



TSX Guide to Security-Based Compensation Arrangements

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Introduction	1	Term	8
About this Guide	1	Termination provisions	8
I Definitions	2	Vesting	8
Cashless exercises	2	III TSX Disclosure Requirements	8
Evergreen plan	2	Required information	8
Omnibus plan	2	Amendment procedure	9
Phantom plan	2	Assignability	9
Plan maximum	2	Cessation	9
Reserve	2	Eligibility	9
Restricted (or deferred) share unit plan	2	Entitlements subject to ratification	9
Rolling plan	2	Exercise price	9
Stock appreciation right	2	Financial assistance	10
Stock option plan	3	Insider participation	10
Stock purchase plan	3	Number of securities issued and issuable	10
Vesting	3	Maximum issuable to one person	11
II TSX Regulatory Approach	3	Purchase price	11
Security-based compensation arrangements subject to TSX oversight	3	Securities under grants	11
Fundamental TSX requirements	3	Stock appreciation rights	11
Security holder approval requirements	3	Term	11
Exemption from security holder approval requirements	4	Vesting	11
Renewal approval for evergreen plans	4	Other information	11
Board of director approval	5	Security holder resolution and proxy	11
Disinterested vote requirements	5	Annual disclosure requirements	12
Dual class structures	5	IV TSX Reporting Requirements	13
Other convertible or exchangeable securities	5	Monthly (quarterly) reporting requirements	13
Insider participation	5	Basics of reporting	13
Granting options while there is undisclosed material information	5	V Special Circumstances	14
Market price	6	Anti dilution provisions	14
Plan maximum	6	Secondary security purchase plans administered by non independent trustee	14
Terms subject to issuer discretion	6	Backdating of stock options	14
Administration	6	Appendix A – 613 (d) check list	15
Amendment procedures	7		
Anti-dilution adjustments	7		
Assignability and transferability	7		
Black out periods	7		
Change in control provisions	7		
Eligibility	8		
Financial assistance	8		
Maximum to one individual	8		
Purchase price for share purchase plans	8		

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Introduction

About this Guide

Over the last few years, executive compensation and, more particularly, security-based compensation has grown in complexity and come under increased scrutiny by securities regulators, institutional investors and other market participants.

In January 2005, TSX introduced new rules governing security-based compensation arrangements. These rules are detailed in section 613 of the *TSX Company Manual*. With the introduction of these new rules, TSX increased disclosure requirements relating to security-based compensation arrangements.

This guide is intended to help listed issuers gain a better understanding of the issues relating to security-based compensation arrangements and assist listed issuers in preparing meaningful disclosure that complies with TSX requirements.

Throughout this guide, expressions such as “plans” and “arrangements” will be used interchangeably to refer to security-based compensation arrangements in general and expressions such as “entitlements” and “awards” will be used to refer to the securities granted under security-based compensation arrangements.

I Definitions

Cashless exercise

A cashless exercise is a feature generally found in stock option plans whereby the listed issuer has an arrangement with a brokerage firm pursuant to which the brokerage firm will loan money to the participant for such participant to purchase the securities underlying the options. The brokerage firm then sells a sufficient number of securities to cover the exercise price of the options and repay the loan made to the participant. The brokerage firm receives an equivalent number of securities from the exercise of the options and the participant then receives the balance of securities.

For example, a participant granted options to purchase 100 shares at \$10 would need to disburse \$1,000 to purchase the underlying securities. Pursuant to the cashless exercise, the brokerage firm will advance the \$1,000 to the participant to enable the participant to exercise his options. Assuming a market price of \$15, the broker receives 67 shares from the exercise and will sell 67 shares ($\$1,000/\15) in order to repay the loan made to the participant who then receives 33 shares (100 shares – 67 shares).

Evergreen plan

An evergreen plan automatically replenishes the number of securities reserved for issuance to remain constant as securities are issued under the arrangement.

For example, a listed issuer has a stock option plan pursuant to which 100,000 common shares are issuable. Upon the exercise of 10,000 stock options, the number of common shares reserved for issuance under the plan would normally be reduced by 10,000 to stand at 90,000. An evergreen plan provides that these exercised options become available again for future grant. Hence, under an evergreen plan, the number of common shares reserved for issuance would stand at 100,000 upon the listed issuer making application to TSX.

Insider

For the purposes of TSX, “insider” has the same meaning as found in the Ontario Securities Act and also includes associates and affiliates of the insider.

Omnibus plan

An omnibus plan allows participants to receive, within the same plan, a wide range of security-based compensation awards such as stock options and deferred units.

Phantom plan

A phantom plan allows participants to receive a cash payment based on the market price of a given security once the entitlement is exercised. Hence, the participant is rewarded, on a cash basis, through the market performance of the listed securities of the listed issuer. Since phantom plans generally do not provide for the issue of securities, they are not subject to TSX oversight or approval.

Plan maximum

The plan maximum represents the maximum number of securities issuable upon the exercise of awards granted under an arrangement. A plan maximum can be expressed as a percentage of issued and outstanding securities or as an absolute number. An increase in plan maximum is subject to security holder approval under TSX rules.

Reserve

The number of securities reserved for issuance under a plan which will be issued upon the exercise of awards and entitlements.

Restricted (or deferred) share unit plan

A restricted (or deferred) share unit plan allows participants to receive securities, for no additional cash consideration, based on the achievement of certain milestones (based on performance or passage of time).

Rolling plan

A rolling plan is a plan whereby the maximum number of securities issuable is set as a fixed percentage of the listed issuer's issued and outstanding securities from time to time rather than as of a specific date. All rolling plans are evergreen plans (see definition above).

For example, a rolling plan might provide that the maximum number of common shares issuable pursuant to the plan must equal 10% of issued and outstanding common shares at all times. A listed issuer that has 10,000,000 common shares issued and outstanding would have 1,000,000 common shares reserved for issuance under its plan. Assuming that 100,000 options are exercised under the plan, the number of issued and outstanding common shares would amount to 10,100,000 and since the reserve under the plan must equal 10% of issued and outstanding common shares, the reserve under the plan will then be set at 1,010,000 common shares $[(10,000,000+100,000)*10\%]$ upon the listed issuer making application to TSX.

Stock appreciation right

A stock appreciation right is a right entitling a participant to receive a consideration (in cash or securities) equal to the appreciation in value of the listed issuer's securities over a certain period of time, without having to purchase the underlying securities. A stock appreciation right may be granted in tandem with a grant of a corresponding number of options.

For example, if a participant is granted options to purchase 100 shares at \$10 and a tandem stock appreciation right, the participant may choose to exercise such option when the securities are trading at \$15 and receive 33 shares $[(100 * \$15) - (100 * \$10) / \$15]$ or to exercise the tandem stock appreciation right and receive a cash payment of \$500.

Stock option plan

A stock option plan allows participants who so elect to purchase a certain number of securities of a listed issuer at a predetermined price, usually market price at the time the right is granted. Participants must typically wait a specified vesting period before being allowed to exercise the option. Participants to a stock option plans usually include key employees, directors, officers and consultants of the listed issuer and its affiliates.

