

POLICY 3.5

RESTRICTED SHARES

Scope of Policy

This Policy sets out the restrictions imposed on Issuers proposing to issue non-voting, subordinate voting, multiple voting and restricted voting securities. This Policy, except where otherwise specified, applies to all Issuers which have issued, or listed, or who propose to list, these shares. This Policy should be read in conjunction with applicable Securities Laws relating to Restricted Shares, including National Instrument 51-102 *Continuous Disclosure Obligations*.

The main headings in the Policy are:

1. Introduction
2. Definitions
3. Legal Designation
4. Notice and Disclosure
5. Shareholder Approval
6. Take-Over Bid Protection Provisions
7. Issuance of Shares
8. Capital Reorganization or Distribution to Shareholders

1. Introduction

- 1.1 The Exchange will generally refuse to list a class of Restricted Shares of an Issuer unless the Issuer is, or is designated, a Tier 1 Issuer. The Exchange may also limit the voting rights and other rights attached to Restricted Shares. Any Issuer proposing to list Restricted Shares (including Multiple Voting Shares) must arrange for a pre-filing conference, as contemplated by Policy 2.7 – *Pre-filing Conferences*.

2. Definitions

- 2.1 In this Policy:

“**Common Shares**” means Equity Shares with voting rights exercisable in all circumstances, irrespective of the number of securities owned. The voting rights must not be less, on a per security basis, than the voting rights attaching to any other securities of an outstanding class of securities of the Issuer.

“Equity Shares” means securities of an Issuer that carry a residual right to participate to an unlimited degree in earnings of the Issuer and in its assets upon liquidation or winding up.

“Majority of the Minority Approval” means approval at a properly constituted meeting of the holders of Equity Shares of the Issuer of a resolution to create a class or series of Multiple Voting Shares, to approve a reorganization or form of business combination which creates Multiple Voting Shares, to approve the issuance of Multiple Voting Shares or to approve a distribution that creates or affects Restricted Shares; which the resolution must be approved by a majority of the votes cast by the holders of Equity Shares who vote at the meeting, other than Promoters, directors, officers or other Insiders of the Issuer and of any proposed recipient of Multiple Voting Shares and their Associates and Affiliates.

“Multiple Voting Shares” means:

- (a) securities which entitle the holder to exercise a greater number of votes per security than the holder of any other class or series of securities of the Issuer;
- (b) securities which are issued at a price per security which is significantly lower than the market price per security of any class of listed Equity Shares; or
- (c) any security which is issued on a Reorganization or form of business combination which would fall in subsections (a) or (b) above.

“Non-Voting Shares” means Restricted Shares which carry a right to vote only in specified circumstances (e.g., to elect a limited number of directors or to vote in circumstances where the applicable corporate legislation provides the right to vote for securities which are otherwise non-voting);

“Preference Shares” means securities that have a preference or right over another class of securities of the Issuer but does not include Equity Shares;

“Related Parties” means Promoters, directors, officers or other Insiders of the Issuer and of any proposed recipient of Multiple Voting Shares and their Associates and Affiliates;

“Restricted Shares” means Equity Shares that are not Common Shares and may include Multiple Voting Shares, Non-Voting Shares, Subordinate Voting Shares and Restricted Voting Shares.

“Restricted Voting Shares” means securities which carry a right to vote if the number or percentage of securities which may be voted by a Person or group of Persons is limited (unless the restriction limit applies only to Persons that are not Canadian citizens or residents);

“Shareholders’ Meeting” means a meeting of the holders of Common Shares or Voting Shares of the Issuer;

“Subordinate Voting Shares” means Restricted Shares that carry a right to vote but another class of securities is outstanding that carries a greater right to vote on a per security basis; and

“**Voting Shares**” means securities that carry the right to vote under all circumstances if the Issuer also has a class of Restricted Shares.

3. Legal Designation

3.1 Restricted Shares

The legal designation of a class of securities must be set out in the constating documents of the Issuer and must appear on all certificates representing the securities. Except where the securities are Preference Shares and are designated as preference or preferred shares, the legal designation must state that shares are:

- (a) “subordinate voting” if the shares are Subordinate Voting Shares;
- (b) “non-voting” if the shares are Non-Voting Shares;
- (c) “restricted voting” if the shares are Restricted Voting Shares (unless the Exchange accepts another term); and
- (d) “multiple voting” if the shares are Multiple Voting Shares.

The Exchange can abbreviate the designations for Restricted Shares in Exchange publications and can identify Restricted Shares with a code in the quotations prepared for the financial press.

3.2 Common Shares

A class of securities cannot be described as or include the word “common” in its legal designation unless they are Common Shares.

3.3 Preference Shares

A class of securities cannot be designated as “preference” or “preferred” unless, in the opinion of the Exchange after examining all relevant circumstances, the class carries a genuine right or preference.

