

2010 BCSECCOM 700

December 14, 2010

Headnote

Multilateral Instrument 11-102 *Passport System* and National Policy 11-203 *Process for Exemptive Relief Applications in Multiple Jurisdictions* – National Instrument 51-102, s. 13.1 *Continuous Disclosure Obligations* - National Instrument 52-109, s.8.6 *Certification of Disclosure in Issuer's Annual and Interim Filings* - National Instrument 52-110, Part 8.1 *Audit Committees* - National Instrument 58-101 *Disclosure of Corporate Governance Practices* - An issuer seeks relief from the requirement in s. 1.1 definition of “venture issuer”, that a reporting issuer not have any of its securities listed or quoted on a marketplace outside of Canada and the United States of America other than the Alternative Investment Market of the London Stock Exchange or the PLUS markets operated by PLUS Markets Group plc - A venture issuer with common shares listed on the TSXV wants to list on an exchange that does not meet the requirements of the definition of a venture issuer; the relevant exchange is a junior market that has similar requirements as the TSXV; the exchange requires the issuer to comply with TSXV requirements in order to acquire and maintain listing on that exchange; to remain a venture issuer, the issuer must continue to have its common shares listed on the TSXV and the exchange must remain a junior market

Applicable British Columbia Provisions

National Instrument 51-102, s. 13.1 *Continuous Disclosure Obligations*
National Instrument 52-109, s.8.6 *Certification of Disclosure in Issuer's Annual and Interim Filings*
National Instrument 52-110, Part 8.1 *Audit Committees*
National Instrument 58-101 *Disclosure of Corporate Governance Practices*

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

and

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

and

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In the Matter of
Africa Oil 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) for relief from the requirement in the definition of “venture issuer” in section 1.1 of each of National Instrument 51-102 *Continuous Disclosure Obligations*, National Instrument 52-109 *Certification of Disclosure in Issuers’ Annual and Interim Filings*, National Instrument 52-110 *Audit Committees* and National Instrument 58-101 *Disclosure of Corporate Governance Practices*, that a reporting issuer not, at the relevant time, have any of its securities listed or quoted on any of the Toronto Stock Exchange, a U.S. marketplace or a marketplace outside of Canada or the United States other than the Alternative Investment Market of the London Stock Exchange or the PLUS markets operating by PLUS Markets Group plc (the Exemption Sought);

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

- (a) British Columbia 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 upon 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 is incorporated under the *Business Corporations Act* (British Columbia) and its head office is located in Vancouver;
 - 2. the Filer is an international oil and gas exploration company based in Canada with assets in Kenya, Ethiopia and Puntland (Somalia);
 - 3. the Filer is a reporting issuer in British Columbia and Alberta; the Filer is not in default of securities legislation in any jurisdiction;

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4. the Filer is authorized to issue an unlimited number of common shares without par value; as of December 8, 2010, the Filer has 112,901,331 common shares issued and outstanding;
5. the common shares of the Filer are listed on the TSX Venture Exchange (the TSX-V);
6. effective September 30, 2010, the Filer obtained a listing on the NASDAQ OMX First North, the junior board of NASDAQ OMX Nordic List;
7. the NASDAQ OMX First North is a junior market; it is not registered as a national securities exchange under section 6(a) of the Securities Exchange Act of 1934;
8. the NASDAQ OMX First North is junior to the TSX-V in terms of its requirements, as the minimum listing requirements, the listing maintenance requirements, and the continuous disclosure requirements are much less strenuous for the NASDAQ OMX First North as compared to the TSX-V;
9. the NASDAQ OMX First North requires that the Filer's annual reports be prepared in accordance with applicable laws or other regulations, and in accordance with generally accepted accounting principles, required by the Filer's home jurisdiction;
10. the information the Filer provided about the NASDAQ OMX First North and its status as a junior market for the purposes of review by capital markets staff of the principal regulator is accurate as at the date of this decision.

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.

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

- (a) the NASDAQ OMX First North is not restructured in a manner that makes it unreasonable to conclude that it is still a junior market;
- (b) the representations in sections 7 through 10 above continue to be true;
- (c) the Filer continues to have its common shares listed on the TSX-V;

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- (d) the Filer does not have any of its securities listed or quoted on any of the Toronto Stock Exchange, a U.S. marketplace, or a marketplace outside of Canada and the United States of America other than the NASDAQ OMX First North, the Alternative Investment Market of the London Stock Exchange or the PLUS markets operating by PLUS Markets Group plc.

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British Columbia Securities Commission