Stock purchase plan

A stock purchase plan allows participants to purchase securities of the listed issuer, often at a discount to market price. Stock purchase plans can also entitle participants to receive additional securities of the listed issuer upon subscribing for a pre-established number of securities (e.g. for each two securities purchased at market price by the participants, the participant receives an additional security without any additional consideration). Securities issued under a stock purchase plan can be issued out of treasury or purchased on the secondary market. Participants to stock purchase plans usually include employees, directors and officers of the listed issuer or its affiliates.

Vesting provisions

Vesting provisions are conditions which must be met before the participant accrues rights under a security-based compensation arrangement. Vesting conditions are usually based on the passage of time or achievements of specific performance targets. Until an award or entitlement has vested, the holder is not entitled to any benefit thereunder.

II TSX Regulatory Approach

Security-based compensation arrangements subject to TSX oversight

TSX rules described under section 613 of the *TSX Company Manual* apply to arrangements pursuant to which securities listed on TSX are issuable from treasury, that is, where the listed issuer issues new securities. Arrangements in which awards are settled solely in cash or in securities to be purchased on the secondary market (e.g. through the facilities of TSX) are not subject to TSX oversight and approval under Section 613. In cases where a plan provides that participants may receive securities that may be issued from treasury or purchased on the secondary market, such a plan will be subject to TSX oversight.

In certain instances, a listed issuer may issue securities to a third party for services rendered. In order to fall within TSX's security-based compensation arrangement policy, issuance must be to eligible participants such as directors, officers, employees and service providers. Service providers should render services for a period of at least 12 months, on a continuous basis.

Should a listed issuer decide to issue securities in consideration for services rendered by a consultant over a period of one month, such issuance would generally be considered under TSX's private placement policy. Options, warrants and other securities granted to agents or underwriters in the context of a public offering, private placement, or other financing do not fall within the security-based compensation arrangement policy of TSX. Such compensation is accepted within TSX's acceptance of the public offering or private placement. However, if such compensation is received by an insider of the listed issuer, this will fall generally within TSX's security-based compensation policy.

In general, the following arrangements are subject to TSX oversight:

1. stock option plans for the benefit of employees, insiders, service providers or any one of such groups;
2. individual stock options granted to employees, service providers or insiders if not granted pursuant to a plan previously approved by the listed issuer's security holders;
3. stock purchase plans involving issuances from treasury where the listed issuer provides financial assistance or where the listed issuer matches the whole or a portion of the securities being purchased;
4. stock appreciation rights involving issuances of securities from treasury;
5. any other compensation or incentive mechanism involving the issuance or potential issuances of securities of the listed issuer; and
6. security purchases from treasury by an employee, insider or service provider which is financially assisted by the listed issuer by any means whatsoever.

Fundamental TSX requirements

Security holder approval requirements

TSX rules provide that all security-based compensation arrangements must be approved by the listed issuer's security holders at a meeting. This includes not only plans, but also individual stock options and entitlements not granted pursuant to an arrangement.

Security holder approval is also required for any amendment to an arrangement, unless the plan allows for such amendment without security holder approval (see Part III – TSX Disclosure Requirements – Required Information – Amendment procedure for additional information).

Evergreen plans are subject to renewal approval every three years (see Part II – TSX Regulatory Approach – Renewal approval for evergreen plans for further details).

When seeking security holder approval, the circular must include the information required under subsection 613 (d) of the *TSX Company Manual* (see Part III – TSX Disclosure Requirements for further details), the security holder resolution must be clear and must allow security holders to vote for or against the plan (or proposed amendments).

Exemptions from security holder approval requirements

There are four exemptions from the TSX requirement to obtain security holder approval for arrangements: i) the assumption of options or other entitlements in the context of an acquisition; ii) plans adopted and disclosed prior to listing on TSX; iii) inducement options or awards granted to a senior officer not previously employed by the listed issuer; and iv) an arrangement adopted or amended by an interlisted issuer if most of the trading in the listed issuer's securities occurs on the other exchange.

These exemptions are further discussed below.

Assumption of awards in case of acquisitions

As provided in subsections 611 (e) and (f) of the *TSX Company Manual*, listed issuers may assume security-based compensation arrangements of a target issuer. In such instance, the number of securities of the listed issuer issuable pursuant to awards made under the arrangement on or prior to the acquisition date under the target issuer's arrangement will be included in the number of securities issued or issuable for the purposes of determining if security holder approval will be required for the acquisition.

Security holder approval will not be required for the assumption of the target issuer's arrangements if the number of securities issuable pursuant to the awards made under the assumed arrangement (and their applicable exercise or subscription price) is adjusted in accordance with the price per acquired security payable by the listed issuer. However, such number of securities will be accounted for in the total number of securities issuable pursuant to the acquisition to determine if the acquisition will be subject to security holder approval.

TSX will accept both the assumption of the arrangement of the target issuer as well as the cancellation of the target issuer's security-based compensation arrangements and its replacement with an arrangement of the listed issuer, regardless of whether the adjusted exercise price is below the then current market price.

Where a listed issuer assumes awards of a target company, securities of the listed issuer may only be issued for these awards and may not be used for any other purpose. Accordingly, TSX will set up a separate plan and a reserve for such awards. It is important to note that new awards may not be granted and any cancelled entitlements under such a reserve may not be re-allocated to any other participant or be used for any other purpose.

Notwithstanding that the assumption of awards of a target company may not require security holder approval, such awards: i) are subject to the annual disclosure requirements of subsection 613 (g) of the *TSX Company Manual*; ii) will account towards dilution incurred as a result of security-based compensation arrangements; and iii) will need to be considered in the insider participation limits.

Arrangements adopted prior to listing on TSX

Stock options, options plans and other security-based compensation arrangements which have been adopted prior to the issuer listing on TSX and are in effect upon listing on TSX must be in compliance with TSX requirements. However, such arrangements do not need to be approved by the listed issuer security holders concurrently with listing on TSX.

Once a listed issuer has been conditionally approved for listing on TSX, all options and other similar entitlements granted under an arrangement or individually, must be priced at the price no lower than: i) the price at which securities are being offered in the initial public offering; or ii) market price, as applicable.

Inducements to senior officers

Security holder approval will not be required for an arrangement used as an inducement to a person (not previously an insider of the listed issuer) to enter into a contract of full time employment as a senior officer of the listed issuer, provided that the securities issuable to such individual do not exceed 2% of issued and outstanding securities prior to the date of the arrangement.

Exemption for interlisted issuers

Under subsection 602 (g) of the *TSX Company Manual*, TSX will not apply its standards relating to, among other things, security-based compensation arrangements of listed issuers listed on another exchange where at least 75% of the trading value and volume over the six months immediately preceding notification occurs on that other exchange.

This exemption permits eligible listed issuers to adopt plans without complying with any of the requirements outlined in section 613 of the *TSX Company Manual* including security holder approval, minimum exercise price and disclosure requirements. While such listed issuers are exempt from these requirements, TSX does recommend disclosure in accordance with subsections 613 (d) and (g) as a matter of best governance practices.

Renewal approval for evergreen plans

Within three years after institution and within every three years thereafter, listed issuers must obtain security holder approval in order to continue to grant awards under an evergreen plan. Evergreen plans must contain appropriate provisions so that they automatically reload upon the exercise of options or other entitlements, and such provisions should be properly disclosed and approved by security holders. Security holders must pass a resolution specifically approving unallocated entitlements under the evergreen plan. In addition, the resolution should include the next date by which the listed issuer must subsequently seek security holder approval, such date being no later than three years from the date such resolution was approved.

