. GAAS; the audit report will be accompanied by a statement by the auditor that describes any material differences in the form of report as compared to a Canadian GAAS audit report, and indicates that its report would not contain a reservation if it were prepared in accordance with Canadian GAAS

Applicable British Columbia Provisions

National Instrument 52-107, s. 9.1

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

and

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

and

In the Matter of
Anfield Nickel Corp.
(the Filer)

Decision

Background

- ¶ 1 The principal regulator in the Jurisdiction has received an application from the Filer for a decision under the securities legislation of the Jurisdiction of the principal regulator (the Legislation) that the Filer be exempted from

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complying with the requirements in section 6.2 of National Instrument 52-107 *Acceptable Accounting Principles, Auditing Standards and Reporting Currency* (NI 52-107) that acquisitions statements must be audited in accordance with Canadian GAAS or United States generally accepted auditing standards (US GAAS) with respect to certain financial statements in business acquisition reports required to be filed under section 8.2 of National Instrument 51-102 *Continuous Disclosure Obligations* (NI 51-102) (the Exemption Sought).

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 on in Alberta.

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's head office is located at 410 – 625 Howe Street, Vancouver, British Columbia, V6C 2T6;
 - 2. the Filer is a corporation existing under the *Business Corporations Act* (British Columbia);
 - 3. the Filer is a reporting issuer in each of British Columbia and Alberta;
 - 4. the common shares of the Filer are listed and posted for trading on the TSX Venture Exchange under the symbol "ANF";
 - 5. the Filer's annual financial statements are prepared in accordance with Canadian generally accepted accounting principles (Canadian GAAP) and are audited in accordance with Canadian generally accepted auditing standards (Canadian GAAS);
 - 6. on May 14, 2009, the Filer completed the acquisition (the Acquisition) of all

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- of the issued and outstanding shares of Mayaniquel, S.A. (Mayaniquel);
7. the Acquisition constituted a “significant acquisition” under Part 8 of NI 51-102 and the Filer was required to file a business acquisition report (BAR) under section 8.2 of NI 51-102 within 75 days after the date of the Acquisition, being July 29, 2009;
 8. the Filer is not in default of its reporting issuer obligations under the Legislation or the securities legislation of the Passport Jurisdictions except for the obligation that the Filer file the BAR relating to the Acquisition within 75 days after the date of the Acquisition;
 9. under section 8.4 of NI 51-102, the BAR must be accompanied by certain financial statements of Mayaniquel including comparative audited financial statements for the most recently completed financial year ended before the date of the Acquisition;
 10. the annual comparative financial statements of Mayaniquel are being prepared in accordance with International Financial Reporting Standards (IFRS) and will include a reconciliation to Canadian GAAP for the most recently completed interim period and financial year prior to the acquisition, in accordance with the requirements of subsection 6.1(4) of NI 52-107;
 11. the annual comparative financial statements of Mayaniquel have been audited in accordance with International Standards on Auditing (ISA) issued by the International Auditing and Assurance Standards Board (IAASB) and this fact will be disclosed in the BAR;
 12. the auditor of Mayaniquel has represented to the Filer that it has expertise and experience in ISA;
 13. under NI 52-107, acquisition statements that are required by securities legislation to be audited must be audited in accordance with Canadian GAAS or US GAAS unless the reporting issuer that is making the acquisition is a foreign issuer; and
 14. as the Filer is not a foreign issuer, NI 52-107 does not permit the Filer to file acquisition statements for Mayaniquel audited in accordance with ISA.

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.

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The decision of the principal regulator under the Legislation is that the Exemption Sought is granted, provided that:

- (a) the annual financial statements for Mayaniquel for the most recently completed financial year prior to the Acquisition are audited in accordance with ISA as issued by the IAASB;
- (b) the auditor's report accompanying the annual financial statements for Mayaniquel for the most recently completed financial year prior to the Acquisition contains or is accompanied by a statement by the auditor of Mayaniquel that:
 - (i) describes any material differences in the form and content of the auditor's report prepared in accordance with ISA as compared to an auditor's report prepared in accordance with Canadian GAAS; and
 - (ii) indicates that an auditor's report prepared in accordance with Canadian GAAS would not contain a reservation.

Martin Eady, CA
Director, Corporate Finance
British Columbia Securities Commission