

13.2 Marketplaces

13.2.1 TSX – Amendments to TSX Company Manual – Request For Comments

TORONTO STOCK EXCHANGE

REQUEST FOR COMMENTS

AMENDMENTS TO TORONTO STOCK EXCHANGE COMPANY MANUAL

Toronto Stock Exchange (“**TSX**” or the “**Exchange**”) is publishing proposed amendments to introduce TSX requirements regarding Dividend / Distribution Reinvestment Plans (“**DRIPs**”) in Part VI of the TSX Company Manual (the “**Manual**”). The proposed amendments provide for public interest changes and ancillary changes, collectively referred to as the “**Amendments**”. The public interest changes will be published for public comment for a thirty (30) day period.

The Amendments will be effective upon approval by the Ontario Securities Commission (the “**OSC**”) following public notice and comment. Comments should be in writing and delivered by May 28, 2016 to:

Catherine De Giusti
Legal Counsel
Toronto Stock Exchange
The Exchange Tower
130 King Street West
Toronto, Ontario M5X 1J2
Fax: (416) 947-4461
Email: tsxrequestforcomments@tsx.com

A copy should also be provided to:

Susan Greenglass
Director
Market Regulation
Ontario Securities Commission
20 Queen Street West
Toronto, Ontario M5H 3S8
Fax: (416) 595-8940
Email: marketregulation@osc.gov.on.ca

Comments will be publicly available unless confidentiality is requested.

Overview

TSX is seeking public comment on Amendments to the Manual. This Request for Comments explains the reasons for, and objectives of, the Amendments. Following the comment period, TSX will review and consider the comments received and determine whether to proceed with the Amendments, as proposed, or as modified as a result of comments.

Rationale for the Amendments

DRIPs have been adopted by many TSX listed issuers to allow their existing holders to re-invest their cash dividends or distributions by purchasing additional securities. In certain instances, DRIPs may also allow security holders to purchase additional securities, in excess of the dividend or distribution, in compliance with applicable securities laws. These purchases are referred to as “optional cash payments”.

There are many benefits to DRIPs. They allow listed issuers to preserve cash and encourage long-term investment in their securities. DRIPs are also a means for security holders to increase their investment in an issuer in a convenient and efficient way through commission-free purchases of securities, often at a discount to the market price. We estimate that close to 200 TSX-listed issuers have implemented DRIPs.

The Manual does not currently contain specific requirements relating to DRIPs. DRIPs that provide for the issuance of securities from treasury are treated as additional listings of securities under the general provisions of Section 615 of the Manual. Section 616 of the Manual sets out the customary documentation required for additional listings. TSX has historically relied on these provisions to approve DRIPs and list the securities issuable in connection with DRIPs. However, these requirements are general in nature and not specifically tailored to DRIPs.

As there are no specific requirements applicable to DRIPs in the Manual, TSX is frequently contacted by issuers or their legal advisors to understand how to implement a DRIP, list additional securities pursuant to a DRIP or amend a DRIP.

Section 617.1 is being proposed to provide a complete set of standards and practices applicable to DRIPs. We believe the introduction of these requirements in the Manual will provide greater transparency and a more efficient process for adopting DRIPs. This may ultimately translate into time and cost savings for listed issuers. The introduction of Section 617.1 is further warranted given the prevalence of DRIPs among TSX listed issuers.

Summary of the Proposed Amendments

TSX is proposing a new Section 617.1 to explicitly set out the requirements regarding DRIPs in the Manual. As ancillary matters, the Exchange is also proposing to amend Section 329 – *Outstanding and Employee Incentive Plans*, Section 423.12 – *Electronic Communications Guidelines* and Part XI of the Manual.

The new Section 617.1 will provide for the following:

1. Implementing a DRIP

Listed issuers will be required to pre-clear any new DRIPs that provide for the issuance of additional listed securities from treasury. Section 617.1 sets out the documentation required for TSX to finalize the acceptance of the plan and list the additional securities issuable under the DRIP once it has been approved by the listed issuer's board of directors.