Security holder approval relating to other types of amendments to an evergreen plan will not be accepted as implicit approval to continue granting awards under an evergreen plan. If security holder approval is not obtained within three years of either the institution of an evergreen plan or subsequent approval, as the case may be, all unallocated entitlements will be cancelled and the listed issuer will not be permitted to grant further entitlements under the evergreen plan until such time as security holder approval is obtained. However, all allocated awards under an evergreen plan, such as options that have been granted but not yet exercised, will continue unaffected.

Finally, if security holders fail to approve the resolution for the renewal of a plan, the listed issuer must forthwith stop granting awards under such plan, even if such renewal approval was sought prior to the end of the three-year period.

Board of director approval

All plans must be approved by a majority of the listed issuer's directors at its inception. Amendments to arrangements must also be approved by a majority of a listed issuer's directors. TSX will require that a certified copy of the board resolution be filed in order to list the additional securities or accept notice of the amendments.

Disinterested vote requirements

Where a plan (together with all other security-based compensation arrangements) does not properly limit the participation of insiders to certain levels, insiders eligible to participate in the plan are not eligible to exercise the voting rights attached to their securities (see Part II – TSX Regulatory Approach – Fundamental TSX requirements – Insider Participation).

Dual class structures

If a listed issuer has a dual class structure (e.g. multiple voting and subordinate voting securities), the listed issuer may account for dilution based on the number of multiple and subordinate voting securities issued and outstanding. For example, if a listed issuer has 10,000,000 subordinate voting shares and 2,000,000 multiple voting shares issued and outstanding and is adopting a stock option plan where a maximum of 1,200,000 subordinate voting shares can be issued, dilution would be 10% ($1,200,000 / (10,000,000 + 2,000,000)$).

For dual class issuers, where a disinterested vote is required, all holders of residual equity securities are entitled to vote on the basis of their respective residual equity interests. For example, where the listed issuer has non-voting and voting common shares listed on TSX, the non voting shareholders are entitled to vote on the arrangement. In the case of a multiple voting structure, multiple vote shareholders will be entitled to one vote per share.

Other convertible or exchangeable securities

Convertible and exchangeable securities such as preferred securities, convertible debentures and security purchase warrants, must not be accounted for in the denominator when calculating dilution.

Insider participation

The extent to which insiders are eligible to participate in security-based compensation arrangements will determine whether or not insiders will be eligible to vote on such arrangements (when adopted, renewed or amended).

Insiders of the listed issuer entitled to receive a benefit under the arrangement are not eligible to vote their securities unless the aggregate number of the listed issuer's securities: i) issued to insiders of the listed issuer, within any one year period, and ii) issuable to insiders of the listed issuer, at any time, under the arrangement, or when combined with all of the listed issuer's other security-based compensation arrangements, could not exceed 10% of the listed issuer's total issued and outstanding securities, respectively.

Where insiders will not be entitled to vote their securities, the circular (or similar document) must clearly state that insiders will be excluded from the vote and disclose the number of securities which will be excluded from such vote (see Part III – TSX Disclosure Requirements – Required information – Insider participation for additional information about disclosure requirements).

Granting options while there is undisclosed material information

When undisclosed material information exists, it is not appropriate for the board of directors (or a duly appointed committee of the board) of a listed issuer to set option (or other awards) exercise prices, or prices at which securities may be otherwise issued on the basis of market prices which do not reflect material information of which management is aware but which has not been disclosed to the public. This prohibition remains the case even if the recipient of the award is not aware of the undisclosed material information or the award is being granted in the context of an "annual" grant.

There are two exceptions to this rule:

1. employees may acquire securities under a share purchase plan on specified terms if they previously committed to the acquisition at a time when they did not have knowledge of the undisclosed material information; and
2. a person or company who is neither an employee nor an insider of the listed issuer may be granted options at a price set when the material information is still undisclosed if the grant relates to the undisclosed event (such as an acquisition by a listed issuer of another company).

If TSX becomes aware of options having been granted while material information is undisclosed, it will require that those

awards be cancelled, forfeited or re-priced to a price established after the material information has been disclosed to the market and the impact on the trading price of the securities underlying the options is known. In addition, TSX may require disclosure in the continuous disclosure documents (e.g. management information circular, management discussion and analysis of financial results, etc.) of the listed issuer of the cancellation, forfeiture or re-pricing and the circumstances that led to such action. TSX will not consider the fact that the awards have been granted during the regular annual grant period to be a mitigating factor.

Market price

Every stock option plan (or similar plan) must provide for an exercise price that is not lower than market price.

Notwithstanding section 613(h)(i) of the *TSX Company Manual*, which requires that the exercise price for any stock options not be less than “market price” (as defined in Part I of the *TSX Company Manual* as being the volume weighted average trading price for a period of 5 days), TSX accepts as the exercise price for stock options and other similar securities: (a) a closing market price the day before the grant; or (b) a price determined by employing a reasonable pre-determined formula, based on a weighted average trading price or average daily high and low board lot trading prices for a short period of time prior to the time of the grant. All arrangements must specify the method used for determining market price and that method must be consistently used to set exercise prices.

For interlisted issuers, the plan should also specify which exchange’s trading data is used to establish the market price.

If market price is established in a currency other than Canadian dollars and the plan provides for the ability of the holder to exercise options in Canadian dollars, the exchange rate at the time that the award is granted must be used.

Plans can also provide for alternative formulas. For example, in the case of thinly traded securities, the formula may provide that the exercise price shall not be lower than the closing price of the securities on TSX on the last trading day preceding the date of the grant, but if there has not been at least one board lot so traded, the exercise price shall be the volume weighted average trading price of the securities on TSX for the five (5) trading days preceding the date of the grant.

For interlisted issuers, the plan may provide that the exercise price must not be lower than the higher of the Canadian dollar equivalent (using the noon rate of the Bank of Canada on the date of grant) that the closing price of the securities on TSX and the other exchange. TSX recommends that listed issuers take into account the trading volume of the securities underlying the awards when selecting which exchange will be used to establish market price.

The key principle is to ensure the formula represents the most reasonable reflection of the market price of the listed issuer’s listed securities and that such formula is consistently applied to each grant. For example, formulas which would allow the listed issuer to select the “lower of” market prices or afford the discretion to select the exchange on which market price is established are not acceptable. A listed issuer must not have the discretion to choose from various prices.

Plan maximum

Each arrangement must specify the maximum number of securities issuable pursuant to such arrangement. This number can be expressed in absolute terms (e.g. 1,000,000 shares) or as a percentage of the total number of issued securities (e.g. 7% of the number of issued and outstanding shares of the Company, from time to time).

A plan that specifies an absolute number of securities as a plan maximum may also provide that awards that are exercised become available for future grant. In such instance, the plan would be considered as an “evergreen” plan.

Plan maximums expressed as a percentage are generally evergreen plans unless the plan specifies that the maximum number of securities issuable will be fixed as a percentage of issued and outstanding securities as of a given date.

