

# CORPORATE FINANCE MANUAL

(the “Manual”)

## *UPDATE NOTICE*

### *January 2000*

#### Additional Changes to Manual since Web publication November 29, 1999

The amendment communicated in this *Update Notice* is reflected in the Internet ([www.cdnx.ca](http://www.cdnx.ca)) version of the Manual.

Since the publication of the CDNX Corporate Finance Manual (the "Manual") on the CDNX website ([www.cdnx.ca](http://www.cdnx.ca)), a number of errors, omissions and points requiring clarification have been discovered and rectified prior to printing. The updated Manual also appears on the website in the printed version of the Manual.

The following are the amendments to the Manual. Typographical, numbering, grammatical and cross referencing errors are not included in this memorandum.

#### **General**

The numbering system has been changed slightly so that it is easier to identify the section in which the paragraph belongs. Rather than numbering the paragraphs within various sections as simply 1,2,3, etc., the section number has been added so that the paragraphs are numbered 1.1, 1.2, 1.3 etc. for section 1, and 2.1, 2.2, 2.3 for paragraphs in section 2.

#### **Policy 1.2 - Filing Locations and Procedures**

A paragraph has been added to section 5, Confidential Information, which reads as follows:

- 5.5 The names of the persons acquiring securities of an Issuer, the price per security, the number of securities, the province or state in which the Person resides, and the relationship to the Issuer, if non arm's length, will generally be disclosed.

In addition, section 5.6 has been amended as follows:

- 5.6 Generally correspondence other than in the Forms prescribed by the Exchange or contracts filed other than in connection with a public offering will not be placed in the public file.

### **Policy 2.3 - Listing Procedures**

Section 2(3)(b) Final Documentation, has been amended as follows:

- b) if the application for listing is made concurrently with a prospectus offering, the Application for Listing must include two originally executed Statutory Declaration dated within three business days of the date it is submitted to the Exchange, attached to the Prospectus and confirming the Prospectus disclosure. In the event of a material change the date of the Prospectus and the Statutory Declaration ( including in the case of a CPC, the announcement of an Agreement in Principle), a comprehensive material change report supplementing the disclosure must be incorporated into the Statutory Declaration;

### **Policy 2.4 - Capital Pool Companies**

The definition of Discount Seed Shares has been clarified to capture only Insiders who purchase discounted seed shares. The amended definition is:

**"Discount Seed Shares"** means any Seed Shares which are issued to Insiders at a price that is less than the price at which the IPO Shares are offered and sold to the public.

The definition of **Discounted Seed Share Escrow Agreement** has been amended in this manner also and reads:

**"Discount Seed Share Escrow Agreement"** means an escrow agreement in Form 2F as modified by Schedule B(2) which provides generally, that initial releases from escrow commence on the date of the Final Exchange Notice and which provides that in the event an Exchange Notice is issued delisting the CPC, all Discount Seed Shares held by Insiders shall be forfeited and cancelled.

The definition of Seed Share Escrow Agreement has been amended to require a cancellation provision ten years after the delisting of the CPC. The amended definition reads:

**"Seed Share Escrow Agreement"** means an escrow agreement in Form 2F as modified by Schedule B(1) which provides generally, that initial releases from escrow commence on the date of the Final Exchange Notice, and which provides that in the event an Exchange Notice is issued delisting the CPC, all Seed Shares shall be forfeited and cancelled ten years after the Notice date.

Section 11.6, Cancellation, has been amended to add the following provision:

- b) The holders of Seed Shares, other than Discount Seed Shares are required to include in their escrow agreement:
- i) an irrevocable authorization and direction to the escrow agent to cancel the Seed Shares on a date that is ten years from the date of the issuance by the Exchange of a notice delisting the CPC from trading on the Exchange; and

- ii) an agreement to indemnify and hold harmless the escrow agent and the Exchange in respect of the cancellation.

Section 8(3)(b), Permitted Use of Proceeds, has been amended to read:

- (b) Subject to prior Exchange acceptance, up to an aggregate of \$100,000 may be used by a CPC as a deposit for a proposed arm's length Qualifying Transaction. However, a maximum of \$25,000 of such deposit may be advanced as a non-refundable deposit, unsecured deposit or advance to preserve assets without prior Exchange Acceptance. The balance of the \$100,000 deposit must be refundable and is to be held in trust pending the Completion of the Qualifying Transaction. ~~In no circumstances may any part of the refundable portion of the deposit be advanced for use by the Sellers, any Target Issuer or others for use as working capital.~~

### **Policy 3.1 - Directors, Officers, and Corporate Governance**

Section 11(2) , Audit Committee, has been amended to indicate the audit committee must review the annual financial statements of the Issuer before they are approved by the board of directors of the Issuer. Previously the paragraph referred simply to the financial statements.

