

Torys on Corporate and Capital Markets

C&CM 2008-29
November 5, 2008

TSX Takes Remedial Measures in Difficult Market Conditions

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The staff of the TSX issued a notice on November 3, 2008 providing temporary relief from certain requirements of the *TSX Company Manual* and reminding issuers of certain provisions that may be helpful in the current difficult market conditions.

Normal Course Issuer Bids

The TSX is granting temporary relief to listed issuers engaged in normal course issuer bids (NCIBs). Effective now until 11:59 p.m. on March 31, 2009, the limit on the volume of purchases under the NCIB rules will be 50% of the security's average daily trading volume instead of 25%. All other NCIB rules remain the same.

This relief applies to all TSX-listed issuers, in contrast to similar relief that expired last month and that applied only to issuers interlisted on a U.S. stock exchange.


Remedial Review Process

Between now and March 31, 2009, issuers under review for delisting will generally be granted up to 210 days (increased from 120 days) to remedy their deficiencies. The criteria for delisting are not being changed.

Definition of "Market Price" for Private Placements

The definition of "market price" in the *TSX Company Manual* is based on a security's five-day volume weighted average trading price. The TSX notice states that the exchange is mindful that in today's volatile market, five days is a relatively long period of time to establish a security's market price. Accordingly, on a case-by-case basis, the exchange will use a shorter period to determine a security's market price for purposes of pricing securities (including warrants) in private placements.

Financial Hardship Exemption from Securityholder Approval Requirement

The TSX notice reminds issuers that they may be able to obtain an exemption from the securityholder approval requirements in cases of serious financial difficulty. 

To discuss these issues, please contact the author.

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