3.4 Multiple Voting Shares

In order to issue a class or series of Multiple Voting Shares, an Issuer must obtain Shareholder approval as described in section 5 and must distribute the Multiple Voting Shares on a pro-rata basis to all holders of Equity Shares.

However, these requirements do not apply to a security split of all the issued and outstanding Equity Shares of the Issuer if such split does not change the ratio of outstanding Restricted Shares to outstanding Common Shares.

3.5 Exchange Discretion

The Exchange may deem a class of securities to be Multiple Voting, Non-Voting, Subordinate Voting or Restricted Voting Shares, impose any terms or conditions it considers appropriate and require an Issuer to designate the securities in a manner satisfactory to the Exchange even though the securities do not fall within the applicable definition in this Policy. In exercising its discretion, the Exchange will be guided by the public interest and the principles of disclosure underlying this Policy. The Exchange will generally consider Equity Shares to be Restricted Shares if the allocation of voting rights does not relate reasonably to the equity interests of the various classes of securities.

As a condition of listing any Restricted Shares, the Exchange can require that Multiple Voting Shares be limited as to the number or proportion of the total votes they carry, either for all Shareholder votes or votes on specific items, such as the election and remuneration of directors, appointment of auditors or any other matters that the Exchange specifies. In addition, the Exchange may require that the Multiple Voting Shares convert to Subordinate Voting Shares after a specified time.

4. Notice and Disclosure

4.1 Notice of and Attendance at Shareholders' Meetings

Every Issuer must give notice of each Shareholders' Meeting to holders of Restricted Shares and permit them to attend in person or by proxy, and to speak at the Shareholders' Meeting to the extent that any holder of Voting Shares of that Issuer would be entitled to attend and to speak at a Shareholders' Meeting. The notice must be sent at least 25 days before the meeting.

The Exchange recommends that the Issuer's constating documents provide all holders of Restricted Shares with the right to receive notice of, and to attend all Shareholders' Meetings. Any Issuer applying for listing, whether by way of an Initial Listing or other New Listing, or which is otherwise amending its capital structure, must include this right in its constating documents.

4.2 Description of Voting Rights in Documents Sent to Shareholders

Every Issuer whose Restricted Shares are listed on the Exchange must describe the voting rights, or lack thereof, of its Equity Shares in all documents distributed to Shareholders and filed with the Exchange, except financial statements. These documents include news releases, material change reports, Information Circulars, proxy related materials and directors' circulars. For financial statements, refer to the applicable Securities Laws and to the CICA Handbook.

4.3 Offering Documents

When preparing a Prospectus or other offering document, refer to the applicable Securities Laws for the minimum disclosure required for an offering of Restricted Shares.

4.4 Distribution of Annual and Other Reports

Unless exempted by the Exchange, every Issuer must send concurrently to all holders of Restricted Shares all documents required by applicable Securities Laws or Exchange Requirements to be sent to holders of Voting Shares as well as any documents voluntarily sent by the Issuer to holders of Voting Shares. This includes Information Circulars, notices of meeting, annual reports and financial statements.

5. Shareholder Approval

- 5.1 Where Exchange Requirements contemplate Shareholder approval, the Exchange may require that the Issuer permit holders of Restricted Shares to vote with the holders of any class of securities of the Issuer which otherwise carry greater voting rights, on a basis proportionate to their respective residual equity interest in the Issuer.
- 5.2 Before an Issuer may create and issue a class or series of Multiple Voting Shares or complete a reorganization that would create Multiple Voting Shares, the creation of that class or series must receive Majority of the Minority Approval.

6. Take-Over Bid Protection Provisions

- 6.1 The Exchange will not accept for listing any class of Restricted Shares that does not have take-over bid protective provisions (“coattail provisions”) which comply with following guidelines. If any Issuer proposes to remove, add or change the coattail provisions applicable to any class of listed Restricted Shares, the revisions must be accepted in advance by the Exchange and must comply with guidelines set out below.
- 6.2 If there is a published market for the Common Shares, the coattail provisions must provide that if there is an offer to purchase Common Shares which, under applicable Securities Laws or the requirements of a stock exchange on which the Common Shares are listed, must be made to all or substantially all holders of Common Shares located in a particular province of Canada in which the requirement applies, the holders of Restricted Shares will be given the opportunity to participate in the offer through a right of conversion, unless:
 - (a) an identical offer (in terms of price per security and percentage of outstanding securities to be taken up exclusive of securities owned immediately before the bid by the offeror, or Associates or Affiliates of the offeror, and in all other material respects) is made concurrently to purchase Restricted Shares, which offer has no condition attached other than the right not to take up and pay for securities tendered if no securities are purchased under the offer for Common Shares; or
 - (b) less than 50% of the Common Shares outstanding immediately before the offer, other than Common Shares owned by the offeror, or Associates or Affiliates of the offeror, are deposited pursuant to the offer.