### **Policy 3.2 - Filing Requirements and Continuous Disclosure**

A new paragraph has been added to section 1, Annual and Interim Financial Statements, which reads as follows:

- 1.3 An Issuer must deliver to all its shareholders, regardless of the jurisdiction in which they reside, financial statements or alternative documents required to be delivered in the jurisdiction in which the Issuer is a reporting Issuer.

Section 3(2), Shareholder Meetings has been amended as follows:

- 3.2 Every Issuer must, concurrently with giving notice of a meeting of shareholders, send a form of proxy and an information circular in the manner prescribed by Securities Laws to each holder of a Listed Share and each other shareholder who is entitled to receive notice of the meeting whether or not they are resident in the jurisdiction in which the Issuer is a reporting Issuer. Every Issuer must comply with the requirements of applicable corporate and Securities Law governing proxies and shareholder meetings.

Section 4(3), Hold Period Legends, has been amended as follows:

### **4.3 Hold Period Legends**

- (a) The Exchange legend requirement applies except in the case of securities issued in a prospectus offering, qualified by prospectus, issued under a securities exchange take-over bid circular or pursuant to an amalgamation or statutory arrangement. Each Issuer must ensure that all other securities issued from treasury are represented by a certificate, which must bear an Exchange legend stating:

“Without prior written approval of the Exchange and compliance with all applicable securities legislation, the securities represented by this certificate may not be sold, transferred, hypothecated or otherwise traded on or through the facilities of the Canadian Venture Exchange or otherwise in Canada or to or for the benefit of a Canadian resident until [insert date].”

- (b) The date to be inserted in the legend will be the date following the fourth month after the securities were issued from treasury, except in the case of stock options granted pursuant to Policy 4.4, where the date will be the date following the fourth month after the grant of the option.
- (c) For securities which are convertible, exercisable or exchangeable into Listed Shares, the legend must be modified to indicate that the resale restriction also applies to the underlying Listed Shares and that the hold period will continue, in either case, until the date following the fourth month after the convertible, exercisable or exchangeable security was issued from treasury.
- (d) The Exchange will only waive the legending requirement prescribed by this section if the securities will be legended with a resale restriction which applies in all Canadian jurisdictions which is longer than the hold period prescribed by this section.
- (e) The Exchange legending requirement is in addition to, and does not replace any Resale Restrictions imposed by Securities Law, including any legending of the security certificate. The Exchange hold period will run concurrently with a hold period under Securities Law.

### **4.4 Trading of Legended Shares**

Legended shares are generally not permitted to trade, however the Exchange may consider applications to trade legended shares where ~~The Exchange requires that~~ Listed Shares bearing a legend trade as a separately listed class of shares with a special symbol to identify the shares as legended (e.g. “ABC.S” for Regulation S legended shares). Legended Listed Shares may trade separately under the special symbol from Listed Shares of the same class of the Issuer that are not legended, or legended Listed Shares may be the only shares of the Issuer listed on the Exchange. The number of legended shares in a class of shares and the nature of the legend will determine whether the legended shares will be listed. If legended shares are not listed, then they are not good settlement for trades of unlegended Listed Shares until the legend is removed.

Section 9, Changes in Constatng Documents and Security Reclassifications, has been amended to require the Issuer to send a draft copy of the amended articles, by-laws, memorandum or constating documents prior to Exchange acceptance. The section also clarifies that the other required documents are to be sent after the amendments are effected.

#### **Policy 4.1 - Private Placements**

Section 1(11)(c), News Releases, has been amended such that the Issuer is no longer required to issue a news release when the Private Placement receives final Exchange acceptance. The Exchange will be issuing an Notice at this point, to inform the public of its acceptance of the transaction.

Section 1(13), Filing Requirements - Notice, has been amended to remove the statement that the Exchange will normally advise the Issuer of conditional acceptance within 5 business days.

