



Novel Coronavirus (COVID-19)

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TSX Venture Exchange Provides Relief to Issuers in Wake of COVID-19

By James Leech

On April 8, 2020, the TSX Venture Exchange (the “**Exchange**”) released a bulletin announcing that it was providing temporary relief from its minimum pricing guidelines for issuers in wake of the COVID-19 pandemic, reducing the minimum share issuance price from \$0.05 to \$0.01 in certain circumstances. The temporary relief went into effect immediately. This bulletin follows previous Exchange guidance and relief in the wake of COVID-19 that provided relief to issuers from certain timeframes respecting the holding of annual meetings and the approval of stock option plans.

Minimum Pricing Requirements

An issuer is generally not permitted to issue listed shares at a price per share less than the “Discounted Market Price”, which is equal to the Market Price of the shares less the maximum permitted discount that an issuer may apply on those shares. The maximum permitted discount varies depending on the nature of the issuance and the Market Price of the issuer’s shares. In all circumstances, the issue price is subject to an ultimate floor \$0.05.

As outlined in their April 8, 2020 bulletin, the Exchange has lowered this ultimate floor price in certain circumstances from \$0.05 to \$0.01. Generally, if the Market Price of an issuer’s shares is not greater than \$0.05, the minimum price at which that issuer may issue shares is equal to that Market Price, subject to a minimum price of \$0.01. If the Market Price of an issuer’s shares is greater than or equal to \$0.05, the minimum price at which that issuer may issue its shares remains equal to the permitted Discounted Market Price, subject to a minimum price of \$0.05.

The Temporary Relief will apply to a number of contemplated issuances by an issuer, including:

- Private Placements (Exchange Policy 4.1)
- Prospectus Offerings (Exchange Policy 4.2)

- Exchange Short Form Offering Documents (Exchange Policy 4.6)
- Shares for Debt (Exchange Policy 4.3)
- Bonus Shares and Warrants (Exchange Policy 5.1)

This temporary relief does not implement changes to any Exchange Policies applicable to incentive stock options, Warrants and Convertible Securities, which remain subject to minimum \$0.05 exercise/conversion prices and all other requirements and restrictions set out in the Manual.

An issuer may only rely upon the temporary relief where all of the following applicable criteria are satisfied:

1. The proposed price is protected/reserved by way of a news release and not a Form 4A – Price Reservation Form.
2. The aggregate number of Listed Shares of an Issuer that are issued under the temporary relief at a price or deemed price that is below \$0.05 is not more than 100% of the number of Listed Shares of the Issuer which are outstanding, on a non-diluted basis, on April 7, 2020.
3. The proceeds of any financing will not primarily be used to pay management fees or for investor relations activities.
4. The issuer will fully disclose to the public at the time of announcement of any financing and at the time of closing of any financing the proposed use of proceeds of the financing, including any proposed payments to related parties of the issuer.
5. In addition to any applicable resale restrictions under applicable securities laws, all securities issued under the Temporary Relief at a price or deemed price that is below \$0.05 are subject to the mandatory Exchange Hold Period of four months and one day, and must be legended accordingly.

The temporary relief will be in effect and apply to shares that are issued on or before September 30, 2020.

Annual Meetings

On March 23, 2020, the Exchange released a bulletin extending the timeframe for issuers to hold their annual meeting of Shareholders. Under Exchange Policy 3.2, an issuer is required to hold an AGM by the earlier of the time required by applicable corporate or securities legislation and 18 months after its incorporation or amalgamation, and thereafter within 15 months after its last AGM, or such earlier date as required by applicable corporate or Securities Laws. Pursuant to its March 23, 2020 bulletin, the Exchange is permitting issuers that are required to hold an AGM during 2020, to hold their 2020 AGM at any date in 2020, up to and including December 31, 2020. The Exchange advises that this relief does not relieve an issuer with the requirement to comply with applicable corporate legislation regarding the timing of their 2020 AGM.

Stock Option Plans

Also on March 23, 2020, the Exchange extended the timeframe for issuers to obtain Shareholder approval of rolling stock option plans. Under Exchange Policy 4.4, section 3.9(b), rolling stock option plans generally must receive Shareholder approval at the time the plan is to be implemented and yearly, at the issuer's AGM. The Exchange is now permitting issuers to obtain the 2020 yearly Shareholder approval at their 2020 AGM, which may be held on any date in 2020 up to and including December 31, 2020, subject to compliance with applicable legislation.

If you have any questions about COVID-19 we encourage you to contact a member of our Corporate Finance & Securities Group. For more information about dealing with COVID-19, please visit our COVID-19 Resource Center.

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