

## POLICY 5.4

# ESCROW, VENDOR CONSIDERATION AND RESALE RESTRICTIONS

### Scope of Policy

This Policy identifies the escrow regime that the Exchange will apply to Initial Listings and New Listings. It has been designed to harmonize with the principles of National Policy 46-201 - *Escrow For Initial Public Offerings*, provided value is demonstrated in accordance with this Policy.

This Policy may also be applied to other transactions as required by the Exchange. In addition, this Policy outlines the Exchange's guidelines on acceptable methods of determining appropriate consideration for assets, properties, businesses, indebtedness or services. Issuers undertaking a transaction to which this Policy applies must determine if Policy 5.9, which incorporates by reference MI 61-101 (as that term is defined in Policy 5.9) is also applicable to the transaction.

Except for sections 1, 4, 6.4, 7 and 9, this Policy does not apply to the escrow of shares pursuant to the IPO of a Capital Pool Company. This Policy does apply to a Qualifying Transaction undertaken by a CPC, and may apply to NEX Companies graduating to Tier 1 or 2.

The main headings in this Policy are:

1. General
2. Initial Applications for Listing
3. Reverse Takeovers and Qualifying Transactions
4. Value Securities
5. Surplus Securities
6. Escrow Provisions
7. Amendments and Transfers Within Escrow
8. Graduations and Delistings
9. Other
10. Seed Share Resale Restrictions

## 1. General

### 1.1 Definitions

In this Policy:

**“Business Combination”** means a formal take-over bid, plan of arrangement, amalgamation, merger, or any other similar transaction.

**“Issuer”** in connection with an Initial Listing means the applicant Issuer and in connection with any other New Listing refers to the Resulting Issuer (as defined in Policy 5.2 - *Changes of Business and Reverse Takeovers* or Policy 2.4 - *Capital Pool Companies*).

**“Option”** means an option, warrant, right of conversion or exchange, or other right to acquire an equity security of an Issuer, but does not include a non-transferable incentive stock option exercisable solely for cash or cash equivalent (which for the purpose of this definition does not include property or services) at a price per underlying equity security not less than the price at which the equity securities of the Issuer are being issued or are deemed to be issued in connection with the Initial Listing or New Listing.

**“Principal Securities”** means

- (a) all Options of the Issuer; and
- (b) all equity securities of the Issuer that carry a residual right to participate in the earnings of the Issuer and, on the liquidation or winding-up of the Issuer, in its assets,

which in the case of an IPO, immediately before completion of the Issuer's IPO are beneficially owned, directly or indirectly by Principals, or over which Principals have control or direction, or in all other cases, which immediately before the issuance of the Exchange Bulletin confirming final acceptance, are beneficially owned, directly or indirectly by Principals, or over which Principals have control or direction.

**“Surplus Securities”** means securities issued pursuant to a transaction which are not supported by a valuation method acceptable to the Exchange or for which the value of the asset is less than the deemed value of the securities, or securities which are otherwise determined by the Exchange to be Surplus Securities and required to be placed in escrow under a Surplus Security Escrow Agreement.

**“Surplus Security Escrow Agreement”** means an escrow agreement in Form 5D to which Surplus Securities will be subject and which will include Schedule B(3) of Form 5D if the Issuer is a Tier 1 Issuer or Schedule B(4) of Form 5D if the Issuer is a Tier 2 Issuer.

**“Transaction Price”** means the greater of the closing price on the day prior to the announcement of the Transaction, the deemed acquisition price or the financing price.

**“Value Securities”** means securities issued pursuant to a transaction, for which the deemed value of the securities at least equals the value ascribed to the asset, using a valuation method acceptable to the Exchange, or securities which are otherwise determined by the Exchange to be Value Securities and required to be placed in escrow under a Value Security Escrow Agreement.

**“Value Security Escrow Agreement”** means an escrow agreement in Form 5D to which Value Securities will be subject and which will include Schedule B(1) of Form 5D if the Issuer is a Tier 1 Issuer or Schedule B(2) of Form 5D if the Issuer is a Tier 2 Issuer.

