



POLICY 4.5

RIGHTS OFFERINGS

Scope of Policy

A rights offering occurs when an Issuer issues to its own shareholders, at no cost, rights enabling them to purchase additional securities of the Issuer under certain conditions by exercising the rights. A “rights offering circular” or a “rights offering Prospectus”, along with certain other information, is usually required to be prepared by the Issuer and sent to the shareholders with the rights. This Policy outlines the requirements for a rights offering.

An Issuer proposing to make a rights offering should review National Instrument 45-101 - *Rights Offerings*, Form 45-101F - *Information Required in a Rights Offering Circular* and Companion Policy 45-101CP (“National Instrument 45-101”) for details about rights offerings and matters of concern to the Securities Commissions.

The main headings in this Policy are:

1. General
2. Procedure
3. Filing Requirements
4. Effecting the Offering
5. Transferability and “ex-rights” Trading
6. Standby Guarantees
7. Pro Rata Over-Subscription

1. General

1.1 A right issued in a rights offering is similar to a warrant or an option because it enables the holder to acquire another security. A rights offering is also similar to a public distribution of an Issuer’s securities through the Exchange but has two significant distinguishing features:

- (a) the rights do not have to be purchased; they are granted to the shareholders of the Issuer; and
- (b) the rights are granted only to the shareholders of the Issuer. The rights cannot be issued to investors who are not shareholders. The shareholders will however, be able to sell their rights through the facilities of the Exchange to non-shareholder investors, if they so choose.

- 1.2 A rights offering may be effected by means of a Prospectus offering in compliance with applicable Securities Laws and the requirements of this Policy. Several jurisdictions also have Securities Laws that provide a Prospectus exemption for rights offerings, in which case the rights offering may be made pursuant to a rights offering circular.
- 1.3 The standard notation on final Prospectuses or other offering documents referring to conditional approval of a listing is not appropriate for a circular or Prospectus with respect to the rights themselves, nor is such notation appropriate with respect to the securities issuable upon exercise of the rights if such securities are of a class already listed. The rights will normally be listed on the Exchange, as will the underlying securities (if of a class already listed), before the circular or Prospectus is sent to the shareholders.
- 1.4 Rights which receive all required approvals will be automatically listed on the Exchange if the rights entitle the holders to purchase Listed Shares. Rights which do not fall into this category will also normally be listed on the Exchange at the request of the Issuer. If rights issued to shareholders of the Issuer entitle the holders to purchase securities of another issuer which is not listed, the rights will not be listed on the Exchange unless such issuer's securities have been conditionally approved for listing on the Exchange.
- 1.5 The following requirements apply to rights listed on the Exchange:
 - (a) shareholders must receive exactly one right for each security held; Issuers may however, determine the number of rights required to purchase a security upon exercise of the rights in accordance with applicable Securities Laws;
 - (b) if the Issuer proposes to provide a rounding mechanism, whereby shareholders not holding a number of securities equally divisible by a specified number would have their entitlements adjusted upward, adequate arrangements must be made to ensure that beneficial owners of securities registered in the names of banks, trust companies, investment dealers or similar institutions will be treated, for purposes of such additional entitlements, as though they were registered shareholders; and
 - (c) the rights offering must be unconditional.

2. Procedure

- 2.1 A preliminary discussion with the Exchange is recommended to an Issuer proposing to offer rights to its shareholders.
- 2.2 A rights offering by an Issuer must be accepted for filing by the Exchange before the offering proceeds. The offering must also be cleared with the Securities Commissions having jurisdiction (see National Instrument 45-101).

- 2.3 Whether a rights offering is to be effected by a circular or Prospectus, the Issuer must make filings with both the Exchange and all applicable Securities Commissions. The Securities Laws of all jurisdictions where shareholders are resident must also be considered which may require filings with other securities regulators. The offering cannot proceed until all the relevant securities regulators have accepted the documentation for filing. If some shareholders are resident in jurisdictions where the rights may not legally be given to them, the Issuer normally sends these rights to the transfer agent which uses its best efforts to sell the rights through the facilities of the Exchange and deliver the net proceeds pro rata to the shareholders residing in the non-qualifying jurisdictions.

