

TSX AND TSXV PROVIDE GUIDANCE ON NEW RIGHTS OFFERING EXEMPTIONS

Posted on January 22, 2016

Categories: [Insights](#), [Publications](#)

As discussed in [our bulletin issued in October of 2015](#), the Canadian Securities Administrators have adopted, effective December 8, 2015, certain amendments to the rights offering regime in Canada (the "**CSA Amendments**").

In an effort to assist issuers in taking advantage of the new rights offering regime, and to provide guidance on the application of their policies to rights offerings, the Toronto Stock Exchange ("**TSX**") and the TSX Venture Exchange ("**TSXV**") each published guidance on January 18, 2016.

TSX and TSXV Guidance

The following guidance applies to rights offerings by both TSX and TSXV issuers.

Pre-Clearance of Rights Offering Documents

Issuers undertaking a rights offering must file the following rights offering documents in draft form with the TSX or TSXV, as applicable, at least five trading days prior to finalization:

- the rights offering notice (**Form 45-106F14**); and
- the Rights Offering Circular (**Form 45-106F15**)

Determination of Record Dates

The advance notification period to set the record date for all rights offerings has been reduced from seven trading days to five trading days. Therefore, all deficiencies raised by the TSX or TSXV must now be resolved at least five trading days in advance of the record date for the rights offering.

TSXV-Specific Guidance

In addition to the above guidance, there is additional guidance specific to rights offerings by TSXV issuers.

Pricing

The TSXV has reduced the minimum subscription price to \$0.01. The minimum exercise price of a warrant must now not be less than the market price prior to the news release announcing the rights offering and in any event cannot be less than \$0.05.

Listing

An issuer can now elect not to list rights for trading on the exchange.

Shareholder Approval

Shareholder approval is no longer required for the creation of any new control person as a consequence of a stand-by commitment, provided that the rights are listed for trading and the subscription price for the rights is at a significant discount to the market price.

Insiders

If a security holder will own securities representing more than 10 percent of the voting rights attached to all outstanding voting securities of the issuer on the completion of a rights offering, such individual (or, if not an individual, any director, officer or insider of such security holder) must submit a duly completed Personal Information Form (Form 2A) or, if applicable, a Declaration (Form 2C1).

Further Information

While rights offerings have historically been used in Canada as a financing mechanism of last resort, they have generally been seen as a primary funding mechanism in certain international jurisdictions (including the United Kingdom, Hong Kong, and Australia).

Since the effective date of the CSA Amendments, a number of rights offerings have been announced by Canadian reporting issuers. Should you or your clients wish to undertake a rights offering or have questions, you can contact us at:

Calgary

Will Van Horne

e: will.vanhorne@mcmillan.ca

p: 403.531.4714

Kourtney Rylands

e: kourtney.rylands@mcmillan.ca

p: 403.355.3326

A Cautionary Note

The foregoing provides only an overview and does not constitute legal advice. Readers are cautioned against making any decisions based on this material alone. Rather, specific legal advice should be obtained.

© McMillan LLP 2016