

# POLICY 5.1

## LOANS, BONUSES, FINDER'S FEES AND COMMISSIONS

### Scope of Policy

This Policy outlines the Exchange's policies on loans to an Issuer, and bonuses, finder's fees, and commissions paid by an Issuer.

The main headings in this Policy are:

1. Loans to Issuers
2. Bonuses
3. Finder's Fees and Commissions
4. Application to Members
5. Filing Requirements

### 1. Loans to Issuers

#### 1.1 Disclosure

In accordance with the Exchange's Timely Disclosure policies, an Issuer must disclose by news release any loan or advance of funds to the Issuer which involves any charge on or security interest in its assets or which otherwise constitutes a Material Change.

#### 2.2 Notice to Exchange

- (a) The Issuer must provide the Exchange with prompt written notice of the proposed loan if the lender is not a chartered bank, trust company or treasury branch, and:
  - (i) any arrangement exists to issue securities in connection with the loan, either at the time of the loan agreement or at some future date (e.g. bonus shares or convertible debt); or
  - (ii) the Issuer mortgages or charges all or substantially all of its assets as collateral for the loan.
- (b) The notice, in the form of a formal letter, must provide the following information and accompanying documents:
  - (i) the loan agreement and any other loan documents (e.g. promissory note);

- (ii) the relationship between the lender or guarantor (including any beneficial ownership of securities of the Issuer, which must be disclosed) and the Issuer;
- (iii) a description of how the Issuer proposes to service and repay the loan;
- (iv) a description of how the Issuer proposes to use the proceeds;
- (v) details of any bonus to be paid pursuant to the loan or guarantee;
- (vi) confirmation that the loan or guarantee is necessary and would not be granted without the bonus; and
- (vii) the fee prescribed by Policy 1.3 - Schedule of Fees.

## **2. Bonuses**

An Issuer can issue bonuses consisting of Listed Shares or non-transferable Warrants to a lender or guarantor in consideration of the risks taken by the lender or guarantor. The amount of the permitted bonus is based on the size of the loan and graduated in proportion to the apparent level of risk.

### **2.1 Filing Requirements**

- (a) The Issuer must give prompt notice of a bonus transaction to the Exchange as described in section 5.1. A Tier 2 Issuer must receive Exchange Acceptance of the proposed transaction before it issues the bonus shares or Warrants.
- (b) The Issuer must issue a news release about the transaction if it represents a Material Change.

### **2.2 Bonus Limitations**

Tier 1 Issuers can negotiate the amount of bonuses payable, but should use the limits set out below as guidelines to determine what is commercially appropriate. The following limitations on bonuses apply to Tier 2 Issuers:

- (a) If the ability of the Issuer to repay a loan is not evident and/or if a guarantee represents the primary collateral for a loan, the Issuer can grant a bonus of shares with total Market Value of up to 20% of the amount loaned or guaranteed, or a non-transferable Warrant, exercisable by the earlier of two years or the term of the loan, to purchase shares with a value of up to 40% of the lesser of the value of the loan or amount guaranteed. The issue price of shares or exercise price of the Warrant must not be less than the Discounted Market Price.
- (b) Any interest on the loans must be at a reasonable rate, reflecting the risk to the lender. Only one bonus can be granted on a loan regardless of the term of the loan.

- (c) Warrants must provide that the number of Warrants will be reduced or cancelled if the loan is reduced or paid out before the Warrant expires and if one year of the warrant term has elapsed. The reduction or cancellation must take place within 30 days after the reduction or paying out of the loan.

### **3. Finder's Fees and Commissions**

An Issuer which receives a measurable benefit through the efforts of a person who is neither an employee nor an Insider of the Issuer can reward those efforts by paying a finder's fee or commission in the form of cash, shares, Warrants or an interest in assets. Appropriate registration and Prospectus exemptions must be available for any issuance of securities.

#### **3.1 Filing Requirements**

- (a) The Issuer must give prompt notice of the finder's fee or commission to the Exchange as described in section 5.1. A Tier 2 Issuer must receive Exchange Acceptance of the proposed transaction before paying the finder's fee or commission.
- (b) All Issuers must issue a news release about the transaction if it represents a Material Change. Generally, for Tier 2 Issuers, any agreement to issue securities is deemed to be a Material Change under Policy 3.3 - Timely Disclosure.

#### **3.2 Criteria**

##### ***Arm's Length Finder or Agent***

- (a) The finder or agent must be at arm's length with the Issuer and its management except to the extent that an agent may have been specifically commissioned to locate, arrange or acquire a benefit for the Issuer which it would not have otherwise obtained. The Exchange can waive this requirement at its discretion if the Issuer provides satisfactory reasons for the finder's fee or commission.