Section 5(3), Repricing Warrants, has been corrected to indicate that the shortened exercise period is only applicable if the shares trade at a price which greater than the revised price by the applicable private placement discount for ten consecutive days. Section 5(3) has been amended as follows:

#### **5.3 Repricing Warrants**

Subject to 5.1, the Exchange may consent to an amendment to the exercise price of Warrants in certain circumstances:

- (a) the Issuer originally priced the Warrants higher than the Market Price at the time, and has made application to reprice the Warrants to a price that is equal to or greater than the Market Price at the time the Warrants were granted, or  
~~is less than the Discounted Market Price at the time the Warrants were granted and the Warrants are also amended to shorten the Exercise period to a period of 30 days from the date of the amendment to their terms; and~~
- (b) the Issuer originally priced the Warrants at the Market Price at the time the Warrants were granted and the Warrants are also amended to shorten the exercise period to a period of 30 days if the closing price of the shares exceeds the revised exercise price by the applicable private placement discount for ten consecutive trading days, ("Premium Trading Days"). The 30 day period will commence 7 calendar days from the tenth Premium Trading Day;
- (c) the amended price is not less than the average closing price for the ten Trading Days before the application for repricing;
- (d) the Warrant price has not previously been amended;
- (e) Insiders hold less than 10% of the total number of Warrants to be repriced;
- (f) all Warrantholders consent to the amendment; and

- (g) if Insiders hold more than 10% of the total number of Warrants, the 10% held by Insiders to be repriced is distributed *pro rata* among Insiders holding Warrants.

#### **Policy 4.2 - Prospectus Offerings**

Section 2(13), BC Prospectus Offering Matters, has been amended to add a section requiring a final filing with the Exchange. The section reads:

##### **2.13 Final Filings**

- a) Following the closing of the offering, the Member must promptly file with the Exchange a letter indicating:
  - i) the number and price of securities distributed pursuant to the offering;
  - ii) the number of securities reserved for issuance pursuant to the offering; and
  - iii) the extent of any oversubscription pursuant to a greenshoe option.

#### **Policy 4.4 - Director, Officer and Employee Stock Options**

Sections 2(2) and 2(3) Investor Relations, have been corrected and clarified as follows:

##### **2.2 Consultants**

The aggregate number of options granted to Consultants must not exceed 2% of the outstanding Listed Shares of the Issuer at the time of grant. ~~Options issued to Consultants must vest in stages over 12 months, with no more than 1/4 of the options vesting in any three month period.~~

##### **2.3 Investor Relations**

The aggregate number of options granted to persons employed in Investor Relations Activities must not exceed 2% of the outstanding Listed Shares of the Issuer at the time of grant unless the Exchange permits otherwise. Options issued to consultants providing Investor Relations services must vest in stages over 12 months, with no more than 1/4 of the options vesting in any three month period.

Section 6(1)(b), Amending Stock Option Agreements, has been amended such that the following provision has been added:

- 6.1(b)(iii) if the option price is amended to the Discounted Market Price, the Exchange hold period will apply from the date of the amendment. If the option price is amended to the Market Price, the Exchange hold period will not apply.

## **Policy 4.6 - Public Offering by Short Form Offering Document**

The definition of BC Issuer has been amended as follows:

**BC Issuer** - means an Issuer which is a full reporting issuer in British Columbia. ~~whose mind and management is resident in, and principal business operations are situated in British Columbia.~~

Section 2(1)(b), Use of the Short Form, has been amended as follows:

BC Issuers which have filed a current AIF are eligible to use the Short Form under the conditions outlined below and in compliance with British Columbia Securities Laws. The Short Form system may only be used for an offering in the Province of British Columbia to British Columbia residents unless permitted by Securities Laws and/or the Securities Commission or regulatory authority of each other applicable province or jurisdiction. BC Issuers which have connecting factors with other jurisdictions may be restricted in their use of the Short Form and should consult the applicable Securities Laws to determine if such restrictions exist. Issuers cannot use the Short Form to qualify previously issued securities for sale in British Columbia or elsewhere. Issuers should refer to BOR #99/2 and seek legal advice in regard to the use of the Short Form.

