

POLICY 4.4

DIRECTOR, OFFICER AND EMPLOYEE STOCK OPTIONS

Scope of Policy

Director, officer and employee stock options, commonly referred to as incentive stock options, are a means of rewarding optionees for future services provided to the Issuer. They are not intended as a substitute for salaries or wages, or as a means of compensation for past services rendered.

This Policy sets out the Exchange's requirements for incentive stock options.

The main headings in this Policy are:

1. Introduction
2. General Requirements
3. Stock Option Plans
4. Required Documentation for Individual Grants not Pursuant to a Plan
5. Required Documentation for Stock Option Plans
6. Amending Stock Option Agreements

1. Introduction

1.1 Application

The Exchange requirements in this Policy apply to:

- (a) an Issuer listed on the Exchange which proposes to grant stock options to its Directors, Employees and Consultants; and
- (b) an unlisted Company planning to apply or in the process of applying for listing on the Exchange which proposes to grant stock options to its Directors and Employees which will remain outstanding after listing.

1.2 Interpretation

In this Policy:

“Consultant” means, in relation to an Issuer, an individual (or a Company wholly-owned by Individuals) who:

- (a) provides ongoing consulting services to the Issuer or an Affiliate of the Issuer under a written contract;
- (b) possesses technical, business or management expertise of value to the Issuer or an Affiliate of the Issuer;
- (c) spends a significant amount of time and attention on the business and affairs of the Issuer or an Affiliate of the Issuer; and
- (c) has a relationship with the Issuer or an Affiliate of the Issuer that enables the individual to be knowledgeable about the business and affairs of the Issuer.

“Directors” means directors, senior officers and Management Company Employees of an Issuer, or of an unlisted Company seeking a listing on the Exchange, or directors, senior officers and Management Company Employees of an Issuer’s or an unlisted Company’s subsidiaries to whom stock options can be granted in reliance on a Prospectus exemption under applicable Securities Laws.

“Employee” means:

- (a) an individual who is considered an employee under the Income Tax Act (i.e. for whom income tax, employment insurance and CPP deductions must be made at source);
- (b) an individual who works full-time for an Issuer providing services normally provided by an employee and who is subject to the same control and direction by the Issuer over the details and methods of work as an employee of the Issuer, but for whom income tax deductions are not made at source; or
- (c) an individual who works for an Issuer on a continuing and regular basis for a minimum amount of time per week (the number of hours should be disclosed in the submission) providing services normally provided by an employee and who is subject to the same control and direction by the Issuer over the details and methods of work as an employee of the Issuer, but for whom income tax deductions are not made at source.

“Management Company Employee” means an individual employed by a Person providing management services to the Issuer, which are required for the ongoing successful operation of the business enterprise of the Issuer, but excluding a Person engaged in Investor Relations Activities.

“Optionee” means the recipient of an incentive stock option.

1.3 Only individuals which are Directors, Employees, Management Company Employees or Consultants may be granted stock options. It is the Issuer’s responsibility to ensure exemptions from the Prospectus and registration requirements of applicable Securities Laws are available.

1.4 Types of Options

The Exchange recognizes that different types of Issuers have varying requirements for stock option terms depending on their stage of development, number of employees, employee turnover, etc. An Issuer can choose one of the following methods for structuring stock option grants:

- (a) Individual Stock Option Grants;
- (b) Stock Option Plan for Tier 2 Issuers;
- (d) Stock Option Plan for Tier 1 Issuers (based on the policy of The Toronto Stock Exchange).

2. General Requirements

2.1 Limitations on Stock Option Grants

The aggregate number of Listed Shares that may be reserved for issuance as incentive stock options or other stock purchase or option plans must not exceed:

- (a) 10% of the outstanding Listed Shares of the Issuer at the time of grant, unless the grant is under a stock option plan which has been accepted by the Exchange; and
- (b) 5% of the issued shares of the Issuer to any one individual at the time of granting.

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.

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.