##### ***When Payable***

- (b) The benefit to the Issuer can be the identification or introduction of subscribers to a private financing, or the sellers or buyers of an asset, or any other measurable benefit that has in fact been received by the Issuer. The Exchange will not normally accept a commission, fee or bonus for services or benefits not yet received. The amount of the benefit received is easily determined in the case of a specific financing. If the benefit is staged over time (for example an asset purchase or joint venture agreement), the Exchange focuses on the benefit received in the first year.

- (c) If an Issuer proposes to pay fees for benefits to be received in the future, particularly more than one year, the fee or commission must be paid in stages as the benefits are received by the Issuer. However, if the outcome of a transaction is outside the control of the person receiving the fee, and the benefit can not reasonably be determined, the Exchange will generally only permit the Issuer to pay a finder's fee or commission based on the finder's actual costs plus a reasonable profit to compensate for time and effort.

### ***Payment in Shares***

- (d) If the compensation is payable in Listed Shares, the number of shares issued as finder's fees or commission is calculated by dividing the dollar value of the fee or commission by the Discounted Market Price for the Issuer's Listed Shares. The restrictions as to the time of payment set out above apply to payments in shares as well.

*See the definition of Discounted Market Price in Policy 1.1 - Interpretation.*

### ***Payment in Warrants***

- (e) If the compensation is payable in non-transferable Warrants, the Issuer can grant the finder or agent a Warrant to acquire up to double the number of Listed Shares that are permitted under the guidelines in section 3.2(d) at the Discounted Market Price for those shares. Any Warrants granted will be subject to a maximum two year term from the date of the grant.

## **3.3 Finder's Fee Limitations**

The finder's fee limitations apply if the benefit to the Issuer is an asset purchase or sale, joint venture agreement, or if the benefit to the Issuer is not a specific financing. The consideration should be stated both in dollars and as a percentage of the value of the benefit received. Unless there are unusual circumstances, the finder's fee should not exceed the following percentages:

<b>Benefit</b>	<b>Finder's Fee</b>
On the first \$300,000	Up to 10%
From \$300,000 to \$1,000,000	Up to 7.5%
From \$1,000,000 and over	Up to 5%

As the dollar value of the benefit increases, the fee or commission as a percentage of that dollar value should generally decrease.

## **3.4 Commission Limitations**

When a commission is paid as compensation to a Person other than a Member, for a specific financing, the Issuer can pay up to 10% of the gross proceeds of the financing as a commission.

## 4. Application to Members

- 4.1 Bonuses, finder's fees and commissions payable to Members are governed by all of this Policy except for the finder's fee and commission limitations set out in sections 3.3 and 3.4. Members can negotiate the amount of compensation payable, so long as the Issuer does not issue to the Member Warrants representing more than 25% of the value of the gross proceeds of the financing.
- 4.2 Under Exchange Rules, registered representatives, traders, assistant traders and employees of Members cannot directly or indirectly sell properties or other assets to, or acquire properties or other assets from, Issuers without the prior specific approval of the Exchange. Furthermore, those Persons cannot receive any direct or indirect compensation for acting as a finder for or agent of, an Issuer without the prior specific approval of the Exchange.
- 4.3 Except in very unusual circumstances, the Exchange will not give that approval. If an Issuer proposes to pay a bonus, finder's fee or commission which is not permitted by the Exchange Rules, the Issuer must disclose the proposed payment and the fact that the finder or agent falls within the defined category when submitting materials to the Exchange for the relevant transaction.
- 4.4 These restrictions also apply to Persons who perform substantially the same functions as those Persons listed above, whether or not they are under the direct Membership jurisdiction of the Exchange. These restrictions do not apply to the Member itself or to a director, officer, or partner of a Member.
- 4.5 A Person who breaches these restrictions will be in a conflict of interest which may affect the fitness of that Person to continue to be registered under the applicable Securities Laws.

## 5. Filing Requirements

### 5.1 Notice

The Issuer must provide the Exchange with written notice of the proposed bonus, finder's fee or commission. The notice, in the form of a formal letter, must provide the following information and accompanying documents:

- (a) notice from the Issuer or its counsel of any registration and Prospectus exemptions being relied upon by the Issuer and the registration exemption relied upon by the finder;
- (b) a copy of the related Private Placement, acquisition or loan agreement if not already filed (the Exchange prefers these agreements to be filed together);
- (c) in the case of a finder's fee or commission:

- (i) confirmation that the finder or agent is neither an employee nor an Insider of the Issuer; or
  - (ii) if the proposed recipient of the finder's fee or commission is an employee or Insider, an explanation justifying the finder's fee or commission in light of employees' and Insiders' legal obligations to the Issuer; and
- (d) the fee prescribed by Policy 1.3 - Schedule of Fees.

## **5.2 Further News Releases and Notice**

The Issuer must issue a news release announcing the closing of the Private Placement, acquisition, loan agreement or any other transaction related to the issuance of the bonuses, finders' fees or commissions. The news release must disclose the expiry dates of the hold period(s) for the securities issued as bonuses, finders' fees or commissions, and for any securities issued as part of the related transaction.

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