

POLICY 8

FUNDAMENTAL CHANGES & CHANGES OF BUSINESS

- 1.1 A fundamental change or change of business of a Listed Issuer effectively results in a new issuer, such that the existing disclosure record cannot be relied upon to fairly value the company's securities. Listed Issuers that are contemplating a transaction or series of transactions that may be a fundamental change or change of business must consult with the Exchange at an early stage to determine how the exchange will characterize the transaction.
- (a) A "fundamental change" is a major acquisition accompanied or preceded by a change of control.
- (b) A "change of business" is a redeployment of the Issuer's assets or resources that results in a change to the principal business without a major acquisition or change of control.
- 1.2 A "major acquisition" by a Listed Issuer means an asset purchase, business acquisition (whether for cash or securities), take-over (formal bid or exempt bid), amalgamation, arrangement or other form of merger, the result of which is that for the next 12 month period at least 50% of the Listed Issuer's
- (a) assets will be comprised of or
- (b) anticipated revenues are expected to be derived from
- the assets, properties, businesses or other interests that are the subject of the major acquisition.
- A "change of control" is a transaction or series of transactions involving the issue or potential issue of that number of securities of a Listed Issuer that:
- (i) is equal to or greater than 100% of the number of equity securities of the Listed Issuer outstanding prior to the transaction or series of transactions (commonly referred to as a "reverse take-over"), or
- (ii) otherwise results in a change of control of the Listed Issuer or a substantial change of management or of the board of directors of the Listed Issuer.
- The Exchange may determine that a transaction or series of transactions is a fundamental change, notwithstanding these thresholds.
- 1.3 The Exchange believes that one of the fundamental requirements for a fair and efficient capital market that fosters confidence and protects investors from unfair, improper or fraudulent practices is high quality, timely and continuous disclosure by Listed Issuers. Disclosure sufficient to permit trading to occur on the basis of information adequate for investors to make informed investment decisions must be prepared and disseminated by the

Listed Issuer and provided in an information circular or management proxy circular and Listing Statement.

1.4 Disclosure must be made in connection with the announcement of a fundamental change or change of business. The disclosure should initially be made in a news release (to be issued and posted on the Exchange website pursuant to Policy 5).

1.5 (a) The Market Regulator will halt trading in the securities of the Listed Issuer upon the announcement of a fundamental change to permit dissemination of the material information. The Exchange will require the Market Regulator to continue the halt at least until the documentation required under sections 1.6 and 1.7 have been accepted and posted. During the halt, no Dealer may quote or trade in the security in any marketplace or over-the-counter, either as principal or agent.

(b)

Issuers must notify and consult with the Market Regulator prior to disseminating material information concerning a fundamental change or a change of business during market hours. If the dissemination will occur outside of market hours, the Issuer must notify the Market Regulator in order to effect a trading halt prior to the next trading session.

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1.6 In order to qualify for listing the securities of the resulting issuer, the fundamental change or change of business must be approved by the Exchange and the securityholders of the Listed Issuer prior to completion of the transaction. The information circular or management proxy circular delivered to securityholders of the Listed Issuer must contain prospectus level disclosure of the resulting company, including the financial statement disclosure set out in National Instrument 44-101, National Instrument 41-101 – General Prospectus Requirements and Form 41-101F1. For a fundamental change the information circular or management proxy circular must provide historical financial statements for the target company as if it were going public by way of prospectus and making application for listing, plus pro forma financial statements giving effect to the transaction for the last full fiscal year and interim year-to-date of the target company. Particular requirements are specified in Form 2A. The information circular or management proxy circular must be reviewed by the Exchange before being posted on the Exchange website and delivered to shareholders.

1.7 The Issuer resulting from a fundamental change must meet the criteria for a new listing and make a complete initial application to qualify for listing by filing all of the documents and following the procedures set out in Policy 2 concurrently with filing the information circular or management proxy

circular. Completion of the transaction prior to qualification for listing of the securities of the Issuer resulting from the transaction will result in a suspension from listing of the Listed Issuer. An Issuer undergoing a change of business must revise and refile any documents affected by the change of business.

- 1.8 Principals of the resulting Issuer must enter into an escrow agreement that provides for the escrow of the principal insiders' shares for a period of 36 months. Escrow releases will be scheduled as follows: 10% will be released on the date that the shares commence trading on the Exchange followed by six subsequent releases of 15% each every six months thereafter. The Exchange will allow earlier releases from escrow where the Issuer demonstrates that it would be the equivalent of an "established issuer" under National Policy 46-201 *Escrow for Initial Public Offerings* and such early release would be permitted if the Listed Issuer were an "established issuer."
- 1.9 The Exchange will not approve a fundamental change or change of business proposed for an issuer that has been listed for a period of less than 12 months unless the Issuer obtains approval from the majority of the minority shareholders.