All amendments to plan maximums are subject to security holder approval and evergreen plans are subject to security holder renewal approval every three years. See Part II – TSX Regulatory Approach – Fundamental TSX requirements for more information.

Terms subject to listed issuer discretion

Administration

A plan should provide for who is responsible to administer the plan. It should be the board of directors’ responsibility to administer the plan and approve amendments to the arrangement. The plan can provide that the board of directors may delegate to a committee, officer, director or other individual administrative duties and powers. In such instance, the plan should clearly define which duties and powers may be delegated.

Amendment provisions

In order for a listed issuer to amend a plan, or an agreement or award subject to a plan, the plan must specify if the board of directors or board committee responsible for administration has the authority to make such amendment without security holder approval. Such authority to amend the plan and entitlements granted pursuant thereto must be approved by security holders (either when the plan is initially adopted or at the time of a subsequent amendment). In the absence of an amendment provision which allows the listed issuer to proceed with the amendment

without security holder approval, security holder approval will be required by TSX.

Listed issuers should introduce detailed amendment provisions to their arrangements. Such amendment provisions can empower the board of directors to make fundamental changes to a plan. Such amendment provisions are subject to security holder approval and, accordingly, the information circular must include a description of the general nature of the changes that may be made without security holder approval, together with examples. TSX may also require that a copy of the plan be included with the circular.

Notwithstanding the amendment provisions included in a plan, the following may not be amended without approval of security holders:

1. increase to plan maximum or number of securities reserved for issuance under a plan
2. amendment provisions granting additional powers to the board of directors to amend the plan or entitlements without security holder approval
3. reduction in the exercise price of options or other entitlements held by insiders
4. extension to the term of options held by insiders
5. changes to the insider participation limits which result in the security holder approval to be required on a disinterested basis

Anti-dilution adjustments

Arrangements should provide for proper adjustments to number and exercise price of awards in the event of corporate actions such as stock splits and consolidations. Participants must not be penalized or favoured by such corporate actions and subsequent adjustments.

For example, if a listed issuer undertakes a 2-for-1 stock split, the number of options reserved and outstanding would double and exercise price should be reduced by half.

For distributions paid in the normal course of business, there are usually no adjustments made to the exercise price or the number of awards. However, some listed issuers, in particular income trusts where stock appreciation is limited, compensate distribution by lowering the exercise price. For special distributions to all security holders, the plan can provide that the exercise price of awards will be adjusted. Such adjustment is normally based on the market price of the security before and after the ex-distribution date.

While arrangements should include proper anti-dilution provisions, such plans must not treat option holders like shareholders. Option holders should not be entitled to participate in distributions or dividends and must not have rights (e.g. voting) similar to those of security holders who have paid for their securities.

In the absence of anti-dilution adjustment provisions, TSX will make the appropriate adjustments for corporate actions such as stock splits and stock consolidations (see Part V – Special Circumstances – Anti dilution provisions for additional information).

Assignability and transferability

An arrangement should provide whether or not options or entitlements can be assigned to a third party. In the case where the board of directors deems it appropriate that awards may be transferred, the plan should provide in which instances awards may be transferred (e.g. transfers to an entity or a trust controlled by the participants to benefit from advantageous tax treatment, transfers to an estate in case of death).

While TSX rules do not prohibit the transfer or assignment of awards, some institutional investors vote against plans which allow for the transfer or the assignment of awards on the basis that such provisions remove the motivation of participants to increase the value of the listed issuer's securities.

Black out periods

Many listed issuers have adopted trading policies whereby they are under self imposed black out periods from time to time, preventing officers, directors and employees from exercising options.

TSX will accept plans providing an expiration date that is “conditional” upon potential expiration of an award during a black out period. Arrangements may provide that the expiration of the term of an option may be the later of a fixed expiration date (as provided in the plan or the agreement), or a date shortly after the fixed expiration date should such date fall within, or immediately after, a black out period. The plan must specifically provide for this conditional expiration date which must be approved by security holders (unless exempted under TSX rules). Where an award expires immediately after the black out period ends, the term should be reduced by the number of days between the expiration date and the end of the black out period. TSX will accept black out expiration periods if:

- the conditional expiry date is only available when the black out period is self imposed by the listed issuer (i.e. it should not be available if the listed issuer or its insiders are subject to a cease trade order);
- the extension of the term upon the end of black out period is reasonable (i.e. five to ten business days), clearly defined in the plan and not subject to board discretion; and
- the conditional expiry date is available to all eligible participants under the plan, under the same terms and conditions.

Change of control provisions

Listed issuers may consider it appropriate to include certain provisions in the event that there would be a change of control, for example, as a result of a take over bid for the listed issuer.

Most change of control provisions provide for or permit the board of directors (or authorized board committee) to authorize the accelerated vesting of all options or other entitlements. This allows participants to be able to tender their securities to the bid. Some change of control provisions also provide for the cashless exercise of options upon or following a change of control event. Any such provision should define change in control event.

Eligibility

Listed issuers must decide who will be entitled to participate in the plan. Usually, officers, directors, certain employees and service providers are eligible to participate. Listed issuers should also ensure that securities are issued to participants in compliance with applicable securities laws.

While TSX rules do not prohibit the participation of non-employee directors in stock option plans, some institutional investors vote against plans which allow non-employee director participation on the basis that direct security ownership better aligns the interests of directors with those of security holders.

Financial assistance

Certain plans provide that the listed issuer will be providing financial assistance to participants. This assistance often takes the form of interest-free or low interest loans for security purchase programs or short term loans for stock options plans. Plans that provide for financial assistance should include provisions addressing whether or not the securities will be pledged and whether any shortfall will be repaid if such securities are realised upon.

The listed issuer must decide if it is appropriate to provide financial assistance in the context of an arrangement. The terms of the financial assistance must be properly described in the plan.

Maximum to one individual

Prior to January 2005, TSX limited participation of one individual to 2% of issued and outstanding securities. On January 1, 2005, TSX removed this individual limit. The board of directors may decide if it is appropriate to set a maximum number of securities (expressed as a percentage of issued and outstanding securities) issuable to one individual and if so, what that percentage should be.

Purchase price for share purchase plans

Stock purchase plans must describe the “subsidy” to be granted to participants. Generally, discounts to the purchase price (funded by the listed issuer) are in the 10% to 15% range from the market price of the listed securities. In cases where additional securities are issued for no additional consideration where a participant purchases securities under a stock option plan, the number of “free” securities issued is generally in the range of one security for every two securities subscribed to by the participant.

Term

Prior to January 2005, TSX limited option (or award) terms to ten years. TSX no longer regulates maximum term requirements for stock options and other types of entitlements. The plan may specifically provide for a maximum term, but may also grant the board of directors with the authority to set the term at each grant. The arrangement may also provide a fixed term, with no discretion for the board of directors to grant shorter or longer terms.

Termination provisions

Plans should provide for the amount of time that the entitlement is valid and remains exercisable when an employee has resigned, has been dismissed (for cause or without cause), has retired, has died or is incapacitated. The period of time may vary depending on the circumstances which led to the termination of the participant’s employment or term (in the case of a directorship). For example, it may be appropriate to grant a longer period of time to a participant to exercise options upon retirement than in the case of a dismissal for cause.

