

## 2006 BCSECCOM 638

### Headnote

Securities Act ss. 48, 76 – Corporate Acquisitions & Reorganizations – relief from registration and prospectus requirements in ss. 34(1)(a) and 61 - Trades in securities of an issuer for the acquisition of an asset by the issuer's subsidiary - The asset is an interest in a resource property; in consideration for the issuer's securities, the owner of the asset will transfer the asset to the issuer's wholly-owned subsidiary

### Exemption Order

#### MAG Silver Corp.

#### Sections 48 and 76 of the *Securities Act*, R.S.B.C. 1996, c. 418

### Background

- ¶ 1 MAG Silver Corp. (MAG) applied for an exemption from the requirements to be registered to trade and to file and obtain receipts for a preliminary prospectus and prospectus in sections 34(1)(a) and 61 of the Act (the registration and prospectus requirements) for certain intended trades.

### Representations

- ¶ 2 MAG represents that:
1. it was incorporated in British Columbia on April 21, 1999;
  2. its authorized share capital consists of an unlimited number of common shares without par value, of which 37,191,410 common shares were issued and outstanding as at September 5, 2006, and an unlimited number of preferred shares without par value, none of which were issued and outstanding as at September 5, 2006;
  3. it is a reporting issuer in British Columbia, Alberta and Ontario and is not in default of any requirements of the securities legislation in those jurisdictions;
  4. its shares are listed for trading on the TSX Venture Exchange (the Exchange);
  5. it is the recorded owner of 99% of the issued and outstanding Class I shares of Minera Lagartos, S.A. de C.V. (Lagartos); the remaining 1% of the issued Class I shares of Lagartos is owned by Dave Pearce, a director of MAG, in trust for MAG; as a result, MAG effectively has 100% beneficial ownership of Lagartos;

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6. Lagartos is a company incorporated under the laws of the Republic of Mexico and is not a reporting issuer in any province or territory of Canada;
7. MAG and Lagartos entered into an agreement dated December 14, 2003 (the Sierra Ramirez agreement) with Minera Rio Tinto, S.A. de C.V. (Tinto), under which Tinto granted to Lagartos an option to acquire a 100% interest in certain properties (the Sierra Ramirez property), subject to up to a 3% net smelter returns royalty;
8. on September 4, 2006, the Sierra Ramirez agreement was amended (the Amendment) to:
  - (a) provide for the allotment and issuance to Tinto of 20,000 common shares of MAG as partial consideration for the Amendment;
  - (b) modify the dates and amounts of payments that must be made to exercise the option; and
  - (c) provide for a final option payment (the final payment) of US\$650,000 to be made on or before December 14, 2010, of which up to US\$500,000 could be satisfied by the issuance of common shares of MAG;
9. the Exchange has approved the transactions contemplated by the Amendment, subject to its approval of the share issuance portion of the final payment; and
10. if MAG acquired the Sierra Ramirez property directly, rather than through Lagartos, MAG could rely on the registration and prospectus exemptions in sections 45(2)(21) and 74(2)(18) of the Act or section 2.13 of National Instrument 45-106 *Prospectus and Registration Exemptions* to distribute the common shares.

### Order

¶ 3 Considering that it is not prejudicial to the public interest, the Commission orders that:

1. under sections 48 and 76 of the Act, MAG is exempt from the registration and prospectus requirements for trades of its common shares to Tinto under the Amendment, provided that MAG files a Form 45-106F1 and pays the required fee within 10 days of each distribution, and

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2. under section 76 of the Act, any trade in the common shares issued under this Order is deemed to be a distribution unless the conditions in subsection 2.5(2) of National Instrument 45-102 *Resale of Securities* are satisfied.

¶ 4 October 3, 2006

Noreen Bent  
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Corporate Finance  
British Columbia Securities Commission