Blaney McMurtry LLP

PUBLICATION

Securities Update: Toronto Stock Exchange and TSX Venture Exchange Relax Filing Deadlines Due to COVID-19

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On March 23, 2020, the Toronto Stock Exchange ("**TSX**") published Staff Notice 2020-0002, and the TSX Venture Exchange ("TSXV") published a Notice to Issuers which provide temporary relief for listed issuers from certain regulatory filings, as a result of COVID-19 (the "**Temporary Relief**").

TORONTO STOCK EXCHANGE

The TSX Temporary Relief provides extensions for periodic filings normally required to be made by certain deadlines pursuant to the TSX Company Manual (the "**Manual**"):

TSX is not requiring issuers to file applications to take advantage of this relief, but instead all measures will automatically apply as of March 23, 2020.

TSX will be providing temporary blanket relief from the following provisions of the Manual:

- 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

Further, TSX is also providing discretionary relief, on a case-by-case basis, when applying the definition of "market price" in Part 1 of the Manual.

Section 442 and Section 451 - Financial Statements

Issuers are usually required, pursuant to Section 442, to file a Form 9 – Request for Extension or Exemption for Financial Reporting/Annual Meeting ("**Form 9**") if they require an extension of time to file or mail their annual financial statements. An issuer is also required, pursuant to

Section 451, to file a Form 9 if they require an exemption from the TSX's interim financial statement requirements.

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.

Section 464 and Section 465 - Annual Meeting

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.

Temporary Relief

The Temporary Relief modifies the timeframe pursuant to Section 464, which normally requires issuers to hold an annual meeting of security holders within six months from its fiscal year end (or at such time otherwise required by applicable legislation).

Examples for Reporting Issuers:

Fiscal Year End	Section 464 Deadline for Annual Meeting	Deadline for Annual Meeting under the Temporary Relief
October 31, 2019	April 30, 2020	December 31, 2020
December 31, 2019	June 30, 2020	December 31, 2020

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

Section 613 - 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.

Generally, an issuer is obligated to obtain security holder approval, every three years after institution, for all unallocated Awards under a Plan that doesn't have a fixed maximum number of issuable securities (the "Three Year Renewal"). Any Awards granted after the Three Year Renewal would normally require share holder ratification prior to the exercise of the Awards.

Temporary Relief

The Temporary Relief allows an issuer to grant Awards under a Plan until the earlier of the issuer's 2020 Annual Meeting and December 31, 2020. Further, Awards granted during this timeframe may be exercised absent ratification by security holders.

Section 628 - Normal Course Issuer Bids

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

Normally, pursuant to Section 628(a)(ix)(a) an issuer may utilize an NCIB to acquire listed securities when the aggregated purchases of the issuer, during the same TSX trading day, do not 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.

Temporary Relief

From March 23, 2020 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.

Further, participating organizations of TSX acting on behalf of issuers for NCIB purchases will be provided with similar Temporary Relief during the Effective Period. The volume of purchases condition in TSX Rule 6-101 of the TSX Rule Book, subsection (a) of "normal course issuer bid" is modified 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 will apply to any relevant NCIB purchase made during the Effective Period, as well as to NCIBs that are either renewed or launched during the Effective Period. No other provision in Section 628 or Section 629 of the Manual or part 6 of the TSX rule Book is altered by the Temporary Relief.

Section 712 - Delisting Criteria – Market Value

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. Further, 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.

Temporary Relief

From March 23 up to and including December 31, 2020, the delisting criteria in either Section 712(a) or Section 712(b) will not be applied when TSX is determining whether to initiate a delisting review of an issuer's securities.

"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. The Manual also provides that the 5 day period may be adjusted if that price is not an accurate

reflection of the current market price of the securities. Given the current volatility in the market, TSX will use a shorter time period for the determination of market price for the purposes of pricing securities (including warrants) for private placements, on a case-by-case basis.

Further guidance on the definition of 'market price" can be found in Staff Notice 2018-0003 and Staff Notice 2016-0006.

Summary

Provision	Temporary Relief
Financial Statements - Section 442 and Section 451	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.
Annual Meeting - Section 464 and Section 465	Issuers may hold their 2020 Annual Meeting on any date up to and including December 31, 2020, regardless of their fiscal year end.
Security Based Compensation Arrangements - Section 613	The Temporary Relief allows an issuer to grant Awards under a Plan until the earlier of the issuer's 2020 Annual Meeting and December 31, 2020. Further, Awards granted during this timeframe may be exercised absent ratification by security holders.
Normal Course Issuer Bids - Section 628	From March 23, 2020 up to and including June 30, 2020, 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.
Delisting Criteria – Market Value - Section 712	From March 23 up to and including December 31, 2020, the delisting criteria in either Section 712(a) or Section 712(b) will not be applied when TSX is determining whether to initiate a delisting review of an issuer's securities.

TSX VENTURE EXCHANGE

The TSXV Notice to Issuers provides similar relief for public companies which are listed on the TSXV. For more details of the specific provisions see the Notice: https://www.tsx.com/resource/en/2230

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The information contained in this article is intended to provide information and comment, in a general fashion, about recent cases and related practice points of interest. The information and

views expressed are not intended to provide legal advice. For specific legal advice, please contact us.