

**BULLETIN TYPE: Notice to Issuers**

**BULLETIN DATE: April 7, 2014**

**Re: Discretionary Waivers of \$0.05 Minimum Pricing Requirement**

The policies of TSX Venture Exchange (“**TSXV**” or the “**Exchange**”) include a requirement that the offering price for a financing involving the issuance of Listed Shares be not less than the applicable Discounted Market Price, subject to a minimum price per share of \$0.05. The Exchange considers this \$0.05 minimum pricing requirement as fundamental to the integrity of our market as it helps mitigate the proliferation of Issuers with excessively dilutive or otherwise imbalanced share capital structures. Recognizing, however, that this minimum pricing requirement may complicate the ability of an Issuer to conduct a financing, the Exchange maintains the discretion to waive the \$0.05 minimum pricing requirement on a case by case basis. The purpose of this Notice to Issuers is to provide Issuers with some guidance on the circumstances in which the Exchange will look more favourably upon an Issuer’s request to waive the \$0.05 minimum pricing requirement.

Capitalized terms not specifically defined in this bulletin shall have the meanings ascribed to them in Policy 1.1 – *Interpretation* of the TSXV Corporate Finance Manual.

**Discretionary Waivers**

In general, the Exchange is not amenable to waiving the \$0.05 minimum pricing requirement. The Exchange will, however, consider waiver requests on a case by case basis and there are currently specific circumstances where the Exchange will look more favourably upon a waiver request. Such circumstances are described below.

Exchange staff will give due consideration to all waiver requests. Waiver requests should be made in writing to the Exchange’s Listed Issuer Services Department and, to the extent applicable, address the relevant criteria outlined below and also provide such other information as the Issuer may regard as pertinent to the Exchange’s consideration of the Issuer’s request.

**1. Rights Offering**

At present, the Exchange will generally be amenable to waiving the \$0.05 minimum pricing rule for a rights offering completed in accordance with Exchange Policy 4.5 – *Rights Offerings*. This will permit the exercise price of the rights to be an amount that is less than \$0.05 per share, subject to a minimum exercise price of \$0.01 per share.

**2. Pending Share Consolidation**

The Exchange acknowledges that compliance with the \$0.05 minimum pricing requirement may necessitate that an Issuer trading at or below \$0.05 complete a share consolidation prior to conducting a financing. In situations where shareholder approval for a share consolidation is required, the timing involved with completing the share consolidation may hinder an Issuer’s ability to complete a financing. In order to help mitigate timing concerns associated with obtaining shareholder approval for a consolidation, the Exchange may be amenable to allowing an issuer to complete a financing at a price of below \$0.05 per share prior to the completion of the consolidation in the following circumstances:

- (a) **Issuance of Shares – Completion of Future Share Consolidation is Certain:** The Exchange may be amenable to waiving the \$0.05 minimum pricing requirement and permitting an Issuer to complete a financing involving the issuance of shares at a price of less than \$0.05 (but at not less than a 25% discount to the last closing price of the Issuer’s shares prior to the announcement of the financing) if the Issuer satisfies the Exchange that the completion of a share consolidation in a reasonable period of time following completion of the financing is certain and will be done at a ratio that will result in the financing price to effectively be not less

than \$0.05 per share on a post-consolidation basis. To satisfy the Exchange in this regard, the Exchange will require the Issuer to:

- (i) obtain and provide to the Exchange as a condition to Exchange acceptance of the financing, written confirmation from shareholders holding not less than 50% (or such lesser amount as may be acceptable to the Exchange on a case by case basis) of the Issuer's issued and outstanding shares (as to be constituted post-financing) that they will vote in favour of the proposed share consolidation;
- (ii) undertake to the Exchange to seek shareholder approval for the share consolidation no later than the earlier of the Issuer's next annual general meeting and six months from the completion of the financing;
- (iii) undertake to the Exchange to give effect to the share consolidation in as expeditious a manner as is possible after receiving the requisite shareholder approval; and
- (iv) fully disclose to the public at the time of announcement of the financing and at the time of closing of the financing the Issuer's intent and commitment to complete the share consolidation.