2. Requirements Applicable to DRIPs

New requirements will be introduced that specifically apply to DRIPs, as follows:

- the price at which securities can be issued under a DRIP must not be lower than the market price, less a 5% discount;
- the maximum number of additional securities that can be listed under a DRIP;
- all security holders in Canada must be eligible to participate in the DRIP; and
- DRIPs must include a provision to pre-clear all amendments with TSX.

3. Listing Additional Securities under an Existing DRIP

Listed issuers must have a sufficient number of securities listed to cover issuances under a DRIP, including pursuant to optional cash payments. This section also specifies the process and documentation required to list additional securities under an existing DRIP.

4. Amending a DRIP

Listed issuers must pre-clear any amendments with TSX. This section also specifies the documentation required to obtain TSX approval for amendments.

5. Suspending or Terminating / Resuming or Re-instating a DRIP

Listed issuers wishing to suspend or terminate a DRIP must promptly notify TSX and advise their security holders by way of issuing a news release. The same procedure applies when an issuer wants to resume or re-instate a DRIP.

Please refer to the text of new Section 617.1 and to the ancillary amendments to Sections 329, 423.12 and Part XI at **Appendix A**.

Practices of Other Exchanges

None of Aequitas Neo Exchange, TSX Venture Exchange or the New York Stock Exchange have rules setting out specific requirements for DRIPs.

NASDAQ also does not have specific requirements related to DRIPs, but issuers are required to file a copy of the DRIP in connection with the issuer's application to list additional securities pursuant to a DRIP.

Questions

In responding to any of the questions below, please explain your response.

1. Are there any other requirements TSX should consider adopting regarding DRIPs?
2. Is it appropriate to limit the discount at which securities may be issued under a DRIP to 5% of the market price?

Public Interest

TSX is publishing the Amendments for a thirty (30) day comment period, which expires May 28, 2016. The Amendments will only become effective following public notice and the approval of the OSC.

**APPENDIX A
BLACKLINE OF PUBLIC INTEREST AMENDMENTS**

PART VI AMENDMENTS

Sec. 617.1. Dividend / Distribution Reinvestment Plans (DRIPs)

DRIPs are adopted by listed issuers to allow existing holders of a listed security to reinvest their cash dividends or distributions by purchasing additional securities of the same class from the listed issuer. In certain instances, DRIPs may also allow security holders to purchase additional securities, in excess of the dividend or distribution, in compliance with applicable securities laws (an "optional cash payment").

DRIPs that provide for the issuance of additional listed securities from treasury are subject to TSX pre-clearance. However, DRIPs providing for the payment of dividends or distributions solely with securities purchased on the secondary market do not require TSX approval.

(a) Implementing a New DRIP

- (i) All DRIPs must be pre-cleared with TSX. Listed issuers must provide a draft copy of the DRIP to TSX for pre-clearance at least five (5) business days prior to the effective date of the DRIP.
- (ii) Once the DRIP has been pre-cleared by TSX and approved by the board of directors of the listed issuer, the following must be filed with TSX:
 - a. a certified copy of the board resolution approving adoption of the DRIP;
 - b. a final copy of the DRIP; and
 - c. an additional listing application (the "DRIP additional listing application") comprised of:
 - i. a letter notice pursuant to Section 602; and
 - ii. an opinion of counsel that the securities to be listed will be validly created in accordance with applicable laws and that the securities will be validly issued as fully paid and non-assessable.

TSX will invoice the listed issuer for the additional listing fee payable (see TSX Listing Fee Schedule).

(b) Requirements Applicable to DRIPs

Each DRIP should provide for the principal terms and conditions pursuant to which security holders may participate in the DRIP. TSX requires, in particular:

- (i) the price per listed security at which securities will be issued, such price not being lower than the market price (as defined in Part 1 [link] of the Manual), less a 5% discount, taking into account any premium increasing the amount of the dividend or distribution payable or the optional cash payment;
- (ii) the number of additional securities to be listed under the DRIP, including securities issuable pursuant to an optional cash payment, such number of securities being:
 - a. a sufficient number of securities to cover issuances for a two-year period, provided such number of securities does not exceed 10% of the securities of the listed issuer that are issued and outstanding, on a non-diluted basis, at the time of the DRIP additional listing application; or
 - b. a number of securities equal to 5% of the securities of the listed issuer that are issued and outstanding, on a non-diluted basis, at the time of the DRIP additional listing application; and
- (iii) listed issuers must make some provision for fractional security interests that may result from the DRIP;
- (iv) all security holders must be eligible to participate in the DRIP, except that listed issuers may limit the participation of security holders residing outside of Canada; and
- (v) the DRIP must state that all amendments to the DRIP must be pre-cleared by TSX.