2.4 Restrictions

- (a) The Exchange may refuse to accept an option for filing if the Exchange is not satisfied that the incentive stock options are distributed on an equitable basis, having regard to:
 - (i) the number of Optionees;
 - (ii) the frequency of Optionee turnover;

- (iii) the size of allocations to new Optionees; and
- (iv) the duties and qualifications of the Optionee in relation to his or her position.
- (b) The Exchange will not permit an Issuer to use stock options primarily as a means of financing, without the disclosure documents and hold periods that would normally apply to a financing.
- (c) The Exchange will not permit an Issuer to grant new stock options while it is Inactive.

See Policy 2.6 - Inactive Issuers and Reactivation for a discussion of Inactive Issuers.

- (d) The Exchange will not accept an incentive stock option agreement for filing if the option was granted before the Issuer was listed, unless it was fully disclosed in the Issuer's Prospectus.

2.5 Optionees

- (a) The Securities Laws provide Prospectus exemptions for securities issued to certain types of people such as directors or employees. An Issuer seeking to grant options must ensure the requirements of the applicable Securities Laws are satisfied and that exemptions from the Prospectus requirements are available.
- (b) Under Exchange policy, an Optionee must either be a Director, Employee, Consultant or Management Company Employee of the Issuer or its subsidiary at the time the option is granted, in order to be eligible for the issuance of the stock option to the Optionee.
- (c) Options may be granted only to an individual or to a Company that is wholly-owned by individuals eligible for an option grant. If the Optionee is a Company, it must provide the Exchange with a completed Form 4J - Certification and Undertaking Required from a Company Granted an Incentive Stock Option. The Company to be granted the incentive stock option must agree not to effect or permit any transfer of ownership or option of shares of the Company nor to issue further shares of any class in the Company to any other individual or entity as long as the incentive stock option remains outstanding, except with the written consent of the Exchange.

2.6 Minimum Exercise Price

- (a) The minimum exercise price of an incentive stock option, whether granted by a Tier 1 or Tier 2 Issuer, must not be less than the Discounted Market Price. If the Issuer does not issue a news release to fix the price, the price will only be guaranteed if the Summary Form - Incentive Stock Options (Form 4K) is filed within two days after the date the stock options were granted.
- (b) If an option is granted by a newly listed Issuer after listing, or by an Issuer which has just been recalled for trading following a suspension or halt, the Exchange will not accept the option agreement for filing until a satisfactory market has been established.

- (c) A minimum exercise price cannot be established unless the options are allocated to particular persons.
- (d) If incentive stock options are granted within 90 days of a distribution by a Prospectus, the minimum exercise price of those options will be the greater of the Discounted Market Price and the per share price paid by the public investors for Listed Shares acquired under the distribution. The 90 day period begins:
 - (i) on the date a final receipt is issued for the Prospectus; and
 - (ii) in the case of an IPO, on the date of listing.
- (e) For unit offerings, the minimum option exercise price will be the 'base' (or imputed) price of the shares included in the unit. For all other financings, the minimum option exercise price will be the average price paid by the public investors.

2.7 Hold Period

In addition to any Resale Restrictions under Securities Laws, all stock options and any Listed Shares issued on the exercise of stock options must be legended with a four month Exchange hold period from the date the stock options are granted. *See Policy 3.2 - Filing Requirements and Continuous Disclosure for the wording of the legend.*

2.8 Terms of the Agreement or Plan

(a) General

The following must be included in all incentive stock option plans and agreements:

- (i) a condition that the option is non-assignable and non-transferable;
- (ii) if a provision is included that the Optionee's heirs or administrators can exercise any portion of the outstanding option, the period in which they can do so must not exceed one year from the Optionee's death;
- (iii) a condition that disinterested shareholder approval will be obtained for any reduction in the exercise price if the Optionee is an Insider of the Issuer at the time of a proposed amendment; and
- (iv) a provision requiring that, for stock options to Employees, Consultants or Management Company Employees, the Issuer represents that the Optionee is a bona fide Employee, Consultant or Management Company Employee, as the case may be, of the Issuer or its subsidiary.

(b) Tier 2 Issuers

In addition to the general requirements above, the following restrictions apply to options granted by a Tier 2 Issuer:

- (i) options can be exercisable for a maximum of five years;
- (ii) an individual can receive grants of no more than 5% of the outstanding Listed Shares of the Issuer on a yearly basis;
- (iii) options granted to an Optionee who is a Director, Employee, Consultant or Management Company Employee must expire within 90 days after the Optionee ceases to be in at least one of those categories; and
- (iv) options granted to an Optionee who is engaged in Investor Relations Activities must expire within 30 days after the Optionee ceases to be employed to provide Investor Relations Activities.