Vesting

Listed issuers should decide what vesting terms are appropriate to their organization and arrangement. The plan may provide for detailed vesting terms or may leave it at the discretion of the board of directors to set vesting terms at each option grant.

Vesting terms come in a variety of forms, from the passage of time, to the achievement of certain performance targets (of the participant or of the listed securities).

III TSX Disclosure Requirements

When instituted and when an amendment to a security-based compensation arrangement requires security holder approval, such security holders must have the required information in order to make an informed decision. All material aspects of the arrangement must be disclosed, as provided for in subsection 613 (d) of the *TSX Company Manual*. Simply annexing a copy of the arrangement to the circular does not satisfy the disclosure requirements under subsection 613 (d). In addition, pursuant to subsection 613 (g), the principal terms of the arrangement must be disclosed annually. In Appendix A, a checklist of items that should be disclosed is provided.

Where security holder approval is required, disclosure included in the circular must be pre-cleared by TSX. Materials prepared for security holders’ meetings should be submitted to TSX at least five business days in advance to allow TSX to pre-clear such materials. Failure to pre-clear can result in TSX not accepting the plan or amendments to the plan should disclosure be deemed deficient, that is not being in full compliance with subsection 613 (d) of the *TSX Company Manual*.

Amendment provision

The circular must provide information on the procedure for amending each arrangement, including specific disclosure as to whether security holder approval is required for certain amendments.

The Board has the discretion to make amendments which it may deem necessary, without having to obtain shareholder approval. Such changes include, without limitation:

1. *minor changes of a "house-keeping nature";*
2. *amending options under the Plan, including with respect to the option period (provided that the period during which an option is exercisable does not exceed ten years from the date the option is granted and that such option is not held by an Insider), vesting period, exercise method and frequency, subscription price (provided that such option is not held by an Insider) and method of determining the subscription price, assignability and effect of termination of a participant's employment or cessation of the participant's directorship;*
3. *changing the class of participants eligible to participate under the Plan;*
4. *advancing the date on which any option may be exercised or extending the expiration date of any option, provided that the period during which an option is exercisable does not exceed 10 years from the date the option is granted;*
5. *changing the terms and conditions of any financial assistance which may be provided by the Company to participants to facilitate the purchase of Shares under the Plan; and*
6. *adding a cashless exercise feature, payable in cash or securities, whether or not providing for a full deduction of the number of underlying Shares from the Plan reserve.*

The Plan also provides that shareholder approval will be required in the case of (i) any amendment to the amendment provisions of the Plan, (ii) any increase in the maximum number of Shares issuable under the Plan, and (iii) any reduction in the exercise price or extension of the option period benefiting an insider, in addition to such other matters that may require shareholder approval under the rules and policies of the TSX.

The Board has the authority to make the following amendments to the Plan, without requiring shareholder approval:

1. *amendments of a "housekeeping" nature;*
2. *a change to the vesting provisions of options granted pursuant to the Plan; and*
3. *a change to the termination provisions of options granted under the Plan which does not entail an extension beyond the original expiry date.*

All other amendment to the Plan or entitlements granted pursuant to the Plan will require the approval of the Company's shareholders.

Assignability

The circular must disclose the assignability of benefits and awards and the conditions for such assignability.

Options may not be assigned or transferred with the exception of an assignment made to a personal representative of a deceased participant.

Awards granted pursuant to the plan may not be assigned to a third party under any circumstances.

Cessation

Listed issuers must disclose the circumstances under which awards will expire under each arrangement, including in circumstances where an employee's termination is for or without cause.

Unless the board of directors decides otherwise, Options granted under Plan will expire at the earlier of the Expiry Date and: i) twelve (12) months after the Optionee's death; or (ii) thirty (30) days after the resignation of the Optionee; (iii) at the date the Company ends the Optionee's employment for cause; (iv) twelve (12) months after the date of a retirement or an authorized leave of absence; (v) ninety (90) days following the Optionee's leave for another reason.

Eligibility

The circular must include information about which individuals are eligible to participate in the plan.

Employees, directors and officers of the Trust and its subsidiaries are eligible to participate in the Plan. The Trustees will make the final determination as to who is eligible to receive Awards under the Plan.

Entitlements subject to ratification

The circular must include information about entitlements previously granted under each arrangement which are subject to security holder ratification.

Since the Plan was adopted on January 15, 2007, 3,000 Restricted Awards have been granted. Such Awards have been granted to two insiders of the Company and will vest on January 14, 2010. These Awards cannot be exercised until such time that shareholders of the Company have approved and ratified the Plan. Should shareholders fail to approve the Plan, these Awards will be cancelled.

On February 14, 2007, the Board of Directors has granted a total of 420,000 Options which may be exercised at a price of \$1.25 until on February 13, 2017, subject to the increase in the plan maximum from 1,000,000 to 2,000,000 as discussed above. Of the 420,000 Options, 300,000 have been granted to insiders who hold a total of 175,000 common shares and 500,000 Options to acquire common shares at prices ranging from \$0.75 (expiring August 2010) to \$1.75 (expiring May 2015). None of the Options can be exercised until such time that the Company has obtained shareholder approval for the increase in plan maximum as discussed in "Amendment to Stock Option Plan". These Options will be cancelled if shareholders do not approve the increase in number of common shares which may be issued pursuant to the Plan.

Exercise price

Listed issuers must state the method by which the exercise or purchase price is determined under each arrangement.

The plan provides that the exercise price of options may not be lower than the closing price of the common shares on Toronto Stock Exchange on the day preceding the grant.

The plan provides that the exercise price of Options may not be lower than the volume weighted average trading price of the Shares on Toronto Stock Exchange over a period of five days preceding the date of grant.

The plan provides that the exercise price of Options may not be lower than the higher of: i) the closing price of the common shares on Toronto Stock Exchange on the day preceding the grant; and ii) the Canadian dollar equivalent (using the Bank of Canada noon rate on such day) of the closing price of the common shares on the New York Stock Exchange.

For every two common shares subscribed by the Participant at a price equal to the volume weighted average trading price on the day preceding the purchase, the Company will issue one additional common share without any further payment from the Participant.

Participants may purchase Shares under the Plan at a price equal 85% of the closing price on the day prior to the Shares being purchased.

Upon performance objectives, as established by the Board of Directors at the time the Awards were granted, Participants will receive such number of common shares allotted to them for no further consideration.

Financial assistance

Listed issuers must disclose if financial assistance is provided to participants under a plan and if so provided, the terms of such assistance must also be disclosed.

The Company will provide loans bearing interest at a rate per annum equal to the Bank of Canada overnight rate plus 2% for up to one year to Officers who wish to subscribe to Common Shares in the capital of the Company. In such circumstances, half the Common Shares so subscribed must be pledged as a collateral to the loan which is payable, at the request of the Company, within five business days of a Participant having been so advised.

In order to facilitate the payment of the exercise price of the Options, the Company provides short term loans to Directors for a period of up to ten business days.

Insider participation

The circular must include disclosure with regard to restrictions on insiders participating in security-based compensation arrangements or state that there are no restrictions. The maximum percentage (if any) of the listed issuers' securities issuable and available to insiders must be disclosed.

