

CORPORATE FINANCE MANUAL
BULLETIN TYPE: POLICY AMENDMENT
BULLETIN DATE: June 15, 2001

Re: Consent to Amend Existing Escrow Agreements

The Exchange, in conjunction with the Canadian Securities Administrators (CSA), and pursuant to CSA Notice 46-302 - *Consent to Amend Existing Escrow Agreements*, has developed guidelines under which it will permit existing escrow agreements to be amended to reflect the release terms included in the proposed uniform escrow regime outlined in CSA Notice 46-301 - *Proposal for Uniform Terms of Escrow Applicable to Initial Public Distributions* (the "National Proposal") and Exchange Policy 5.4 - *Escrow and Vendor Consideration* (the "Exchange Escrow Policy").

Background

Effective July 1, 2000, the Exchange required that Issuers conducting an IPO enter into escrow agreements based on the National Proposal as a condition of listing. Since that date, neither the CSA nor the Exchange has permitted previously existing performance escrow agreements to be amended to reflect the terms of the National Proposal or the Exchange Escrow Policy.

However, at this time, given the widespread application of the National Proposal, and the intention of the CSA to implement the uniform escrow policy this summer, the CSA and the Exchange have determined that amendments to the release terms in existing escrow agreements should now be permitted for reasons of fairness and uniformity.

Amendments

Issuers must obtain Exchange acceptance of the amendments to escrow agreements to reflect the release terms of the National Proposal. In order to obtain Exchange acceptance of the amendments, Issuers must comply with the requirements outlined below, which include additional requirements to those contained in CSA Notice 46-302:

- The issuer's directors must have approved the amendment.
- All parties to the existing escrow agreement, except parties whose shares are no longer in escrow, must have agreed to the amendment.
- The issuer must have obtained any exchange approvals required by the existing escrow agreement.
- The amendment must have been approved by a majority vote of the shareholders of the issuer, or consented to by shareholders holding a majority of the shares of the issuer, excluding in each case escrow shareholders and their affiliates and associates.
- The amendment to the release terms must apply to all shares in escrow relating to the original transaction agreement.
- Once the escrow agreement has been amended and all conditions in this Notice have been met, the issuer must issue a news release at least 60 days prior to the first release under the amended escrow agreement notifying the market of the amendment and the new escrow release terms.
- The issuer's escrow classification (Tier 1 Issuer/Tier 2 Issuer) must be determined at the date of the news release.
- The news release must set out the date of the first release under the amended escrow agreement. The first release date must be at least 60 days after the news release.

- If the issuer is an exempt issuer, all escrow shares may be released, subject to the 10% limit below.
- The new release schedules must be accepted by the Exchange and will be either the schedules included in the National Proposal for those emerging or established Issuers, or those included in the Exchange Escrow Policy, subject to the 10% limit below.
- The number of shares to be released from escrow at any one time may not exceed 10% of the issuer's outstanding shares at the time of release. Shares remaining in escrow after the last scheduled release will continue to be released at 6-month intervals until all shares are released from escrow.
- Each release of escrow shares must be pro rata.
- In order to obtain Exchange acceptance of the amendment to the escrow agreement, the Issuer must file with the Exchange:
 - a description of the terms of the original transaction, pursuant to which the escrow shares were issued;
 - a description of the terms of any other escrow securities and the circumstances under which they were issued;
 - the proposed amended release schedule; and
 - a \$300 processing fee.
- Once Exchange acceptance of the amended agreement has been received, the Issuer must file with the Exchange, in addition to any other securities regulator or securities regulatory authority in all jurisdictions where the original escrow agreement was filed:
 - a copy of the amended escrow agreement; and
 - a certificate of a director or senior officer of the issuer confirming that the escrow agreement has been amended in accordance with this Bulletin and CSA Notice 46-302, *Consent to Amend Existing Escrow Agreements*, and that all conditions to the amendment have been met.

For further information please contact:

in British Columbia:

Susan Copland

Canadian Venture Exchange Inc.

Ph. (604) 643-6531

in Alberta:

Peter Varsanyi

Canadian Venture Exchange Inc.

Ph. (403) 974-8616

in Ontario:

Janet Becker

Canadian Venture Exchange Inc.

Ph. (416) 860-4118