## **1.2 Applicable Escrow Requirements**

- (a) The CSA has determined that the principal objective of escrow is to ensure that management and key principals retain an equity interest in an Issuer for an appropriate period following an IPO.
- (b) The Exchange will generally defer to the escrow requirements imposed by NP 46-201 for an Initial Listing which is conducted concurrently with an IPO.
- (c) The Exchange also views escrow as a means to discourage the issuance of securities where the value of the securities issued does not reasonably correspond to the value of any asset, property, business, indebtedness, or service for which they are issued. In order to address this concern, the Exchange has developed different escrow requirements for Surplus Securities. Surplus Securities are subject to a delayed release schedule as compared to the release schedule contemplated by NP 46-201, which is substantially similar to the escrow requirements for Value Securities.
- (d) Tier 1 Issuers and Tier 2 Issuers will be subject to different release dates based on their Tier. For the purposes of harmonization with NP 46-201 Tier 1 Issuers will be deemed to be “Established Issuers”, and Tier 2 Issuers will be deemed to be “Emerging Issuers”, as those terms have been defined in NP 46-201.
- (e) This Policy also provides for various situations which are not covered by NP 46-201. Principal securities issued pursuant to transactions other than IPOs, in connection with alternative methods of “going public” will generally be subject to escrow requirements which are either the same as those required by NP 46-201 or which result in a slower release than permitted under NP 46-201. All Principal Securities which will be outstanding at the completion of a New Listing will generally be subject to escrow requirements.

## **1.3 Securities which are Subject to Escrow**

- (a) For any New Listing the Exchange will require that all Principal securities of an Issuer be escrowed. The Exchange can also require that any securities held by other parties be escrowed on the same terms as Principals or otherwise.
- (b) If the number of securities being issued in connection with a New Listing is supported by value or are within parameters acceptable to the Exchange pursuant to section 4, all those securities held by Principals must be deposited into a Value Security Escrow Agreement. If the number of securities being issued is not supported by value or within parameters acceptable to the Exchange pursuant to section 4, all Principal securities issued pursuant to the transaction must be deposited into a Surplus Security Escrow Agreement.

- (c) Where the Resulting Issuer is a Tier 2 Issuer, previously issued securities not issued pursuant to a New Listing which were issued to Principals must be subject to a Tier 2 value security agreement unless they were issued:
  - (i) at or above the Transaction Price; or
  - (ii) more than one year prior to the date of Exchange conditional acceptance of the transaction;

in which case they will be deposited into a Tier 1 Value Security Escrow Agreement.

- (d) The Exchange can also impose escrow or Exchange hold period requirements on securities beneficially owned directly or indirectly by any other party if:
  - (i) the securities were issued prior to listing at a price which the Exchange considers to be at a significant discount in relation to the Prospectus offering price or any proposed concurrent financing;
  - (ii) the issuance price of or consideration paid for such securities was materially below the Exchange's prescribed minimum issuance price of \$0.05 per security or the Discounted Market Price at the time of the transaction; or
  - (iii) shares for debt issued to Insiders of the Issuer, while the Issuer was a NEX Company.

See section 10 - Seed Share Resale Restrictions.

- (e) The Exchange will exempt from escrow those securities issued in connection with a Prospectus offering to a Person who will be a Principal of the Resulting Issuer.
- (f) The Exchange will generally exempt from escrow those securities issued in connection with a Private Placement to a Person who will be a Principal of the Resulting Issuer where:
  - (i) the Private Placement is announced at least five trading days after the news release announcing an Agreement in Principle in relation to a Qualifying Transaction or a COB or RTO Agreement as applicable, and the pricing for the financing is at not less than the Discounted Market Price; or
  - (ii) the Private Placement is announced concurrently with an Agreement in Principle, COB or RTO Agreement and:
    - (A) at least 75% of the proceeds from the Private Placement are not from Principals of the Resulting Issuer;

- (B) if subscribers other than Principals of the Target Company will obtain securities subject to hold periods, then, in addition to any Resale Restrictions under applicable Securities Laws, any securities issued to Principals will be required to be legended with the four month Exchange hold period referred to in Policy 3.2 - *Filing Requirements and Continuous Disclosure*; and
  - (C) none of the proceeds from the Private Placement are allocated to pay compensation to or settle indebtedness owing to Principals of the Resulting Issuer.
- (g) The Exchange, in its discretion, can also impose escrow or hold periods in connection with other transactions, where it deems appropriate.

