



2020-0002

March 23, 2020

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

Toronto Stock Exchange (“TSX”) is providing notice on further measures it is undertaking in response to the COVID-19 pandemic. Given the current extraordinary ongoing situation, TSX will provide temporary blanket relief (the “Temporary Relief”) from the following provisions of the TSX Company Manual (the “Manual”) as described in more detail below. TSX is not requiring issuers to apply to TSX to take advantage of this relief.

- Section 442 and Section 451 - Financial Statements
- Section 464 and Section 465 - Annual Meeting
- Section 613 - Security Based Compensation Arrangements
- Section 628 - Normal Course Issuer Bids
- Section 712 - Delisting Criteria – Market Value

In addition, TSX is advising issuers of certain discretionary relief that may be available to issuers when applying the definition of “market price” in Part I of the Manual. TSX will provide this relief on a case-by-case basis. TSX is not providing temporary blanket relief in this regard.

## **Financial Statements**

TSX is providing relief from requirements for issuers to notify TSX if issuers require an extension of time to file certain financial statements.

Pursuant to Section 442, an issuer is required to file a Form 9 – Request for Extension or Exemption for Financial Reporting/Annual Meeting (“Form 9”) if it requires an extension of the time limit for filing or mailing its annual financial statements. Similarly, pursuant to Section 451, an issuer is required to file a Form 9 for an exemption from TSX’s requirements for interim financial statements. Pursuant to the Temporary Relief, TSX will not require an issuer to file a Form 9 during 2020 for a late filing of its annual financial statements and/or its interim financial statements.

TSX continues to expect issuers to comply with applicable securities legislation regarding the filing of their annual financial statements and interim financial statements.

## **Annual Meeting**

TSX is extending the timeframe within which issuers must hold their annual meeting of security holders.

Pursuant to Section 464, an issuer must hold its annual meeting of security holders within six months from the end of its fiscal year, or at such earlier time as is required by applicable legislation. Pursuant to the Temporary Relief, TSX is permitting an issuer that must hold an annual meeting of security holders during 2020 (the “2020 Annual Meeting”) to hold its 2020 Annual Meeting on any date in 2020 up to and including December 31, 2020, regardless of the issuer’s fiscal year end.

By way of example, an issuer with a fiscal year end of October 31, 2019 would normally be required to hold its 2020 Annual Meeting by April 30, 2020. An issuer with a fiscal year end of December 31, 2019 would normally be required to hold its 2020 Annual Meeting by June 30, 2020. Pursuant to the Temporary Relief, both issuers may hold their 2020 Annual Meeting on any date in 2020 up to and including December 31, 2020.

TSX continues to expect issuers to comply with applicable legislation regarding the timing of their 2020 Annual Meeting.

Issuers are not required to submit a Form 9 in connection with this Temporary Relief.

## **Security Based Compensation Arrangements**

TSX is extending the timeframe within which an issuer must obtain security holder approval of all unallocated options, rights or other entitlements (“Awards”) under a security based compensation arrangement (a “Plan”), and modifying the circumstances under which an issuer must obtain security holder ratification of Awards granted under a Plan.

Pursuant to Section 613(a), every three years after institution, an issuer must obtain security holder approval for all unallocated Awards under a Plan that does not have a fixed maximum number of securities issuable (the “Three Year Renewal”). Further to the Temporary Relief described above regarding the timing of the 2020 Annual Meeting, TSX understands that issuers may seek approval later than the Three Year Renewal. Normally, Awards granted after

the Three Year Renewal would require security holder ratification prior to exercise of such Awards. Pursuant to the Temporary Relief, an issuer may continue to grant Awards under the Plan until the earlier of the 2020 Annual Meeting and December 31, 2020. Awards granted during this timeframe may be exercised absent ratification by security holders.

### **Normal Course Issuer Bids**

TSX is providing certain relief to an issuer making normal course issuer bid ("NCIB") purchases pursuant to Section 628.

Pursuant to Section 628(a)(ix)(a), an issuer is permitted to acquire listed securities pursuant to an NCIB where the purchases do not, when aggregated with all other purchases by the issuer during the same trading day on TSX, aggregate more than the greater of (i) 25% of the average daily trading volume of the listed securities of that class, and (ii) 1,000 securities. Pursuant to the Temporary Relief, from the date of this Staff Notice up to and including June 30, 2020 (the "Effective Period"), TSX is modifying the volume of purchases condition in Section 628(a)(ix)(a) so that the amount of NCIB purchases must not exceed 50% of the average daily trading volume of the listed securities of that class.

Similarly, TSX is providing Temporary Relief for participating organizations of TSX acting on behalf of issuers for NCIB purchases. During the Effective Period, TSX is modifying the volume of purchases condition in TSX Rule 6-101 of the TSX Rule Book, subsection (a) of "normal course issuer bid", so that the amount of NCIB purchases must not exceed 50% of the average daily trading volume of the listed securities of that class.

The Temporary Relief does not alter any other provision in Section 628 or Section 629 of the Manual, or Part 6 of the TSX Rule Book. The Temporary Relief applies to any relevant NCIB purchase made during the Effective Period, and shall also apply to purchases made under NCIBs renewed or launched during the Effective Period.

### **Delisting Criteria – Market Value**

TSX is providing relief from certain delisting criteria regarding the market value of an issuer's securities.

Pursuant to Section 712(a), TSX may delist securities if the market value of the issuer's securities is less than \$3,000,000 over any period of 30 consecutive trading days. Pursuant to Section 712(b), TSX may delist securities if the market value of the issuer's freely-tradeable, publicly held securities is less than \$2,000,000 over any period of 30 consecutive trading days. Pursuant to the Temporary Relief, from the date of this Staff Notice up to and including December 31, 2020, TSX will not apply the delisting criteria in either Section 712(a) or Section 712(b) when determining whether to initiate a delisting review of an issuer's securities.

All other provisions in Part VII of the Manual, including the expedited review process and the delisting criteria, are not altered by this Staff Notice.

### **"Market price" Definition**

The definition of "market price" in Part I of the Manual provides that the 5 day volume weighted average trading price of the listed securities should be used to determine market price. It also provides that the 5 day period may be adjusted based on relevant factors if such price does not

accurately reflect the current market price of the securities. TSX is mindful that 5 days in the current volatile environment is a relatively long period of time to establish market price. Accordingly, on a case-by-case basis, TSX will use a shorter time period for the determination of market price for the purposes of pricing securities (including warrants) for private placements.

Please also see [Staff Notice 2018-0003](#) and [Staff Notice 2016-0006](#) for further guidance regarding the definition of “market price”.

### **Other COVID-19 Measures**

Please also see [Staff Notice 2020-0001](#) for further information regarding TSX’s response to the COVID-19 pandemic. TSX will continue to monitor the effect that the pandemic and market conditions are having on the operation of its rules and its issuers. Our thoughts go out to all of those affected by COVID-19 across our communities.

If you have any questions about this Staff Notice, please contact your TSX Listed Issuer Services Manager. Contact information for your Listed Issuer Services Manager is available at: <http://www.tsx.com/listings/tsx-and-tsxv-issuer-resources/tsx-issuer-resources/tsx-listings-staff>.