3. Filing Requirements

- 3.1 An Issuer should refer to the applicable Securities Laws to determine what documents must be filed with the Securities Commission(s). The Exchange may have additional requirements, depending on the circumstances.
- 3.2 If the rights offering is acceptable to the Exchange (subject only to the correction of minor deficiencies, if any, and the filing of the required documents), the Exchange will advise the Securities Commissions.
- 3.3 An Issuer proposing to make a rights offering must file the following documents with the Exchange:
- (a) the circular or Prospectus;
 - (b) a specimen rights certificate and, if applicable, security purchase warrant certificate. The ISIN or CUSIP number for the security must be printed on the specimen certificate; See Policy 3.1 - *Directors Officers, Other Insiders & Personnel and Corporate Governance* for requirements regarding security certificates;
 - (c) if there is a standby guarantee, a copy of the guarantee agreement and, unless the guarantor is a Member, satisfactory evidence of the guarantor's ability to perform the obligations contained in the guarantee (i.e. Posted Bond, Letter of Credit, etc.) and a description of the Prospectus exemptions to be used to:
 - (i) issue securities to the guarantor pursuant to the guarantee;
 - (ii) issue any guarantor's warrant to the guarantor; and
 - (iii) permit the guarantor to resell any of the securities acquired under (i) and (ii);
 - (d) a draft news release outlining the terms and the proposed timing of the rights offering; and

- (e) the applicable fee as prescribed in Policy 1.3 - *Schedule of Fees*.
- 3.4 An Issuer should not announce a record date for a rights offering before receiving all necessary approvals from the relevant Securities Commissions in each of the applicable jurisdictions because if any approvals are delayed, the Issuer may have to change the record date at its own expense.
- 3.5 At least seven trading days in advance of the record date:
- (a) all deficiencies raised by the Exchange must be resolved;
 - (b) the Issuer must obtain clearances for the rights offering from all Securities Commissions having jurisdiction, and so advise the Exchange;
 - (c) all the terms of the rights offering must be finalized; and
 - (d) the Exchange must receive all requested documents.
- 3.6 When the circular or Prospectus and rights certificates are sent to shareholders, the Issuer must concurrently file a copy of the circular or Prospectus and a definitive specimen of the rights certificate with the Exchange.
- 3.7 As soon as possible after the expiry of the rights offering, the Issuer must advise the Exchange in writing of the number of securities issued as a result of the rights offering, including securities issued pursuant to any underwriting or similar arrangement.

4. Effecting the Offering

- 4.1 The rights offering must be open for a period of at least 21 calendar days following the date on which the circular or Prospectus is sent to shareholders, or such longer period as is necessary to ensure that all shareholders, including shareholders residing in foreign countries, will have sufficient time to exercise or sell their rights on an informed basis.
- 4.2 Once the rights have been listed on the Exchange, the essential terms of the rights offering, such as the exercise price or the expiry date cannot be amended. However, the Exchange may grant an exemption to extend the expiry date provided that:
- (a) the applicable Securities Commission(s) consent to the extension;
 - (b) the rights issued under the circular or Prospectus have not traded; or
 - (c) there are extremely exceptional circumstances, such as an unexpected postal disruption.

- 4.3 The subscription price for shares to be acquired on the exercise of rights during the rights offering cannot in any case be less than \$0.05 per security.