#### **1.4 Securities Held by a Company**

If Principal securities required to be held in escrow are held by a non-individual (a “holding company”), the Exchange will generally require that the securities of the holding company be placed in escrow or that all beneficial owners of the holding company sign the undertaking in Form 5D to the Exchange, in which they agree not to transfer their holding company securities without the consent of the Exchange. In addition, the directors and senior officers of the holding company must sign undertakings not to permit or authorize any issuance of securities or transfer of securities that could reasonably result in a change of control of the holding company.

#### **1.5 Form of Escrow Agreement**

Escrow agreements pursuant to NP 46-201 must be in the required form of Form 46-201F1 - *Escrow Agreement*, except where the Exchange requires that additional escrow provisions be imposed on an Initial Listing. Escrow agreements under NP 46-201 will be administered by the applicable Securities Regulatory Authority, and not by the Exchange, except to the extent that escrow release provisions are more stringent than in NP 46-201.

Every escrow agreement required only by the Exchange must be in either the form of Value Security Escrow Agreement or Surplus Security Escrow Agreement or any replacement form prescribed by the Exchange. Except as specifically contemplated by the form, no additions, deletions, exceptions, amendments or other modifications to such form can be made without the prior written approval of the Exchange. Acceptance or conditional acceptance of a proposed transaction does not constitute acceptance or approval by the Exchange of any amendment to the Exchange form of escrow agreement unless specifically stated in the acceptance or conditional acceptance letter. Modification in any way of the substance of the Exchange form of escrow agreement is a breach of Exchange Requirements unless prior Exchange acceptance is obtained.

## **1.6 Appropriate Consideration**

If the number of securities issued by an Issuer appears to exceed the value of the asset, property, business (or a partial interest) received by the Issuer, based on valuation methods acceptable to the Exchange, then the Exchange can still agree to accept a transaction for filing if, subject to the limits in section 5.2, the securities are placed in a Surplus Security Escrow Agreement. However, regardless of Exchange acceptance, the directors and management of the Issuer have an obligation under corporate law and Exchange Requirements to act in the best interests of the Issuer in negotiating a transaction and to ensure that all securities are issued as fully paid. The directors and management of an Issuer must be satisfied that the Issuer is receiving appropriate consideration for any securities issued.

## **2. Initial Applications for Listing**

- 2.1 The Exchange will generally defer to the escrow requirements imposed by NP 46-201, in connection with an IPO, where an Agent or Underwriter has been retained to sell the offering on behalf of the Issuer.
- 2.2 If an Issuer has previously traded in another market, the Exchange will generally require that the Principals of the Issuer enter into escrow arrangements which would result in them having been put in a substantially similar position to what would have been required if the Issuer conducted its IPO in a CSA Jurisdiction.
- 2.3 Although the Exchange will generally defer to statutory hold periods under applicable Securities Laws in connection with an IPO, hold periods or escrow requirements may be imposed on a Person who is not a Principal in connection with any New Listing. See section 10 - Seed Share Resale Restrictions.

## **3. Reverse Takeovers and Qualifying Transactions**

- 3.1 Except pursuant to section 1.3(d), 1.3(e) or 1.3(f), all Principal Securities of the Resulting Issuer held upon completion of an RTO or QT must be placed in escrow.

## **4. Value Securities**

### **4.1 General Application**

- (a) Securities are Value Securities if the supportable value of the asset, property, business (or interest), indebtedness or service for which the securities are being issued equals or exceeds the deemed value of the securities to be issued.
- (b) The deemed value of the securities to be issued is calculated by multiplying the number of securities to be issued by the deemed price per security. The deemed price per security must not be less than the greater of the Discounted Market Price, \$0.05 or such other higher price prescribed by the Exchange. See Policy 2.4 - *Capital Pool Companies* for the deemed price of securities of CPCs.

- (c) After issuing all Value Securities, at least 10% of the outstanding Listed Shares of the Issuer must be in the Public Float and in the hands of Public Shareholders.