Plan with insider participation limits

The plan limits insider participation such that the number of common shares reserved for issuance and issuable within a one-year period to insiders, under the plan and any other security-based compensation arrangement, does not exceed 10% of issued and outstanding common shares.

Plan with insider participation limits

The plan does not limit insider participation.

Number of securities issued and issuable

Listed issuers must disclose the maximum number of securities issued and issuable under each arrangement and the percentage such number of securities represents in terms of the listed issuer's outstanding capital. If the listed issuer is seeking approval for an increase in the number of securities issuable pursuant to an arrangement, the circular must disclose the amount of such increase and the percentage such number represents in terms of the listed issuer's outstanding capital.

Fixed maximum

There is a maximum of 1,000,000 common shares reserved for issuance under the plan, representing 8% of the issued and outstanding common shares as at the date of this Circular.

Evergreen – Expressed as a percentage

The plan provides that the maximum number of Shares issuable upon the exercise of Options shall not exceed such number which represents 7% of the issued and outstanding Shares of the Company. As a result, should the Company issue additional Shares in the future, the number of Shares issuable under the Stock Option Plan will increase accordingly. The Stock Option Plan of the Company is considered as an "evergreen" plan, since the Shares covered by Options which have been exercised shall be available for subsequent grants under the Stock Option Plan.

Evergreen – Expressed as an absolute number

There is a maximum of 1,000,000 common shares reserved for issuance under the Plan, representing 10% of the issued and outstanding common shares as at the date of this Circular. As Options exercised pursuant to the plan, become available again for future grant, the Plan of the Company constitutes an "evergreen" plan. As such, TSX requires that such plans be submitted to shareholders of the Company for ratification every three (3) years.

Fixed maximum – Amendment

There currently is a maximum of 1,000,000 common shares reserved for issuance under the Plan, representing 10% of the issued and outstanding common shares as at the date of this Circular. On July 20, 2007, the Board of directors approved an increase to the plan maximum whereby the number of common shares of the Company reserved for issuance will be fixed at 1,200,000 common shares (the "Increase"), representing 12% of the issued and outstanding common shares as at the date of this Circular. Shareholders of the Company are being asked to approve the Increase by a majority of vote cast and the full text of the resolution to be approved by shareholders is attached to Appendix A of the Circular.

Fixed maximum – Amendment, Disinterested security holder approval required

There currently is a maximum of 1,000,000 common shares reserved for issuance under the Plan, representing 10% of the issued and outstanding common shares as at the date of this Circular. On July 20, 2007, the Board of directors approved an increase to the plan maximum whereby the number of common shares of the Company reserved for issuance will be fixed at 1,200,000 common shares (the "Increase"), representing 12% of the issued and outstanding common shares as at the date of this Circular. Shareholders of the Company are being asked to approve such Increase and the full text of the resolution to be approved by shareholders is attached to Appendix A of the Circular.

As the aggregate number of the Company's common shares: i) issued to insiders within any one year period, and ii) issuable to insiders at any time under the Plan could exceed 10% of the Company's issued and outstanding common shares, TSX rules provide that the votes attached to the securities held by all insiders eligible to participate to the Plan, must be excluded. Accordingly, as of the date therefore, 345,900 common shares will be excluded from the vote.

Issuer with several arrangements

The Trust has several security-based compensation arrangements pursuant to which Units may be issued from treasury, as follows:

- the 1999 Stock Option Plan pursuant to which 1,400,000 Units are issuable, representing 1.4% of the issued and outstanding Units of the Trust as of the date hereof;*
- the Share Purchase Plan pursuant to which 3,000,000 Units are issuable, representing 3% of the issued and outstanding Units of the Trust as of the date hereof;*
- the U.S. Employees Stock Option Plan pursuant to which 1,000,000 Units are issuable, representing 1% of the issued and outstanding Units of the Trust as of the date hereof; and*
- a Stock Option Agreement with its Chief Executive Officer pursuant to which 100,000 Units are issuable, representing 0.1% of the issued and outstanding Units of the Trust as of the date hereof.*

Accordingly, an aggregate of 5.5 million Units are currently issuable under all security-based compensation arrangements of the Trust, representing 5.5% of the issued and outstanding Units of the Trust as of the date hereof.

Maximum issuable to one person

The circular must also disclose the maximum number of securities, (or state that there is no such maximum) that any one person or company is entitled to receive under each arrangement and the percentage such number represents in terms of the number of outstanding securities in the capital of the listed issuer.

Plan with limit

The plan provides that any one individual cannot receive options under the plan or any other arrangement of the Company which will entitle such individual to receive more than 5% of the issued and outstanding common shares of the issuer.

Plan without limit

The plan does not provide for a maximum number of shares which may be issued to an individual pursuant to the plan and any other share compensation arrangement (expressed as a percentage or otherwise).

Purchase price

The circular should disclose the method of determining the purchase price for securities under security purchase arrangements, with specific disclosure as to whether the purchase price could be below the market price of the securities.

The plan provides that the Participant may purchase Shares of the Company any a price equal to 85% of the volume weighted average trading price of the Shares on Toronto Stock Exchange for the five day period preceding the purchase date.

The plan provides that the Participant will receive, for every three Shares subscribed at Market Price, one additional Share of the Company for no further consideration. This results in an effective discount to Market Price of 33%.

Securities under grants

The circular must include disclosure on the total number of awards outstanding which will result in securities being issued and the percentage such securities represents with regards to the listed issuer's currently outstanding capital. These numbers must match with the records of the TSX.

Since the Plan's inception, 700,000 options have been granted, of which 200,000 have been cancelled and 300,000 have been exercised. Accordingly, as of the date hereof, 200,000 options are currently under grant, representing 2% of the issued and outstanding securities of the Company.

There are currently 200,000 Awards outstanding under the Restricted Unit Plan and 1,000,000 options currently under grant pursuant to the Stock Option Plan, which represents, as of the date hereof 1.2% and 6%, respectively, of the issued and outstanding Shares of the Company.

Stock appreciation rights

Listed issuers must discuss if the plan provides for the ability to transform a stock option into a stock appreciation right involving an issuance of securities from treasury. In such instances, the formula for calculating market appreciation of stock appreciation rights must also be disclosed.

At the election of the Participant, Options granted may be surrendered to the Company in consideration such number of Shares having an aggregate value equal to the excess of the Market Price of the Shares over the Exercise Price of the Options, at the time of such surrender.

Term

The circular must include disclosure on the terms of stock options or other awards.

The Board will set the term of Stock Options granted under the plan and such term cannot exceed ten years.

Vesting

Listed issuers must include a description of the vesting terms and other conditions relating to the exercise of awards.

The Board of Directors fixes the vesting terms it deems appropriate when granting options.

Unless the Compensation Committee decides otherwise, the Plan provides that Options will vest as to 25% on each of the date of grant and the following three anniversaries of the date of grant.

One-half of the Restricted Awards will vest only if the Company's Return on Equity is at or above the 75th percentile of the average Return on Equity for companies in the TSX/S&P Composite Index¹, over the same period of time. The other half of the Restricted Award vests on the basis of passage of time, as decided by the Board at the time of grant.

