

2011 BCSECCOM 406

August 25, 2011

Headnote

National Policy 11-203 *Process for Exemptive Relief Applications in Multiple Jurisdictions* - Securities Act s. 88 Cease to be a reporting issuer in BC - The securities of the issuer are beneficially owned by not more than 50 persons and are not traded through any exchange or market - The issuer falls within the definition of “closely held reporting issuer” contained in BC Instrument 11-502 *Voluntary Surrender of Reporting Issuer Status* as the securities of the issuer are beneficially owned by not more than 50 persons and are not traded through any exchange or market

Applicable Legislative Provisions

Securities Act, R.S.B.C. 1996, c. 418, s. 88

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

and

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

and

In the Matter of
IND DairyTech Limited
(the Filer)

Decision

Background

- ¶1 The securities regulatory authority or regulator in each of the Jurisdictions (Decision Maker) has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the Legislation) that the Filer is not a reporting issuer (the Exemptive Relief Sought).

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

- (a) the British Columbia Securities Commission is the principal regulator for this application; and
- (b) the decision is the decision of the principal regulator and evidences the decision of each other Decision Maker.

Interpretation

- ¶2 Terms defined in National Instrument 14-101 – *Definitions* 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 *Canada Business Corporations Act* on January 24, 2007 and continued under the *Companies Law* (Cayman Islands) on December 22, 2008, with its head office in Beijing, China;
 2. the Filer is a reporting issuer in British Columbia and Alberta;
 3. the Filer has applied for a decision that it is not a reporting issuer in all of the Jurisdictions in which it is currently a reporting issuer;
 4. on June 29, 2011, the Filer entered into an agreement with certain holders of its common and preferred shares that set forth the terms of a take private transaction (the Transaction);
 5. the Transaction was approved by shareholders at an extraordinary general meeting held on July 29, 2011 and closed effective the same date;
 6. the Transaction was effected principally by way of consolidation (the Consolidation) of all of the Filer's issued and outstanding capital and the compulsory redemption (in exchange for cash consideration) of common shares held by shareholders holding less than one common share of the Filer following the Consolidation;
 7. as a result of the Transaction, the outstanding securities of the Filer are beneficially owned by less than 15 security holders in each of the Jurisdictions and less than 51 security holders in total in Canada;

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8. effective the close of business on August 3, 2011, the Filer's common shares (formerly trading under stock symbol "IND") were delisted from the TSX Venture Exchange and no securities of the Filer are traded on a marketplace as defined in National Instrument 21-101 – *Marketplace Operation*;
9. the Filer has no intention of seeking public financing by way of an offering of securities in a jurisdiction in Canada;
10. the Filer is not in default of any of its obligations as a reporting issuer under the securities legislation of the Jurisdictions, other than its obligation to file on or before July 29, 2011 annual financial statements for the year ended March 31, 2011 and accompanying management's discussion and analysis as required under National Instrument 51-102 – *Continuous Disclosure Obligations*, and related certifications of such financial statements as required under National Instrument 52-109 – *Certification of Disclosure in Issuers' Annual and Interim Filings*;
11. the Filer did not voluntarily surrender its status as a reporting issuer in British Columbia under British Columbia Instrument 11-502 *Voluntary Surrender of Reporting Issuer Status* in order to avoid the minimum 10 day waiting period under such instrument;
12. the Filer is not eligible to use the simplified procedure under CSA Notice 12-307 - *Applications for a Decision that an Issuer is not a Reporting Issuer* because it is a reporting issuer in British Columbia and is in default of certain filing obligations under the Legislation as described in paragraph 10 above; and
13. upon the grant of the relief requested herein, the Applicant will not be a reporting issuer in the Jurisdictions.

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 Exemptive Relief Sought is granted.

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