## 4.2 Assigning Values

The Issuer can assign a value for the purpose of calculating the number of Value Securities in any one of the following ways:

- (a) a formal valuation or appraisal prepared by independent, qualified parties, such as Chartered Business Valuators and for resource transactions, Qualified Persons, as defined in National Instrument 43-101 or Qualified Valuators, as defined in the Canadian Institute of Mining, Metallurgy and Petroleum Standards and Guidelines for Valuation of Mineral Properties (“CIMVal”);
- (b) for an oil and gas property, a Geological Report based on constant dollar pricing, discounted at 15% and probable reserves risked a further 50%;
- (c) subject to section 4.4 for mining issuers and other exploratory natural resource issuers:
  - (i) deferred expenditures incurred within the five previous years for exploration or development of the property on which the Issuer intends to conduct a recommended work program in the next 12 months and, if applicable, such property is the Qualifying Property forming the basis for the Issuer’s listing; or
  - (ii) a valuation report prepared in accordance with the standards and guidelines of CIMVal and subject to the valuation methods and guidelines of Appendix 3G – *Valuation Standards and Guidelines for Mineral Exploration Properties*.
- (d) for start-up industrial or technology issuers, deferred expenditures or expenses (excluding general and administrative expenses) incurred within the five previous years which have contributed to or can reasonably be expected to contribute to the future operations of the Issuer and which are supported by audited financial statements or an audited statement of costs. (Valuations will not generally be accepted for Issuers that have not yet generated significant revenue);
- (e) for research and development issuers, deferred expenditures (excluding general and administrative costs) incurred within the five previous years, as evidenced by audited financial statements or an audited statement of costs, which have contributed to or can reasonably be expected to contribute to the development of the product or technology for which the Issuer intends to conduct a recommended research and development program in the next 12 months and, if applicable, which constitutes the basis for the Issuer’s listing;
- (f) Net Tangible Assets;
- (g) five times average annual cash flow;

- (h) subject to section 4.3, the value of a concurrent majority Arm's Length Private Placement or public offering (a "Financing"), provided that the subscribers have been advised of the transaction and the number of securities to be issued pursuant to the Financing will represent at least 20% of the issued and outstanding Listed Shares of the Issuer upon completion of the transaction and the Financing; or
- (i) some other determination of value acceptable to the Exchange.

#### **4.3 Concurrent Financing**

The value ascribed to the assets, business or property (or interest) which is indicated by a concurrent Financing generally is calculated as follows:

$$\frac{\text{Gross proceeds of Financing} \times \text{Total \# of Securities Outstanding upon Completion of Transaction}}{\text{\# of Securities to be issued pursuant to Financing}}$$

#### **4.4 Mineral Exploration Issuers**

Generally valuations of properties that are not Tier 1 Properties or Tier 2 Properties will not be accepted. Exploration and development expenditures must be out of pocket costs incurred by the vendor within the five previous years in Arm's Length Transactions and can include the acquisition cost of the property by the vendor. Any payments made to Non-Arm's Length Parties will generally be excluded from these amounts.

#### **4.5 Other Discretionary Valuation Methods**

- (a) If the Issuer provides the Exchange with satisfactory evidence of the value of services provided to an Issuer which have not otherwise been compensated, and the services have provided a demonstrable benefit to the Issuer, then any securities issued in consideration for those services can, at the discretion of the Exchange, be considered to be Value Securities.
- (b) If an Issuer proposes to acquire another issuer (the "Target") and the Target has issued securities at or above prices which would constitute a Discounted Market Price applicable to the Issuer, then comparable securities issued by the Issuer in a one for one exchange for Target securities will generally be considered Value Securities. Securities issued by the Issuer in exchange for Target securities which were issued at least 12 months prior, at prices that are at least 50% of the current Market Price of the Issuer's Listed Shares, will generally be considered by the Exchange to be Value Securities.
- (c) In the absence of evidence to the contrary, for Exempt, Expedited, and Fundamental Acquisitions and Reviewable Transactions (as defined in Policy 5.3 - *Acquisitions and Dispositions of Non-Cash Assets*), the Exchange will generally presume that the consideration to be paid is supported by value unless the parties to a transaction are Non-Arm's Length Parties.



## 5. Surplus Securities

5.1 All securities issued as consideration for an asset, business, property (or interest in property), services or debt settlement that do not constitute Value Securities are considered Surplus Securities.