(c) Tier 1 Issuers

A Tier 1 Issuer can choose to comply with either the provisions of the TSE Stock Option policy or the policies applicable to Tier 2 Issuers for its stock option plan. The TSE policy has rights and restrictions similar to this Policy, but has some different filing requirements.

2.9 Shareholder Approval

- (a) Subject to section 2.10, the Issuer's shareholders must approve any stock option plan or grant that, together with all of the Issuer's other previously established stock option plans or grants, could result at any time in the number of Listed Shares reserved for issuance under stock options exceeding 10% of the outstanding Listed Shares.
- (b) Approval must take place at a meeting of the shareholders. Evidence that the majority of the Voting Shares are in favour of the proposal is not an acceptable substitute. Shareholder approval can be given at a meeting of the shareholders after the establishment of the plan, grant of options or amendment of options, provided that no options are exercised under the plan, individual grant or amendment before the meeting.
- (c) Shareholder approval is not required if the Issuer is conducting an IPO on the Exchange and has disclosed the details of the stock option grants or plan in its Prospectus.

2.10 Disinterested Shareholder Approval

- (a) An Issuer must obtain disinterested shareholder approval of stock options if:
 - (i) a stock option plan, together with all of the Issuer's previously established or proposed stock option grants, could result at any time in:

- (A) the number of shares reserved for issuance under stock options granted to Insiders exceeding 10% of the outstanding Listed Shares;
 - (B) the issuance to Insiders, within a one year period, of a number of shares exceeding 10% of the outstanding Listed Shares; or
 - (C) except in the case of a Tier 1 Issuer, the issuance to any one Insider and such Insider's Associates, within a one year period, of a number of shares exceeding 5% of the outstanding Listed Shares; or
- (ii) the Issuer is decreasing the exercise price of stock options previously granted to Insiders.
- (b) If (a) applies, the stock option agreement or plan must be approved by a majority of the votes cast by all shareholders at the shareholders' meeting excluding votes attaching to Listed Shares beneficially owned by:
 - (i) Insiders to whom options may be issued under the stock option plan; and
 - (ii) associates of persons referred to in (b)(i).
 - (c) Holders of non-voting and subordinate voting shares must be given full voting rights on a resolution which requires disinterested shareholder approval.

2.11 Disclosure

- (a) Subject to section 2.12, in accordance with Policy 3.3 - Timely Disclosure, a stock option plan or agreement to grant stock options is a Material Change and therefore must be disclosed to the public on the day the plan or option is granted. The news release should include the number of Listed Shares reserved for issuance under the plan or the terms of the stock options under individual grants and subsequent (shareholder and Exchange) approvals required.
- (b) The Exchange can require an Issuer to change a proposed option exercise price if an option is granted before a news release disclosing a Material Change has been adequately disseminated, so that the trading price of the Issuer's Listed Shares does not reflect the announcement.

2.12 Exceptions to Disclosure Requirement

The Exchange does not require a news releases disclosing the grant of stock options if:

- (a) the total number of options to be granted is less than 5% of the Issuer's outstanding Listed Shares; and
- (b) the total number of options granted to any one individual is less than 2% of the Issuer's outstanding Listed Shares; or

- (c) the Issuer is a Tier 1 Issuer, which has already made appropriate disclosure for its stock option plan,

except where the grant is a material change under applicable Securities Laws.