Other Information

(c) Listing Additional Securities under an Existing DRIP

After a DRIP has been implemented, listed issuers must have a sufficient number of securities listed to cover issuances under the DRIP, including pursuant to optional cash payments.

In order to list additional securities under an existing DRIP, listed issuers must file a DRIP additional listing application comprised of a letter notice and legal opinion in the form prescribed in (a)(ii)c. above.

TSX will invoice the listed issuer for the additional listing fee payable (see TSX Listing Fee Schedule).

(d) Amending a DRIP

Where a listed issuer proposes to amend a DRIP, it must pre-clear such amendment with TSX. TSX will require a black-lined copy of the DRIP clearly showing the amendments.

Once the amendment has been pre-cleared, TSX will require a certified copy of the board resolution approving the amendment to the DRIP.

(e) Suspending or Terminating / Resuming or Reinstating a DRIP

Where a listed issuer proposes to suspend or terminate a DRIP, it must promptly:

- (i) advise its security holders of the suspension or termination by way of issuing a news release; and
- (ii) notify TSX of the suspension or termination by filing a copy of the news release referred to in (i) above.

Where a listed issuer proposes to resume or re-instate a DRIP, it must notify its security holders and TSX by issuing and filing a news release as described above.

ANCILLARY AMENDMENTS

Sec. 329 Outstanding Options, ~~and Employee~~ Incentive Plans and Dividend / Distribution Reinvestment Plans (DRIPs)

- (a) Stock options, stock option plans and ~~employee~~ stock purchase plans, which are in effect at the time a company is first listed on the Exchange, must be in compliance with the Exchange's requirements applicable to listed companies (but need not be approved by shareholders). See Section 613 regarding share compensation and incentive arrangements for employees and other persons who provide services for listed companies on an ongoing basis.
- (b) DRIPs which are in effect at the time a company is first listed on the Exchange must be in compliance with the Exchange's requirements applicable to DRIPs as set out in Section 617.1.

Sec. 423.12 – Electronic Communication Guidelines

TSX recommends that listed issuers follow these guidelines when designing a website, establishing an internal email policy or disseminating information over the Internet.

[...]

An issuer may either post its own investor relations information or establish links, frequently called “hyper-links”, to other web sites that also maintain publicly disclosed documents on behalf of the issuer such as news wire services, SEDAR and stock quote services. “Investor relations information” includes all material public documents such as: the annual report; annual and interim financial statements; the Annual Information Form; news releases; material change reports; information regarding DRIPs; declarations of dividends; redemption notices; management proxy circulars; and any other communications to shareholders.

Part XI Requirements Applicable to Non-Corporate Issuers

This section sets out the requirements that are specifically applicable to Non-Corporate Issuers.

In addition to the specific requirements outlined in this Part XI, Non-Corporate Issuers must also comply with the following sections of the Manual:

Other Information

Part IV—MAINTAINING A LISTING

All Sections, other than Shareholders' Meeting and Proxy Solicitation (Sections 455–465)

Part VI—CHANGES IN CAPITAL STRUCTURE

(A) Discretion (Section 603), Security Holder Approval (Section 604), Changes in Issued Securities (Section 605)

(C) Security Based Compensation Arrangements (Section 613)

(E) Additional Listings (Section 617.1)

(F) Substitutional Listings (Sections 618–622)

(I) Redemption of Listed Securities (Section 625)

(L) Normal Course Issuer Bids (Sections 628–629)

**APPENDIX B
CLEAN VERSION OF PUBLIC INTEREST AMENDMENTS**

PART VI AMENDMENTS

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- (ii) Once the DRIP has been pre-cleared by TSX and approved by the board of directors of the listed issuer, the following must be filed with TSX:
 - a. a certified copy of the board resolution approving adoption of the DRIP;
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