Warrants

- 4.4 A Warrant forming part of a unit must expire within five years after the expiry of the rights. The exercise price of a Warrant forming part of a unit must not be less than the subscription price.
- 4.5 In order to trade, there must be at least 200,000 transferable Warrants in a rights offering of units provided that the number of shares which may be issued on the exercise of the Warrants must not be more than the total number of shares issued as part of the unit offering.
- 4.6 The transferable Warrants will commence trading if, after completion of the rights offering, the Issuer submits a Distribution Summary Statement (Form 2E) or other evidence acceptable to the Exchange, that at least 75 Public Shareholders hold at least one Board Lot each of the Warrants.
- 4.7 If there is insufficient distribution of the outstanding Warrants for an orderly market, the Exchange can declare that the remaining Warrants will only be traded on a cash basis. During the last three trading days of the term of the Warrants, the Warrants will only trade on a cash basis.
- 4.8 If the number of issued Warrants that are called for trading is reduced to less than 75,000, the Warrants will be delisted from trading on the Exchange.
- 4.9 If the Warrants which form part of the unit offering are not transferable, then:
- (a) the number of shares which may be issued on the exercise of those Warrants must not exceed the total number of shares issued as part of the unit offering;
 - (b) the certificates representing the non-transferable Warrants must be issued in the name of the holder and must have the words “non-transferable” prominently displayed on them;
 - (c) the Rights Offering Circular or Prospectus qualifying the unit offering must clearly disclose that the Warrants are non-transferable; and
 - (d) the Exchange will not list or trade the Warrants.
- 4.10 A Warrant comprising part of a unit must not entitle the holder to acquire a further Warrant, whether transferable or otherwise, upon its exercise.

- 4.11 The Exchange will not accept Warrants for filing if the warrant trust indenture (or equivalent document) entitles the directors of the Issuer to change the exercise price (except for anti-dilution purposes) or provides for the possibility of an accelerated expiry date.
- 4.12 The Exchange will cease trading of Warrants on the Exchange at 9:00 a.m. (Vancouver time), 10:00 a.m. (Calgary time), and 12:00 noon (Toronto time), on the expiry date.

5. Transferability and “ex-rights” Trading

- 5.1 Rights issued by an Issuer must be transferable and will generally be listed. Any proposed restriction on the transfer of unlisted rights must receive the prior consent of the Exchange.
- 5.2 The rights will be listed and commence trading on the Exchange on the second trading day preceding the record date. The rights will trade under normal settlement rules until three trading days before the expiry date of the rights during which time the rights will trade only on a cash basis.
- 5.3 On the same day the rights are listed and commence trading, being the second trading day preceding the record date, the underlying shares of the Issuer will commence trading on an “ex-rights” basis, which means that purchasers at that time of the are not entitled to receive the rights.

5.4 The following chart shows the typical timing for the Exchange Bulletin and ex-rights day in relation to a record date which falls on a Friday:

Day of the Month	1	2	3	4	5	6
Day of the week	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
Event	Exchange publishes notice of rights offering	Clear Day	Clear Day	Clear Day	---	---
Day of the Month	7	8	9	10	11	12
Day of the Week	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Event	Clear Day	Clear Day; last day to trade cum-rights	Shares trade ex-rights; rights commence trading	Clear Day	Record Date	---

5.5 The Exchange will cease trading of rights on the Exchange at 9:00 a.m. (Vancouver time), 10:00 a.m. (Calgary time), and 12:00 noon (Toronto time) on the expiry date.

5.6 In order to provide adequate time for settlement, the rights should not expire less than three hours after the rights cease trading on the Exchange.

6. Stand-by Guarantees

6.1 If an Issuer requires a certain amount of funds for a specific use, the Issuer must determine a minimum subscription, which must be guaranteed by a Person which, in the opinion of the Exchange, has the financial ability to satisfy such stand-by guarantee.

6.2 A guarantor who provides a stand-by guarantee can receive a bonus from the Issuer in the form of a non-transferable security purchase warrant entitling the guarantor to acquire shares of the Issuer equal in number to not more than 25% of the total number of shares he has agreed to acquire on a standby basis. The warrant must be exercised within six months after the date on which performance under the guarantee could be required. The exercise price of the warrant must not be less than the exercise price of the rights.

7. Pro Rata Over-Subscription

- 7.1 If there is an over-subscription, a subscriber's pro rata entitlement on over-subscription will be determined by a pro rata formula acceptable to the Exchange and to the applicable Securities Commission(s).
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