### 5.2 Limitations on Issuances of Surplus Securities

- (a) After issuing all Value Securities and all Surplus Securities, at least 10% of the outstanding Listed Shares of the Issuer must be in the Public Float.
- (b) Subject to section 1.6, where Surplus Securities are issued, the aggregate of the amount of Surplus Securities issued which are unsupported by value in accordance with section 4.2, cannot exceed 50% of the Issuer's issued and outstanding securities upon completion of the transaction.
- (c) Where:
  - (i) in conjunction with a transaction, an Issuer undertakes an arm's length financing by Private Placement or public offering; and
  - (ii) the number of securities issued pursuant to the Private Placement or public offering will represent at least 10% of the issued and outstanding securities of the Issuer upon completion of the transaction and the financing;

the number of Surplus Securities issuable pursuant to section 5.2(b) may be increased from 50% to 65% of the issued and outstanding securities upon completion of the transaction and the financing.

### 5.3 Issuances of Stock Options Based on Surplus Securities

The amount of incentive stock options which may be issued using Surplus Securities as the basis for the calculation are limited to 10% of the total amount in 5.2(b) and (c). Subject to Policy 4.4 - *Incentive Stock Options*, securities supported by value in accordance with this Policy may form the basis for the issuance of incentive stock options in the amount of 20% of such securities.

## 6. Escrow Provisions

### 6.1 General Application

- (a) If the number of Surplus Securities issued does not exceed 25% of the number of permitted Value Securities, then all Principal securities (including both Value Securities and Surplus Securities) will be subject to a Value Security Escrow Agreement.

- (b) If the number of Surplus Securities issued exceeds 25% of the number of permitted Value Securities, then all Principal securities (including both Value Securities and Surplus Securities) will be subject to a Surplus Security Escrow Agreement.
- (c) The first release of Value Securities escrowed in connection with a Reverse Takeover or Qualifying Transaction is on the date of the Exchange Bulletin confirming final acceptance of the transaction. For Value Securities escrowed in conjunction with an Initial Listing, the initial release date is the date of the Exchange Bulletin confirming the Issuer has been or is to be listed.

## 6.2 Value Security Escrow Agreements

Securities escrowed under Value Security Escrow Agreements are released from escrow as follows:

<b><u>Tier 1 Issuers:</u></b>		<b><u>Tier 2 Issuers (excluding CPC's):</u></b>	
<b><u>%</u></b>	<b><u>Release Date</u></b>	<b><u>%</u></b>	<b><u>Release Date</u></b>
25%	at the time of Exchange Bulletin	10%	at the time of Exchange Bulletin
25%	6 months from Exchange Bulletin	15%	6 months from Exchange Bulletin
25%	12 months from Exchange Bulletin	15%	12 months from Exchange Bulletin
25%	18 months from Exchange Bulletin	15%	18 months from Exchange Bulletin
		15%	24 months from Exchange Bulletin
		15%	30 months from Exchange Bulletin
		15%	36 months from Exchange Bulletin

## 6.3 Surplus Security Escrow Agreements

- (a) The terms of the Surplus Security Escrow Agreements are substantially similar to the Value Security Escrow Agreements, except for the limitations on amounts that may be issued, the delayed release provisions, the certification required by section 6.3(d) of this Policy and the requirement for cancellation of release upon loss or abandonment of any property or discontinuance of operations, as described below.

- (b) Securities escrowed under Surplus Security Escrow Agreements are released from escrow as follows:

<b><u>Tier 1 Issuers</u></b>		<b><u>Tier 2 Issuers (excluding CPCs):</u></b>	
<b><u>%</u></b>	<b><u>Release Date</u></b>	<b><u>%</u></b>	<b><u>Release Date</u></b>
10%	upon Exchange Bulletin	5%	Upon Exchange Bulletin
20%	6 months from Exchange Bulletin	5%	6 months from Exchange Bulletin
30%	12 months from Exchange Bulletin	10%	12 months from Exchange Bulletin
40%	18 months from Exchange Bulletin	10%	18 months from Exchange Bulletin
		15%	24 months from Exchange Bulletin
		15%	30 months from Exchange Bulletin
		40%	36 months from Exchange Bulletin

- (c) The Surplus Security Escrow Agreements provide that the automatic release mechanism for Surplus Securities will terminate if the asset, business or property (or interest) for which the Surplus Securities were issued as consideration is lost or abandoned or the operations or development on the asset, business or property are discontinued.
- (d) Under the Surplus Security Escrow Agreements, before each release of Surplus Securities from escrow, two directors or senior officers of the Issuer must certify to the escrow agent that the relevant asset, property, or business has not been lost or abandoned and that operations or development of such asset, property or business have not been discontinued. In addition, under the terms of the Surplus Security Escrow Agreements, the escrowed parties must agree to cancel their Surplus Securities if the applicable asset, property or business (or interest) is lost or abandoned or the operations or development on the property, business or assets are discontinued.