Other information

The circular must also include other material information as may be reasonably required by a security holder to approve or have a good understanding of the arrangement such as:

1. Failure to obtain security holder approval for the arrangement in the past;
2. The fact that the plan was assumed by the listed issuer as a result of a merger or acquisition;
3. Description of corporate actions (e.g. stock splits and consolidations) which resulted in adjustments to the entitlements;
4. Ability to extend the terms of options expiring during a black out period; and
5. Impact of a change of control on the terms and conditions attached to entitlements.

Security holder resolution and proxy

Listed issuers seeking security holder approval for a new plan or for an amendment to an arrangement must ensure that the security holder resolution is specific.

If security holders are approving a new arrangement, the resolution should include basic information on the principal terms of the plan such as eligibility and maximum number of securities issuable under the arrangement.

Whereas:

1. the Board of Directors of the Company approved on July 15, 2007 the adoption of a stock option plan (the "Stock Option Plan") for the benefit of directors, officers, employees and service providers of the Company and its subsidiaries;
2. there will be a maximum of 10,000,000 common shares reserved for issuance under the Stock Option Plan;
3. the Board of Directors has granted 1,000,000 stock options, of which 200,000 to insiders of the Company, at prices ranging from \$2.50 to \$3.00 with expiry dates varying from July 15, 2012 and August 15, 2012 (the "Granted Options");

Be it resolved that:

1. the Stock Option Plan of the Company as disclosed in this Circular be and is hereby approved;
2. the Granted Options as disclosed in this Circular be and are hereby ratified;
3. any director or officer of the Company be and is hereby authorized to do such things and to sign, execute and deliver all documents that such director and officer may, in their discretion, determined to be necessary in order to give full effect to the intent and purpose of this resolution.

Where security holder approval is being sought for an amendment to the arrangement, the resolution must be specific to the amendment(s) being approved (e.g. increase in plan maximum by 200,000 common shares from 1,000,000 to 1,200,000). If entitlements have been granted subject to security holder approval, resolution must also state that such entitlements are being approved and ratified by security holders.

Whereas the Board of Directors of the Company approved on July 15, 2007 certain amendments to the stock option plan of the Company (the "Stock Option Plan") in order to:

1. increase the maximum number of common shares issuable upon the exercise of options by 200,000, from 1,000,000 to 1,200,000;
2. adopt a new amending formula; and
3. to extend the exercise period of option holders otherwise prevented from exercising options because of blackout periods.

Be it resolved that:

1. the maximum number of common shares issuable upon the exercise of options be increased by 200,000, from 1,000,000 to 1,200,000;
2. the provisions governing amendments to the Stock Options Plan specifying when security holder approval of amendments is required be adopted; and
3. the exercise period of option holders otherwise prevented from exercising options because of blackout periods be extended by a further ten business days after such black out period ends;
4. any director or officer of the Company be and is hereby authorized to do such things and to sign, execute and deliver all documents that such director and officer may, in their discretion, determined to be necessary in order to give full effect to the intent and purpose of this resolution.

For evergreen plans, security holders must pass a resolution specifically approving unallocated entitlements under the evergreen plan. In addition, the resolution should include the next date by which the listed issuer must subsequently seek security holder approval, such date being no later than three years from the date such resolution was approved.

Whereas:

1. the Board of Directors of the Company adopted on March 5, 2004 a Stock Option Plan (the "Stock Option Plan") which does not have a fixed maximum number of common shares issuable;
2. the shareholders of the Company approved the Stock Option Plan, by a majority of votes cast, on June 5, 2004;
3. the rules of Toronto Stock Exchange provide that all unallocated options, rights or other entitlements under a security-based compensation arrangement which does not have a fixed number of maximum securities issuable be approved every three (3) years;

Be it resolved that:

1. all unallocated options under the Stock Option Plan be and are hereby approved; and
2. the Company have the ability to continue granting options under the Stock Option Plan until June 1, 2010, that is until the date that is three (3) years from the date where shareholder approval is being sought;
3. any director or officer of the Company be and is hereby authorized to do such things and to sign, execute and deliver all documents that such director and officer may, in their discretion, determined to be necessary in order to give full effect to the intent and purpose of this resolution.

When seeking security holder approval, listed issuers must ensure that security holder resolution and the proxy instructions allow security holders to vote "for" or "against". TSX will not accept security holder resolution and proxy which prompt security holders to vote "for" or "abstain".

Annual disclosure requirements

Listed issuers must disclosed on an annual basis in their information circulars (or equivalent document) the terms of their arrangements. Information should be provided in respect of each item found in subsection 613 (d) of the *TSX Company Manual* and described in Part III of this Guide.

In addition, listed issuers must also disclose amendments that were adopted in the last fiscal year in accordance with the amendment procedures in the plans.

In the course of the last fiscal year, the Board of Directors approved the following amendments to its Stock Option Plans, in accordance with the amendment procedures found in the Stock Option Plan:

- Increase of the period during which options may be exercised by an Option holder following his or her death from 30 days to 60 days;
- Change in the definition of "Market Price" from closing price of the common shares on TSX on the day prior to the grant to the volume weighted average price of the common shares for a period of three days ending one day prior to the date of grant; and
- Addition of consultants (individuals providing service to the Company on a continuous basis for at least 12 months) as being eligible to receive options under the Plan.

IV TSX Reporting Requirements

Monthly (quarterly) reporting requirements

Listed issuers are required to advise TSX within 10 days after the end of each month in which any change to the number of securities outstanding or reserved for issuance has occurred (including a reduction in such number that results from a cancellation or redemption), using Reporting Form 1 – Change in Outstanding and Reserved Securities. When there are no changes to the number of securities outstanding or reserved for issuance in a given quarter, a “nil” Form 1 should be filed on a quarterly basis for the periods ended March 31, June 30, September 30 and December 31 of each year. These requirements can be found in sections 605 and 613 (i) of the *TSX Company Manual* as well as in the instructions provided on Form 1.

This reporting requirement is an integral part of a listed issuer’s ongoing compliance with the rules and regulations of TSX as well as with the listed issuer’s listing agreement with TSX.

Basics of reporting

Upon a security-based compensation arrangement being adopted, the listed issuer must list and reserve the maximum number of securities issuable pursuant to such arrangement. Such number of securities is what we call a “reserve”.

The reserve only increases upon additional securities being reserved for issuance under the arrangement, that is, when security holders approve an increase to the plan maximum or to the number of securities issuable under the arrangement (unless the listed issuer as an evergreen plan). The number of securities reserved for issuance only decreases where options are exercised. Grants and cancellations do not affect the reserve.

The listed issuer should also keep track of the number of awards being granted, exercised and cancelled. The number of awards outstanding should not exceed the number of securities reserved for issuance under the arrangement.

The following examples use options granted under a stock option plan.

New arrangement with a plan maximum of 1,000,000 shares and initial grant of 300,000 options.