This structure permits the Issuer to complete the financing prior to completion of the share consolidation and use the sub-\$0.05 pre-consolidation share price as the basis for the offering price of the shares.

- (b) **Issuance of Special Warrants – Issuance of Underlying Shares is Conditional Upon Consolidation:** The Exchange may be amenable to waiving the \$0.05 minimum pricing requirement and permitting an Issuer to complete a financing involving the issuance of special warrants (or similar non-debt securities) at a price of less than \$0.05 (but at not less than a 25% discount to the last closing price of the Issuer's shares prior to the announcement of the financing) if the conversion of the special warrants into Listed Shares is conditional upon the completion of a share consolidation at a ratio that will result in the financing price to effectively be not less than \$0.05 per share on a post-consolidation basis.
- (c) **Issuance of Convertible Debentures – Conversion Conditional Upon Consolidation:** The Exchange may be amenable to waiving the \$0.05 minimum pricing requirement and permitting an Issuer to complete a financing involving the issuance of convertible debentures (or similar convertible debt securities) having a conversion price that is less than \$0.05 (but not less than the last closing price of the Issuer's shares prior to the announcement of the financing) if the ability to convert is conditional upon the completion of a share consolidation and the corresponding post-consolidation adjustment to the conversion price results in it being not less than \$0.05 in the first year of the term and not less than \$0.10 thereafter. This structure permits the Issuer to complete the financing prior to completion of the share consolidation and use the sub-\$0.05 pre-consolidation share price as the basis for the conversion price of the security.

### 3. Other Discretionary Waivers

The Exchange may be amenable to waiving the \$0.05 minimum pricing requirement in circumstances other than those described above. Any Issuer's request for such a waiver will be considered on a case by case basis with a view to the facts specific to the Issuer. A waiver request satisfying all of the following criteria will be looked upon more favourably than one that doesn't:

- (i) To the extent an Issuer is able to rely upon the new "existing shareholder exemption" described in Multilateral CSA Notice 45-313 – *Prospectus Exemption for Distributions to Existing Security Holders* (published March 13, 2014) or an analogous exemption, the offering is made available to all of the Issuer's existing shareholders.

- (ii) The Issuer is not currently listed on the NEX Board.
- (iii) Upon completion of the financing the Issuer will satisfy all applicable Tier 2 Continued Listing Requirements or will otherwise be considered by the Exchange to be suitable for Tier 2 status.
- (iv) The proposed offering price is not less than the last closing price of the Issuer's shares prior to the announcement of the financing subject to a \$0.01 minimum. The proposed offering price is protected/reserved by way of a press release and not a Form 4A – *Price Reservation Form*.
- (v) The financing involves the issuance of Listed Shares and not securities convertible into Listed Shares (such as convertible debentures) other than Warrants. Any such Warrants, however, may not have an exercise price that is less than \$0.05.
- (vi) The aggregate gross proceeds of the financing does not exceed the greater of \$500,000 and an amount that is equal to the offering price multiplied by the number of pre-financing issued and outstanding shares of the Issuer.
- (vii) The proceeds of the financing will primarily be used to maintain or preserve the Issuer's existing operations, activities and assets (i.e. the proceeds will not be used to fund the purchase or pursuit of new business operations or activities) and will not primarily be used to pay management fees.
- (viii) The Issuer will fully disclose to the public at the time of announcement of the financing and at the time of closing of the financing the proposed use of proceeds of the financing including any proposed payments to Related Parties of the Issuer.

**Availability of Discretionary Waivers Is Not Indefinite**

It should be noted that the Exchange is currently open to considering discretionary waivers of the \$0.05 minimum pricing requirement in the circumstances described above. The Exchange may cease to be amenable to considering and granting such waivers at any time. As such, prior to making a waiver application, an Issuer should contact one of the Exchange representatives listed below to confirm that the Exchange remains open to considering such waivers.

If you have any questions about this bulletin, please contact:

Zafar Khan – Policy Counsel, 604-602-6982  
Louis Doyle – Vice-President, 514-788-2407  
Robert Fong – Director, 403-218-2822  
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