

**Headnote**

*Securities Act*, s. 76 – Prospectus Requirements - Trades by an issuer of its securities to employees and senior management by way of a plan trust that is connected to the issuer, but is not technically a “related entity” (as defined in National Instrument 45-106), of the issuer - The issuer is not reporting in Canada; the issuer’s securities are listed in a foreign jurisdiction; eligible participants voluntarily enter into the issuer’s stock option plan; the issuer established a trust to administer its stock option plan; the trustees of the trust are directors of the issuer and its subsidiaries; no one trustee of the issuer exercises control over the issuer, and therefore the trust is not a related entity of the issuer.

August 4, 2020

**Exemption Order**

**Ayima Group AB**

**and**

**Trustees of the Ayima Employee Benefit Trust 2011**

**Section 76 of the *Securities Act*, R.S.B.C. 1996, c.418**

**Background**

- ¶ 1 Ayima Group AB (the Issuer) and the trustees of the Ayima Employee Benefit Trust 2011 (the Trustees, and together with the Issuer, the Filers) have applied to the British Columbia Securities Commission for an order under section 76 of the *Securities Act* (British Columbia) for an exemption from the prospectus requirement in section 61 of the Act for certain distributions of securities of the Trust and trades by the Trustees of securities of the Issuer.

**Interpretation**

- ¶ 2 Terms defined or interpreted in the Act have the same meaning if used in this order, unless otherwise defined.

**Representations**

- ¶ 3 This order is based on the following representations of the Filers:

*The Issuer*

1. the Issuer was incorporated on January 3, 2017 under the laws of Sweden;

2. the share capital of the Issuer consists of an unlimited number of A shares and an unlimited number of B shares (the Shares), of which there are 226,800 A shares and 6,833,539 Shares issued and outstanding;
3. the Shares are listed and posted for trading on the Nasdaq First North; the Issuer is not in default of any of its obligations under the rules and regulations of set out in the First North Rules;

#### *The Trust*

4. the Ayima Employee Benefit Trust 2011 (the Trust) was established under the laws of England and Wales in order to, among other things, hold Shares in the capital of the Issuer for the benefit of Eligible Participants (as defined in paragraph 6 below) and in connection with the operation of an employee share option plan (the Option Plan) adopted by the Issuer as an employee's share scheme within the meaning of section 1166 of the *Companies Act 2006* (United Kingdom);
5. the Trustees are also directors of the Issuer and its subsidiaries;
6. the beneficiaries of the Trust (Eligible Participants) are the current and former employees of the Issuer, its direct and indirect wholly owned subsidiaries, and any other of its direct or indirect subsidiaries or holding companies that may exist from time to time (collectively, the Group Companies);

#### *The Option Plan*

7. the Issuer adopted the Option Plan to increase the commitment and retention of employees of the Group Companies through share ownership; the Option Plan permits either the Issuer or the Trustees to grant stock options (the Options) to Eligible Participants;
8. the Issuer issues warrants (Warrants) to the Trust from time to time at the discretion of the board of directors of the Issuer in order to facilitate the grant of Options in accordance with the Distribution Plan (defined below); each Warrant is exercisable to acquire one Share at a nominal exercise price (the Warrant Exercise Price);
9. in order to both comply with Swedish laws and provide tax efficient share options to employees in the United Kingdom, the Issuer has implemented the following distribution plan (the Distribution Plan) to grant Options to Eligible Participants resident in the United Kingdom:
  - (a) the Issuer provides a letter of wishes (Letter of Wishes) to the Trustees setting out the names of the Eligible Participants to whom they would like to grant Options, and the number of Options they would like the Trustees to grant to each such Eligible Participant;

- (b) subject to applicable securities laws, the Trustees approve the grants of Options in accordance with the Letter of Wishes, and the Trustees grant the Options to Eligible Participants pursuant to the Option Plan; the Trustees enter into a stock option agreement with each Eligible Participant (the Option Agreement) to acquire Shares at an exercise price (the Option Exercise Price) which is equal to the Warrant Exercise Price;
  - (c) the Options are subject to vesting and are only exercisable during limited time periods as set out in the Option Agreements (each, an Exercise Period); to exercise their Options, the Eligible Participants send a notice of exercise to the Trustees and pay the Option Exercise Price to the Trust within the applicable Exercise Period; and
  - (d) the Trustees use the funds from the Option Exercise Price to exercise the appropriate number of Warrants, and the Issuer issues Shares to the Trust on exercise of the Warrants; the Trustees transfer the Shares received on exercise of the Warrants to the Eligible Participant in satisfaction of the exercise of the Option;
10. to date, the Trustees have granted an aggregate of 259,808 Options to 39 Eligible Participants; the Shares underlying these Options represent approximately 3.55% of the Issuer's issued and outstanding Shares on a fully-diluted basis; the Trust now intends to grant Options to Eligible Participants in British Columbia (Canadian Participants) in accordance with the Distribution Plan and the Option Plan;
  11. the participation of the Canadian Participants in the grant of Options is voluntary, and they are not induced to participate in the Option Plan by expectation of employment or continued employment with the Group Companies;
  12. none of the Filers, the Trustees, or any of their directors, employees, agents or representatives will provide investment advice to the Canadian Participants with respect to an investment in the Shares or grant or exercise of Options;
  13. the Canadian Participants are all employees of Ayima Canada Inc., an indirect wholly owned subsidiary of the Issuer, and are knowledgeable about the business and affairs of the Issuer;
  14. the Canadian Participants will receive an information package in English which will include the terms of the Option Plan and the Distribution Plan, a description of the Canadian income tax consequences of acquiring and exercising the Options and purchasing and selling the Shares, and other relevant information about the Issuer, the Trust and the Group Companies;
  15. all Eligible Participants, including the Canadian Participants, have access to the public filings of the Issuer on its website, which include the Issuer's most recent

financial statements, news releases and other disclosures that the Issuer is obliged to make in accordance with Swedish laws;

16. in order to grant the Options and transfer Shares to Canadian Participants on exercise of the Options, the Trustees must comply with the prospectus requirement or rely on an exemption from the prospectus requirement available under the Act; the Trustees are unable to rely on any available exemption from the prospectus requirement;
17. none of the Group Companies or the Trust is a reporting issuer in any jurisdiction of Canada;
18. none of the securities of the Group Companies are listed, traded or quoted on a marketplace in Canada as defined in National Instrument 21-101 *Marketplace Operation*, and none of the Group Companies has any intention to have its securities listed, traded or quoted on a marketplace in Canada; and
19. neither of the Filers is in default of any of its obligations under the securities legislation of British Columbia.

**Order**

¶ 4 Considering that to do so would not be prejudicial to the public interest, the Commission orders under section 76 that:

- (a) the grant by the Trustees of the Options to the Canadian Participants is exempt from the prospectus requirement under section 61; and
- (b) the trade by the Trustees of the Shares upon the exercise of the Options by the Canadian Participants is exempt from the prospectus requirement under section 61 provided that the first trade of such Shares is deemed to be a distribution subject to section 2.6 of National Instrument 45-102 *Resale of Securities*.

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