#### **6.4 Release Upon Death of Escrow Securityholder**

Subject to the procedural requirements in the escrow agreement, upon the death of an individual holder of escrow securities, the holder's escrow securities will be released from escrow.

#### **6.5 Business Combinations**

- (a) Escrow securities tendered by the holder (the "tenderor") to a person or company (the "offeror") pursuant to a Business Combination will be released from escrow to the offeror if:
- (i) the terms and conditions of the Business Combination have been satisfied or waived; and

- (ii) the escrow securities have either been taken up and paid for or are subject to an unconditional obligation to be taken up and paid for under the Business Combination.
- (b) Subject to the procedural requirements in the escrow agreement, if all or part of the consideration paid by the offeror for the escrow securities consists of new securities of a successor issuer, the new securities will be held in escrow on the same terms and conditions, including release dates in substitution for the securities for which they were exchanged unless immediately after the completion of the Business Combination:
  - (i) the successor issuer is an exempt issuer as defined in NP 46-201;
  - (ii) the tenderor's escrow securities were subject to a Value Security Escrow Agreement and the tenderor is not a Principal of the successor issuer; and
  - (iii) the tenderor holds less than 1% of the voting rights attached to the successor issuer's outstanding securities.

## **7. Amendments and Transfers Within Escrow**

- 7.1 For escrow agreements required by the Exchange, Issuers may apply to the Exchange to:
  - (a) amend the terms of existing escrow agreements required by the Exchange;
  - (b) request the transfer of securities within escrow; or
  - (c) request the early release of securities from escrow, if applicable.
- 7.2 For escrow agreements required under NP 46-201, or required by another exchange or other entity, Issuers must apply to the relevant Securities Commission, exchange or entity which originally required the escrow agreement for any specific request to amend the terms of the escrow agreement.
- 7.3 Transfers of securities escrowed pursuant to Exchange Requirements require the prior written consent of the Exchange. Except as specifically provided in this Policy and in the escrow agreement, Principal securities may only be transferred to new or existing Principals of the Issuer in accordance with the terms of Form 5D and subject to any legal or other restriction on transfer and with the approval of the Issuer's board of directors. To apply for a transfer within escrow, the Issuer or owner of the escrowed securities must submit the following documents to the Exchange:
  - (a) a letter requesting transfer within escrow, identifying the registered and beneficial owner of the escrowed securities (including name and address) and the proposed registered and beneficial owner of the escrowed securities after giving effect to the transfer. The letter must confirm that the transferee is a Principal of the Issuer or such other permitted transferee under this Policy;
  - (b) a notarially certified copy of the escrow security purchase agreement;

- (c) Form 5E signed by the transferee consenting to be bound by the terms of the escrow agreement;
- (d) a letter from the escrow agent confirming the escrow securities currently held in escrow under the escrow agreement, including the names of the registered owners and the number of securities held by each; and
- (e) the applicable filing fee as prescribed by Policy 1.3 - *Schedule of Fees*.

#### **7.4 Conversions of Prior Performance Escrow Agreements**

Securities escrowed pursuant to former ASE or VSE policies generally require Exchange acceptance prior to release, transfer or cancellation. The terms under which the securities may be released, transferred, or cancelled are contained in Appendices 5D and 5E.

## **8. Graduations and Delistings**

### **8.1 Graduation to Tier 1**

Subject to the procedural requirements in the escrow agreement, where a Tier 2 Issuer becomes a Tier 1 Issuer, the release schedule for its securities will be amended to comply with the applicable Tier 1 release schedule.

### **8.2 Movement to Other Markets / Delisting**

If an Issuer ceases to be listed on the Exchange for any reason, including:

- (a) graduation to TSX;
- (b) listing on another market;
- (c) a delisting without a subsequent listing elsewhere; or
- (d) a going private transaction,

the Issuer will no longer be required to obtain Exchange acceptance for any amendments to the terms of the escrow agreement, including early release of shares from escrow.