- 6.3 If there is no published market for the Common Shares, the holders of at least 80% of the outstanding Common Shares will generally be required to enter into an agreement with a trustee for the benefit of the holders of Restricted Shares from time to time, which agreement will prevent transactions that would deprive the holders of Restricted Shares of rights under applicable take-over bid legislation to which they would otherwise be entitled in the event of a take-over bid if the Common Shares and the Restricted Shares were a single class of voting securities trading at the market price of the Restricted Shares.
- 6.4 If there is a material difference between the equity interest of the Common Shares and Restricted Shares, or in other special circumstances, the Exchange may permit or require appropriate modifications to the above criteria.
- 6.5 Coattail provisions may be required by the Exchange if an Issuer has more than one outstanding class of Voting Shares, none of which fall within the definition of Restricted Shares.
- 6.6 The criteria are designed to allow the holders of Restricted Shares to participate in a take-over bid on an equal footing with the holders of Common Shares. If, in the face of these coattails, a take-over bid is structured in such a way as to defeat this objective, the Exchange may take disciplinary measures against any Person under the jurisdiction of the Exchange involved, directly or indirectly, in the making of the bid. The Exchange may also seek intervention from other securities regulators in appropriate cases.

7. Issuance of Shares

- 7.1 The Exchange will not permit an Issuer to issue securities that have voting rights greater than those of the shares of any class of Listed Shares of the Issuer, unless the issuance is by way of a distribution to all holders of the Issuer's Common Shares on a pro rata basis.
- 7.2 For this purpose, the voting rights of different classes of securities will be compared on the basis of the relationship between the voting power and the equity for each class. For example, Class B shares will be considered to have greater voting rights than Class A shares if:
- (a) the shares of the two classes have similar rights to participate in the earnings and assets of the Issuer, but the Class B shares have a greater number of votes per share; or
 - (b) the two classes have the same number of votes per share, but it is proposed that Class B shares will be issued at a price per share significantly lower than the market price per share of the Class A shares.

- 7.3 This prohibition relates only to differences in voting rights attaching to securities of separate classes. It does not apply to an issuance of securities that reduces the collective voting power of the other outstanding securities of the same class without affecting the voting power of any other outstanding class, although other Exchange policies may apply in this case. It applies to a stock split of all of an Issuer's outstanding Equity Shares only if the stock split changes the ratio of outstanding Restricted Shares to Common Shares.
- 7.4 The Exchange generally will exempt Issuers from this section if the issuance of Multiple Voting Shares would maintain (but not increase) the percentage voting position of a holder of Multiple Voting Shares, subject to any conditions the Exchange considers desirable in any particular case. The Exchange will generally require Majority of the Minority Approval of the issuance of Multiple Voting Shares, unless the legal right of the holder of Multiple Voting Shares to maintain its voting percentage has been established and publicly disclosed before the Issuer was first listed on the Exchange.
- 7.5 This section is intended to prevent transactions that would reduce the voting power of existing Shareholders through the use of securities carrying multiple voting rights. This result would normally be accomplished by way of an issuance of Multiple Voting Shares. However, it is possible to arrive at the same result by means of mechanisms that are not technically "share issuances", such as amendments to share conditions, amalgamations and plans of arrangement. The Exchange can object to any transaction that would result in voting dilution similar to that which would be brought about by the issuance of Multiple Voting Shares, even if no share issuance is involved.
- 7.6 A pro rata distribution to Shareholders that creates or affects Restricted Shares must receive Majority of the Minority Approval.

8. Capital Reorganization or Distributions to Shareholders

- 8.1 The Exchange will not consent to a capital reorganization or pro rata distribution of securities to Shareholders of an Issuer which would create a class of Restricted Shares or change the ratio of outstanding Restricted Shares to Common Shares, unless the proposal receives Majority of the Minority Approval. The Exchange may also require that certain Persons be excluded from a particular minority Shareholder vote if necessary to ensure that the objectives behind this Policy are not defeated.
- 8.2 A transaction generally will only be regarded as a "capital reorganization" requiring Majority of the Minority Approval if it involves a subdivision or conversion of one or more classes of Equity Shares or if it has an effect similar to a pro rata distribution to holders of one or more classes of Equity Shares. If a proposed capital reorganization would reduce the voting power of existing Shareholders through the use of Multiple Voting Shares, the Exchange may regard the proposed reorganization as equivalent, in substance, to the type of share issuance that is prohibited by section 7. This could be the case, for example, where the reorganization would not treat all holders of Equity Shares in an identical fashion. In this case, the Exchange may refuse the reorganization even with Majority of the Minority Approval.

- 8.3 An issuance of Restricted Shares in the form of a stock dividend paid in the ordinary course is exempted from the requirement for Majority of the Minority Approval. For this purpose, stock dividends generally are regarded as being paid in the ordinary course if the aggregate of the dividends over any one year period does not increase the number of outstanding Equity Shares of the Issuer by more than 10%.
- 8.4 The Exchange will deem a class of shares to be Restricted Shares if the Issuer's constating documents restrict the power of the holders of a majority of the Issuer's Equity Shares to elect a majority of the directors.
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