

# 2010 BCSECCOM 558

September 13, 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* - A reporting issuer wants to early adopt IFRS for purposes of preparing its financial statements - 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 issuer will restate and re-file any financial statements prepared in accordance with Canadian GAAP for interim periods for the fiscal year in which they intend to adopt IFRS together with related interim MD&A and certificates required by NI 52-109

## Applicable British Columbia Provisions

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

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

and

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

and

In the Matter of  
Rare Element Resources Ltd.  
(the Filer)

Decision

## Background

- ¶ 1 The securities regulatory authority or regulator in each of the Jurisdictions (the Decision Maker) has received an application from the Filer for a decision under

## 2010 BCSECCOM 558

the securities legislation of the Jurisdictions (the Legislation) exempting the Filer from the requirement in section 3.1 of National Instrument 52-107 *Acceptable Accounting Principles, Auditing Standards and Reporting Currency* (NI 52-107) that financial statements be prepared in accordance with Canadian GAAP (the Exemption Sought), in order that the Filer may prepare financial statements for periods beginning on or after July 1, 2010 in accordance with Part I of the Handbook, that is International Financial Reporting Standards (IFRS) as issued by the International Accounting Standards Board (IFRS-IASB) .

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

- (a) the British Columbia Securities Commission is the principal regulator for this application,
- (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 (the Passport Jurisdiction), and
- (c) the decision is the decision of the principal regulator and evidences the decision of the securities regulatory authority or regulator in Ontario.

### **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 was incorporated on June 3, 1999 under the *Company Act* (British Columbia) as “Spartacus Capital Inc.”; on July 25, 2003, the Filer changed its name to “Rare Element Resources Ltd.”; the Filer is now a corporation under the *Business Corporations Act* (British Columbia);
  - 2. the head office of the Filer is located at Suite 410 – 325 Howe Street, Vancouver, British Columbia V6C 1Z7;
  - 3. the Filer is a mineral exploration company whose major asset is its 100% owned Bear Lodge Project in Wyoming; the Bear Lodge Project is held through its wholly-owned subsidiary Paso Rico (USA) Inc.; the Filer does not have any operating revenue as it is still in the exploration phase;
  - 4. the Filer is a reporting issuer in the Jurisdictions and the Passport Jurisdiction;

## 2010 BCSECCOM 558

5. the Filer is not in default of securities legislation of any jurisdiction;
6. the Filer's common shares are listed on the TSX Venture Exchange under the symbol "RES" and has a "Blue Sky" exemption in the United States due to its listing with Standard & Poors and trades on the US "pink sheets" market under the symbol "RRLMF"; the Filer is also a foreign private issuer (a Form 20-F filer) for United States and Securities Exchange Commission (the SEC) requirements; the Filer has applied for a listing with an exchange in the United States;
7. the Filer's financial year end is June 30; the transition date to IFRS-IASB will be July 1, 2009;
8. the Filer currently prepares its financial statements in accordance with Canadian generally accepted accounting principles (Canadian GAAP); the Filer is also required to reconcile its financial statements into generally accepted accounting principles in the United States (US GAAP) to comply with its US filing obligations;
9. the Filer has not previously prepared financial statements that contain an explicit and unreserved statement of compliance with IFRS;
10. 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 financial statements relating to fiscal years beginning on or after January 1, 2011;
11. 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 a SEC registrant may use US GAAP; under NI 52-107, only foreign issuers may use IFRS-IASB;
12. 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;

## 2010 BCSECCOM 558

13. the Filer believes that adoption of IFRS-IASB will eliminate complexity and cost from the Filer's financial statement preparation process because the Filer will not be required to reconcile its numbers to US GAAP to comply with its US filing obligations;
14. the Filer has implemented a comprehensive IFRS-IASB conversion plan, including getting its staff to attend training, examining the internal control over financial reporting and disclosure controls and procedures surrounding the adoption of IFRS-IASB, and reviewing the related working papers and skeleton IFRS-IASB financial statements for the period beginning July 1, 2010;
15. the board of directors of the Filer has approved early adoption of IFRS-IASB;
16. the Filer has carefully assessed the readiness of its staff, board of directors, audit committee, auditors, investors and other market participants for the adoption of the Filer of IFRS-IASB for financial periods beginning on and after July 1, 2010 and has concluded that the Filer will be adequately prepared for the Filer's adoption of IFRS-IASB for periods beginning on July 1, 2010;
17. the Filer has considered the implication of adopting IFRS-IASB for financial periods beginning on or after July 1, 2010 on its obligations under securities legislation including, but not limited to, those relating to CEO and CFO certificates, business acquisition reports, offering documents, and previously released material forward-looking information;
18. the Filer has communicated its intention to early adopt IFRS-IASB with its external auditors, DeVisser Gray LLP, Chartered Accountants (DeVisser Gray); DeVisser Gray has significant experience with companies that have already transitioned to IFRS-IASB or have been reporting under IFRS-IASB;
19. the Filer will communicate its IFRS-IASB implementation plans to investors as contemplated by CSA Staff Notice 52-320 - *Disclosure of Expected Changes in Accounting Policies Relating to Changeover to International Financial Reporting Standards* by disclosing relevant information about its changeover to IFRS-IASB in a news release not more than seven days after the date of the decision approving such early adoption application, including:
  - (a) the key elements and timing of the Filer's changeover plan;
  - (b) the accounting policy and implementation decisions the Filer has made or will have to make;

## 2010 BCSECCOM 558

- (c) the exemptions available under IFRS 1 *First-time Adoption of International Financial Reporting Standards* (IFRS 1) that the Filer expects to apply in preparing financial statements in accordance with IFRS-IASB;
- (d) major identified differences between the Filer's current accounting policies and those the Filer is required or expects to apply in preparing its financial statements in accordance with IFRS-IASB; and
- (e) the impact of adopting IFRS-IASB on the key line items in the Filer's interim financial statements for the period ending September 30, 2009 and June 30, 2010.

### Decision

- ¶ 4 Each of the Decision Makers is satisfied that the decision meets the test set out in the Legislation for the Decision Maker to make the decision.

The decision of the Decision Makers under the Legislation is that the Exemption Sought is granted provided that:

- (a) the Filer prepares its financial statements for financial periods ending on or after July 1, 2010 in accordance with IFRS-IASB;
- (b) the Filer provides all of the communication and information as described and in the manner set out in paragraph 19 above and updates the information set out in paragraph 19 above in its annual management's discussion and analysis including, to the extent known, quantitative information regarding the impact of adopting IFRS-IASB on key line items in the Filer's annual financial statements for the year ending June 30, 2010;
- (c) the Filer's first IFRS-IASB financial statements for an interim period include an opening statement of financial position as at the date of transition to IFRS-IASB that is presented with prominence equal to the other statements that comprise those interim financial statements; and
- (d) if the Filer files interim financial statements prepared in accordance with Canadian GAAP for one or more interim periods in the year that the Filer adopts IFRS-IASB, the Filer will restate and refile those interim financial statements originally prepared in accordance with Canadian GAAP in accordance with IFRS-IASB together with the related restated interim management's discussion and analysis as well as the certificates required

## **2010 BCSECCOM 558**

by National Instrument 52-109 - *Certification of Disclosure in Issuers' Annual and Interim Filings.*

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