Sections 4(1) and 4(3), Short Form Filing Requirements have been deleted, and a new section, Process has been added in order to more clearly explain the Short Form Offering process. The Process section reads as follows:

### **4. Process**

The filing and acceptance process for a Short Form Offering Document involves the following steps:

- Step 1:** The company and/or its filing solicitor prepare the Short Form, ensuring all continuous disclosure material is up to date, and incorporated by reference.
- Step 2:** The company's agent reviews the document and material incorporated by reference, and does sufficient due diligence to sign the certificate page of the Short Form.
- Step 3:** The company issues a news release announcing the financing by Short Form and disclosing the amount of funds to be raised, the price per share, the use of proceeds and the name of the agent.
- Step 4:** The company submits the Short Form to the Exchange for review within two days from the date of the news release.
- Step 5:** The Exchange reviews the Short Form and if there are no significant deficiencies, accepts it within five business days and publishes an Exchange Notice indicating the acceptance of the financing.
- Step 6:** The agent has 30 days from Exchange acceptance to market and sell the offering.

**Step 7:** Following the closing of the offering, the agent must file a list of purchasers with the Exchange, indicating how many securities each purchaser has purchased, and which purchasers have taken securities subject to a hold period.

#### **Policy 5.4 - Escrow and Vendor Consideration**

Section 9, Discretionary Applications, Conversion of Escrow Agreements and Transitional Provisions, has been deleted at the request of CSA Escrow Committee.

#### **Policy 6.2 - Transitional Provisions for Issuers Previously Listed on the ASE and VSE**

Section 5(1)-(4), Applications for Listing - General, has been amended as follows:

#### **5. Applications for Listing - General**

- 5.1 Until March 1, 2000, an issuer seeking a listing on CDNX as an Initial Listing or by RTO, may opt to comply with the Minimum Listing Requirements of CDNX or, if the issuer files its application with the Calgary office of CDNX, with the minimum listing requirements of the ASE. Similarly, until March 1, 2000, an issuer seeking a listing on CDNX may opt to comply with the Minimum Listing Requirements of CDNX or, if the issuer files its application with the Vancouver office of CDNX, with the initial listing requirements of the VSE.
- 5.2 Effective November 29, 1999, every new Application for Listing will be required to comply with CDNX Policy 2.3 - Listings Procedures and Policy 2.2, Sponsorship and Sponsorship Requirements. However Former VSE Issuers which have received Pre-Assessment Stage approval as at November 26, 1999, will be permitted, although not required, to comply with the VSE Listing Applications Procedures Policy and Sponsorship Policy.
- 5.3 In the event that the BCSC eliminates the requirements for due diligence reports and assessment reports pursuant to Local Policy Statement 3-17 prior to March 1, 2000, issuers seeking listing on CDNX pursuant to VSE initial listing requirements and Listing Application Procedures will generally be required to comply with CDNX policies relating to the requirement for a Sponsor.
- 5.3 Issuers seeking listing on CDNX who as at November 29, 1999 have already structured their transaction in accordance with ASE Minimum Listing Requirements or VSE Initial Listing Requirements (including VSE Policy 19, Performance and Trading Shares and Other Consideration) and BCSC Local Policy 3-07, will generally also be subject to escrow in accordance with the applicable VSE or ASE policies.

A section regarding the application of the Sponsorship requirement has been added as section 8. The section reads as follows:

#### **8. Sponsorship**

- 8.1 Transactions announced after November 29, 1999, which require a Sponsor or a Reporting Letter pursuant to VSE or ASE policies, will be required to comply with CDNX Policy 2.2, Sponsorship and Sponsorship Requirements.



8.2 The Exchange will continue to conduct due diligence searches on behalf of Sponsors for a fee until March 1, 2000.

### **Form 2D - Listing Agreement**

The Agreement has been amended so that it is no longer signed by CDNX. A provision has been added which states the following:

This application shall be deemed to have been accepted by the Exchange, and shall become effective immediately upon commencement of trading of any securities of the Issuer on the Exchange.

### **Appendix 2A - Sponsorship Acknowledgement Form**

The requirement for the Sponsor to specifically conduct a Lexis/Nexis search on each of the insiders has been deleted, and replaced with a provision requiring them to conduct searches of "appropriate databases" as described in section 5(b) of Sponsorship Policy Statement 3. This requires a Lexis/Nexis search in the case of foreign individuals.

### **Appendix 2B - Rule B.2.00; and**

### **Appendix 2C - Excerpts from Rule B.2.00 Policy Statements**

Both of these appendices are currently being finalized and will be sent to subscribers once they are final. In the interim, please check the Corporate Finance Manual on the CDNX website ([www.cdnx.ca](http://www.cdnx.ca)) periodically, as these appendices will be up on the website once they are final.

Should you have any questions regarding the **content** of the Manual, please contact:

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