



BULLETIN TYPE: Notice to Issuers
BULLETIN DATE: January 25, 2022

Re: Agreements with Future Payments in Securities

TSX Venture Exchange (the “**Exchange**”) is providing guidance in respect of Policy 5.3 – *Acquisitions and Dispositions of Non-Cash Assets* (“**Policy 5.3**”), Policy 2.1 – *Initial Listing Requirements*, Policy 2.4 – *Capital Pool Companies* and Policy 5.2 – *Changes of Business and Reverse Takeovers* of the Exchange’s Corporate Finance Manual (the “**Manual**”). The Exchange uses Bulletins to provide Issuers with a better understanding of Exchange Requirements. This Bulletin addresses agreements pursuant to which an Issuer may become obligated to issue Listed Shares, Warrants, or units comprised of Listed Shares and Warrants (“**Units**”) at some point in the future as part of the consideration to be paid in relation to its acquisition of a non-cash asset or any other commercial arrangement.

Often, an Issuer will enter into an agreement that specifies a fixed number or maximum number of Units, Listed Shares and/or Warrants that the Issuer may become obligated to issue at some point in the future, subject to the satisfaction of certain conditions, which may be as simple as the passage of time. However, in some cases, an Issuer will enter into an agreement that provides for an actual or potential future payment based on a stated cash value that the Issuer may become obligated to pay at some point in the future, and that amount is agreed to be satisfied, or may at a party’s election be satisfied, through the issuance of an undetermined number of Units, Listed Shares and/or Warrants. In these latter circumstances, the Exchange cannot adequately assess the Exchange Requirements applicable to the transaction as the maximum possible dilution cannot be determined.

The Exchange expects that in the vast majority of cases where there is an actual or potential future payment based on a stated cash value, the agreement will include either:

- (a) a fixed number or maximum number of Units, Listed Shares and/or Warrants that the Issuer may become obligated to issue to satisfy its obligations under the agreement;
or
 - (b) a minimum deemed issue price (the “**Floor Price**”) that will be used to calculate the number of Units, Listed Shares and/or Warrants that the Issuer may become obligated to issue to satisfy its obligations under the agreement, which Floor Price must not be less than the Issuer’s Discounted Market Price at the time the agreement is announced by way of news release;
- (a “**Cap**”).

Further, in any case where the actual or potential future payment by way of securities is solely at the election of a party other than the Issuer, the Exchange will require the agreement to include a Cap.

Expedited Acquisition: In order for the Exchange to assess whether a transaction may qualify as an Expedited Acquisition under Policy 5.3, the agreement must include a Cap.

Reviewable Transaction: Where the agreement does not include a Cap, the transaction will be considered a Reviewable Transaction under Policy 5.3.

In connection with a Reviewable Transaction or a New Listing, in certain circumstances depending on the timing, materiality and nature of the actual or potential future payments by way of securities, a Cap may still be required by the Exchange in order to assess the impact of all subsequent payments on the Issuer's capital structure and the applicable Exchange Requirements.

Please refer to Policy 1.3 – *Schedule of Fees* and Appendix 1A – *Notice of Billing Practices* for the filing fees that apply to all securities that may become issuable under an agreement that is submitted for acceptance by the Exchange.

Capitalized terms not specifically defined in this Bulletin have the meanings ascribed to them in the Manual.

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

Charlotte Bell	Senior Policy Counsel	604-643-6577	charlotte.bell@tmx.com
Kyle Araki	Director, Capital Formation (Calgary)	403-218-2851	kyle.araki@tmx.com
Tim Babcock	Vice President, TSX Venture Exchange	416-365-2202	tim.babcock@tmx.com
Andrew Creech	Director, Capital Formation (Vancouver)	604-602-6936	andrew.creech@tmx.com
Sylvain Martel	Director, Capital Formation (Montréal and Toronto)	514-788-2408	sylvain.martel@tmx.com