



2017-0006

September 5, 2017

**Sections 435.3, 466, 613, 618, 621, 625, 627 and  
640:  
Pre-Clearance, Filing and Notification Requirements**

**Section 431:  
Special Year-End Distributions and Dividends**

**STAFF NOTICE TO APPLICANTS, LISTED ISSUERS, SECURITIES LAWYERS AND  
PARTICIPATING ORGANIZATIONS**

**\*\*\*This Staff Notice replaces TSX Staff Notice 2012-0004, which is repealed in its entirety.\*\*\***

Toronto Stock Exchange ("TSX") is reminding listed issuers of certain provisions of the *TSX Company Manual* (the "Manual") regarding:

1. pre-clearance, filing and notification requirements for debenture interest changes, notices sent to securityholders, security based compensation arrangements, substitutional listings, stock consolidations, redemptions, take-over and issuer bids, amendments to security provisions and plans of arrangement (the "Pre-Clearance, Filing and Notification Requirements"); and
2. special year-end distributions.

**1. Pre-Clearance, Filing and Notification Requirements**

Over the past year, TSX has noticed an increase in the number of listed issuers failing to comply with the Pre-Clearance, Filing and Notification Requirements. The Pre-Clearance, Filing and Notification Requirements are important as they assist TSX in providing a fair and orderly market by informing market participants on a timely basis of certain corporate events, such as take-over bids and redemptions. Furthermore, certain corporate events may require the delisting of securities or implementation of special trading and settlement rules to facilitate the ability of market participants to tender, convert, exchange or exercise securities within prescribed deadlines. Failure to comply with these Pre-clearance, Filing and Notification Requirements may create unnecessary confusion in the marketplace and may result in losses for investors for which the listed issuer may be liable.

We remind listed issuers and their advisors that the issuance of a news release or the filing of materials on SEDAR does not constitute notice to TSX.

The following is intended to be a summary of the Pre-clearance, Filing and Notification Requirements. There may be additional applicable requirements to complete these transactions which are provided for in the Manual.

- a) Debenture interest changes — ss. 435.3: Listed issuers must immediately notify TSX of any changes to the amount of interest to be paid on listed debentures or notes, including a determination to cease or resume interest payments. As TSX typically calculates accrued interest as part of the settlement confirmation, immediate notification to TSX is critical to ensure that accrued interest is correctly calculated for settlement confirmations.
- b) Notices and Reports to Security Holders — S. 466: When a listed issuer sends a notice, report or other written correspondence to holders of its listed securities (other than annual reports, financial statements and annual meeting materials), one copy must concurrently be filed with TSX.
- c) Security based compensation arrangements — S. 613: Materials provided to security holders to approve the adoption of, or amendments to, security based compensation arrangements must be pre-cleared with TSX. Draft materials should be provided to TSX at least five (5) business days prior to finalization. Listed issuers are also reminded that evergreen plans must be approved every three years and those materials must also be pre-cleared by TSX.
- d) Substitutional listings — S. 618: Listed issuers proposing a transaction giving rise to a substitutional listing must pre-clear with TSX the materials for the requisite security holder's meeting. This provision typically applies to name changes, stock splits, stock consolidations, security reclassifications, corporate reorganizations and corporate transactions by way of plan of arrangement. Draft materials should be provided to TSX at least five (5) business days prior to finalization.
- e) Stock consolidation — S. 621: Listed issuers proposing to effect a stock consolidation without using letters of transmittal as a result of the securities being held in the book entry only or similar form with CDS Clearing and Depositary Services Inc. must notify TSX of the proposed stock consolidation at the time the circular is mailed to security holders.
- f) Redemptions of listed securities — S. 625: When redeeming listed securities (in part or in whole), listed issuers must file one copy of the redemption notice with TSX concurrently with sending the notice to security holders. In any event, the redemption notice must be filed no later than seven (7) trading days prior to the redemption date.
- g) Take-over and issuer bids — Section 627: Where a take-over or issuer bid is made for listed securities of a listed issuer, it is the responsibility of the target issuer to ensure that one copy of the offering circular, directors' circular or similar document and all other materials sent to security holders in connection with the bid are filed concurrently or as soon as possible with TSX.
- h) Amendments to security provisions — S. 640: Listed issuers must pre-clear with TSX any proposed amendments to the provisions of securities other than unlisted, non-voting, non-participating and non-convertible securities. This requirement also applies to listed securities which will be delisted from TSX as a result of a plan of arrangement. Draft materials should be provided to TSX at least five (5) business days prior to finalization.

Materials, filings and notifications should be directed to the Listed Issuer Services Manager allocated to the issuer (<https://www.tsx.com/listings/tsx-and-tsxv-issuer-resources/tsx-issuer-resources/tsx-listings-staff>).

## 2. Special Year-End Distributions and Dividends

Section 431 of the Manual requires that listed issuers provide TSX with notification of a distribution (including a dividend) declaration immediately following the board of director (or equivalent) meeting at which the decision to declare the distribution is made. In any event, a notice in the form of a Form 5: Dividend/Distribution Declaration ("Form 5") must be filed at least five (5) trading days prior to the record date. Form 5 must be filed using TSX SecureFile. Reference is made to Sections 428 to 435.2 of the Manual for additional details regarding dividends and other distributions to security holders.

This minimum five (5) trading day notification period applies to all distributions, including special year end distributions, whether or not:

- a) the exact amount of the distribution is known;
- b) the distribution is to be paid in cash or securities; or
- c) if the distribution is to be paid in securities, the securities to be distributed are immediately consolidated after the distribution, resulting in no change to the number of securities held by security holders.

Where the exact amount of the distribution is unknown, issuers should provide, in the Form 5, their best estimate of the anticipated amount of the distribution, and indicate that such amount is an estimate. A news release must also be issued at the time the Form 5 is filed with TSX. Details regarding the payment of the distribution in cash, or securities and whether such securities will be immediately consolidated must also be provided in the Form 5 and in the news release. Upon determination of the exact amount of any estimated distribution, the issuer must file another Form 5 and disseminate the final details by news release.

*(Paragraph repealed March 11, 2021)*

TSX staff further reminds issuers that notices of distributions other than those solely payable in cash should be filed with the Listed Issuer Services Manager allocated to the issuer (<http://www.tmx.com/en/pdf/TSXLIS-IssuerManagerReport.pdf>). The TSX Dividend Administrator, Kay Dhanraj, can be reached at (416) 947-4663 or [kay.dhanraj@tsx.com](mailto:kay.dhanraj@tsx.com) for distributions solely payable in cash.

If you have any questions about this Staff Notice, please contact your Listed Issuer Services manager.