3. Stock Option Plans

- 3.1 An Issuer which chooses to grant stock options under a plan must obtain Exchange Acceptance of the plan before it grants the stock options. After the Exchange accepts the plan, the Issuer can grant stock options only under the plan.
- 3.2 In determining a plan's acceptability, the Exchange will take into account such factors as: (a) the number of shares reserved for issuance under the plan, (b) the number of Directors and Employees of the Issuer, (c) the average tenure of the eligible recipients (long vs. short term), (d) whether the Issuer has a long or short term development cycle, and (e) any other factors the Exchange finds relevant. If a Tier 2 Issuer has more than 10% of its outstanding Listed Shares reserved for issuance, its plan must contain a vesting schedule which is reasonably structured and equitable in relation to the size and duration of the plan. The Exchange will not normally accept plans which permit vesting over a period of less than 18 months, or that have vesting schedules which permit a majority of the shares to be released early in the vesting period rather than equally on a quarterly basis.
- 3.3 Shares reserved for issuance under a stock option plan can exceed 10% of the Issuer's outstanding shares only if the Issuer has received shareholder approval under section 2(9). The Exchange will not normally accept plans reserving more than 20% of the Issuer's outstanding Listed Shares, including any outstanding stock options previously granted on an individual basis.
- 3.4 Each stock option plan must specify a maximum number of shares issuable under it (not a rolling maximum such as a specified percentage of the number of Listed Shares outstanding from time to time). This number can later be increased to a higher specified amount if authorized by shareholders (where required by this Policy) and accepted by the Exchange.

4. Required Documentation for Individual Grants not Pursuant to a Plan

An Issuer must file the following documentation with the Exchange immediately after it grants any stock options which are not under a plan:

- (a) the Summary Form - Incentive Stock Options (Form 4K);
- (b) a Declaration of Incentive Stock Options (Form 4L), executed by a director or senior officer of the Issuer;
- (c) if the Optionee is not an individual, a certificate and undertaking by the corporate Optionee (Form 4J), as described in section 2(5) above; and

- (d) the applicable fee as prescribed in Policy 1.3 - Schedule of Fees.

5. Required Documentation for Stock Option Plans

5.1 Filing a Stock Option Plan

To obtain Exchange Acceptance of a stock option plan, the Issuer must file the following documentation:

- (a) a copy of the stock option plan;
- (b) if the plan requires shareholder approval, a copy of the Information Circular for the meeting at which the plan was approved or is to be approved; and
- (c) the applicable fee as prescribed in Policy 1.3 - Schedule of Fees.

5.2 Filing Stock Option Grants Made Under the Plan (Tier 2 Issuers)

A Tier 2 Issuer must file the following documentation immediately after it grants any stock options under the plan:

- (a) the Summary Form - Incentive Stock Options (Form 4K);
- (b) a Declaration of Incentive Stock Options (Form 4L), executed by a director or senior officer of the Issuer;
- (c) if the Optionee is not an individual, a certificate and undertaking by the corporate Optionee (Form 4J), as described in section 2(5) above; and
- (d) the applicable fee as prescribed in Policy 1.3 - Schedule of Fees.

6. Amending Stock Option Agreements

6.1 General Requirements

- (a) The Exchange will permit an Issuer to amend the terms of a stock option agreement or plan to reduce the number of Listed Shares under option, increase the exercise price or cancel an option without the acceptance of the Exchange, provided the Issuer issues a news release outlining the terms of the amendment.
- (b) An Issuer can amend the other terms of a stock option agreement or plan only if the following requirements are satisfied:
 - (i) if the Optionee is an Insider of the Issuer at the time of the amendment, the Issuer obtains disinterested shareholder approval (as described in section 2(10) above);

- (ii) the option exercise price can be amended only if at least six months have elapsed since the later of the date of commencement of the term, the date the Issuer's shares commenced trading, or the date the option exercise price was last amended;
- (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;
- (iv) any extension of the length of the term of the stock option is treated as a grant of a new option, which must comply with pricing and other requirements of this Policy. An option must be outstanding for at least one year before the Issuer can extend its term; and
- (v) the Exchange must accept a proposed amendment before the amended option is exercised.

For the purposes of this Policy, if an Issuer cancels a stock option and within one year grants new options to the same individual, the new options will be subject to the requirements in sections (i) to (iv) above.

- (c) An amendment to the terms of a stock option may be considered to be a new grant under Securities Laws. Acceptance for filing by the Exchange does not provide assurance that the Issuer is complying with Securities Laws.

6.2 Filing Requirements - Amendment

To obtain Exchange Acceptance of a stock option amendment, an Issuer must file the following with the Exchange:

- (a) a Summary Form - Incentive Stock Options (Form 4K);
- (b) a Declaration of Incentive Stock Options (Form 4L), executed by a director or senior officer of the Issuer; and
- (c) the applicable fee as prescribed in Policy 1.3 - Schedule of Fees.