Transaction	Date	Listed Securities	Granted	Exercised	Cancelled	Total O/S	Total Reserved
Opening Balance	July 1, 2007	1,000,000	300,000			300,000	1,000,000

Additional grant of 100,000 options:

Transaction	Date	Listed Securities	Granted	Exercised	Cancelled	Total O/S	Total Reserved
Granted	July 20, 2007		100,000			400,000	1,000,000

Increase in options outstanding

Cancellation of 50,000 options:

Transaction	Date	Listed Securities	Granted	Exercised	Cancelled	Total O/S	Total Reserved
Cancelled	July 23, 2007				-50,000	350,000	1,000,000

Decrease in options outstanding

Exercise of 200,000 options:

Transaction	Date	Listed Securities	Granted	Exercised	Cancelled	Total O/S	Total Reserved
Exercised	August 9, 2007			200,000		150,000	800,000

Reduction of # of shares reserved and # of options O/S

Exercise of 100,000 options:

Transaction	Date	Listed Securities	Granted	Exercised	Cancelled	Total O/S	Total Reserved
Exercised	Sept. 5, 2007			100,000		50,000	700,000

Reduction of # of shares reserved and # of options O/S

Grant of 120,000 options:

Transaction	Date	Listed Securities	Granted	Exercised	Cancelled	Total O/S	Total Reserved
Granted	Dec. 5, 2007		120,000			170,000	700,000

Increase in options outstanding

Increase in plan maximum by 200,000 shares:

Transaction	Date	Listed Securities	Granted	Exercised	Cancelled	Total O/S	Total Reserved
Increase	Dec. 20, 2007			200,000		170,000	900,000

Increase in # of shares reserved

2:1 stock split (TSX will automatically adjust):

Transaction	Date	Listed Securities	Granted	Exercised	Cancelled	Total O/S	Total Reserved
Split	Dec. 29, 2007	900,000		100,000		50,000	700,000

Increase in # of shares reserved and # of options O/S

V Special Circumstances

Anti dilution provisions

In cases where an arrangement does not provide for adjustments that should be made to awards issued and outstanding as well as to their terms, TSX will:

1. In the case of a stock split: multiply the number of securities listed and awards outstanding by the split factor and divide the exercise price by the split factor
2. In the case of a stock consolidation: divide the number of securities listed and awards outstanding by the consolidation factor and multiply the exercise price by the consolidation factor
3. In the case of a special distribution to all security holders: allow a reduction to the exercise price of the award by an amount equal to the difference between the volume weighted average trading price for the five days preceding the ex-distribution date and after the ex-distribution date.

Secondary security purchase plans administered by non independent trustee

Most listed issuers who have adopted share purchase plans have mandated a trust company or similar organization to make the purchases on the market on behalf of plan participants.

A trustee or other purchasing agent for a stock purchase plan, or similar other plan in which employees of a listed issuer may participate, is deemed to be making an offer to acquire securities on behalf of the listed issuer where the trustee is deemed to be non-independent.

A trustee is deemed to be non-independent where:

1. the trustee (or one of the trustees) is an employee, director, associate or affiliate of the listed issuer; or
2. the listed issuer, directly or indirectly, has control over the time, price, amount and manner of purchases or the choice of the broker through which the purchases are to be made. The listed issuer is not considered to have control where the purchase is made on the specific instructions of the employee or security holder who will be the beneficial owner of the securities.

TSX should be contacted where there is uncertainty as to the independence of the trustee.

Where trustees are deemed to be non-independent, securities purchased for the benefit of a plan will count towards the limits on purchases of the listed issuer's securities in the context of a normal course issuer bid. If the listed issuer does not have a normal course issuer bid, securities purchased for the benefit of a plan will be subject to subsections 629 (k) and (l) of the *TSX Company Manual*. In addition, in such instance, the purchases made by the non-independent trustees will be subject

to the limits prescribed by the definition "normal course issuer bid" outlined in section 628 of the *TSX Company Manual*.

Backdating of stock options

Listed issuers should refer to the Staff Notice by the Canadian Securities Administrators ("CSA") dated September 8, 2006, which recommended to listed issuers that they assess their current policies, procedures and controls for option grants and equity-based awards to ensure that they comply with relevant stock exchange rules and securities legislation. That notice can be found on the OSC website at:

http://www.osc.gov.on.ca/Regulation/Rulemaking/Current/Part5/csa_20060908_51-320_not-options-backdating.pdf.

The French version of this notice can be found on the website of the Autorité des marchés financiers, at:

<http://www.lautorite.qc.ca/userfiles/File/reglementation/valeurs-mobilieres/Normes/A-3-36p.pdf>.

As a result of the CSA Staff Notice, TSX requests that its listed issuers provide TSX with timely notification where it appears that stock options may have been improperly dated or priced, during or following any investigation (including internal, self-initiated reviews) of the listed issuer's stock option practices. Notification is similarly requested for investigations relating to other security-based compensation arrangements where improper dating or pricing appears to have occurred.

TSX will keep all information regarding the investigation confidential, subject to any communication it is required to make to the relevant securities regulators. A listed issuer failing to provide notification to TSX should be aware that TSX may take such failure into account when determining appropriate measures for the listed issuer in order to ensure that it complies with TSX requirements.

Listed issuers are also reminded of their timely disclosure obligations under the *TSX Company Manual's* Timely Disclosure Policy. Listed issuers will need to assess whether or not a news release is required where it appears that stock options may have been improperly dated or priced, during or following any review or investigation, and upon any resolution with TSX or other securities regulators.

Appendix A – 613 (d) check list

Description	Plan Reference	Disclosure in the Circular
Amendment Procedure for amending each arrangement, including specific disclosure as to whether security holder approval is required for certain amendments		
Assignability Assignability of awards and entitlements under each arrangement and conditions for such assignability		
Cessation Causes of cessation of entitlement under each arrangement, including the effect of an employee's termination for or without cause		
Eligibility Eligible participants under the arrangement (i.e. directors, officers and service providers)		
Exercise price Method of determining the exercise price for securities under each arrangement		
Financial assistance Financial assistance provided by the listed issuer to participants under each arrangement to facilitate the purchase of securities under the arrangement, including the terms of such assistance		
Insider participation limits Maximum percentage, if any, of securities under each arrangement available to insiders of the listed issuer		
Maximum issuable to one person Maximum number of securities, if any, any one person or company is entitled to receive under each arrangement and the percentage of the listed issuer's currently outstanding capital represented by these securities		
Purchase price Method of determining the purchase price for securities under security purchase arrangements, with specific disclosure as to whether the purchase price could be below the market price of the securities		
Ratification Entitlements under each arrangement previously granted but subject to ratification by security holders		
Securities issued and issuable Total number of securities issued and issuable under each arrangement and the percentage of the listed issuer's currently outstanding capital represented by such securities (fixed max) OR Total number of securities issued and issuable under each arrangement, as a percentage of the listed issuer's currently outstanding capital (rolling max)		
Securities under grants Total number of securities issuable under actual grants or awards made and the percentage of the listed issuer's currently outstanding capital represented by such securities		
Stock Appreciation Rights Ability for the listed issuer to transform a stock option into a stock appreciation right involving an issuance of securities from treasury and the formula for calculating market appreciation of stock appreciation rights		
Term Term provided in the arrangement for awards		
Vesting Vesting conditions in the arrangement to attached to awards		
Other information Such other material information as may be reasonably required by a security holder to approve the arrangements (e.g. black out extensions, change of control, etc.)		
Security holder resolution Detailed and precise		
Proxy instructions Shareholders must vote FOR or AGAINST (not FOR or ABSTAIN)		

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