## **9. Other**

### **9.1 Restriction on Dealings with Escrow Securities**

Unless expressly permitted in this Policy or in the escrow agreement, a securityholder may not sell, transfer, mortgage, enter into a derivative transaction concerning, or otherwise deal in any way with its escrowed securities. If a securityholder is a private company controlled by one or more Principals of the Issuer, the securityholder may not participate in a transaction that results in a change of its control or a change in the economic exposure of the Principals to the risks of holding escrowed securities.

## **9.2 Pledge as Collateral for a Loan**

- (a) Notwithstanding section 9.1 above, the Exchange may permit a securityholder to pledge, mortgage or charge its escrowed securities to a Schedule 1 or 2 financial institution as collateral for a loan provided that no escrowed securities or any share certificates or other evidence of escrowed securities will be transferred or delivered by the Escrow Agent to the financial institution for this purpose. The loan agreement must provide that the escrowed securities will remain in escrow if the lender realizes on the escrowed securities to satisfy the loan.
- (b) In order to obtain Exchange acceptance the securityholder must file a draft loan agreement, describing the terms of the loan and the collateral requirements.

9.3 In connection with transactions other than New Listings involving Principals, the Exchange can require that all or part of the share consideration be escrowed under a Value Security Escrow Agreement or a Surplus Security Escrow Agreement where the value of the consideration has not been established to the satisfaction of the Exchange.

## **10. Seed Share Resale Restrictions**

### **10.1 General Application**

- (a) The Seed Share Resale Restrictions (“SSRRs”) are Exchange hold periods of various lengths which apply where Seed Shares are issued to Non-Principals by private Companies in connection with an Initial Public Offering, Reverse Takeover, Change of Business or Qualifying Transaction. The SSRRs may also apply to Principals’ Seed Shares, pursuant to a Change of Business in situations where the Principals are not subject to Exchange escrow requirements.
- (b) The SSRRs are imposed in addition to statutory hold periods imposed under Securities Laws. As a result, securities may still be subject to a statutory hold period although they have been released pursuant to the SSRRs.
- (c) The purchase price of the Seed Shares, and the time of their purchase relative to the date of the preliminary Prospectus receipt for an IPO, or the date the Exchange issues conditional acceptance for the RTO, COB or Qualifying Transaction determines which, if any, Exchange hold periods apply.
- (d) The SSRRs do not apply to persons who are subject to escrow pursuant to NP 46-201 or Exchange escrow requirements.
- (e) The SSRRs do not replace any hold periods that are imposed by Securities Laws. The SSRRs are in addition to, and run concurrently with such hold periods.
- (f) The SSRRs do not apply to Seed Shares issued pursuant to a CPC IPO.

## **10.2 Securities Issued Prior to an IPO**

Where securities of Non-Principals have been issued prior to an IPO at a price which is below the IPO price, to the extent that an Exchange hold period applies, the security certificates must either be issued bearing the legend specified in section 10.7 of this policy, or be made subject to a pooling agreement imposing the SSRRs.

## **10.3 Securities Issued by a Target Company Prior to an Reverse Takeover, Qualifying Transaction or Change of Business**

- (a) Where securities have been issued by a Target Company prior to or in connection with an RTO, Qualifying Transaction or COB (a “Transaction”) at a deemed price which is below the greater of: the Discounted Market Price as at the date of the announcement of the Transaction; the deemed acquisition price; and the price at which a financing is undertaken in connection with the Transaction; (the “Transaction Price”) to the extent that an Exchange Hold Period applies, the security certificates must either be issued bearing the legend specified in section 10.7 of this Policy, or be made subject to a pooling agreement imposing the SSRRs.
- (b) Securities issued by the Target Company undertaking a share exchange with an Issuer, will be adjusted to take into account the share exchange ratio as well as previous consolidations, splits, dividends etc.

10.4 Although the SSRRs do not generally apply to shares issued by the Issuer prior to a Transaction, the Exchange reserves the right to require additional hold periods on such shares in situations where these shares were issued at a date close to the announcement of the Transaction at a price which represents a substantial discount to the Transaction Price.

## **10.5 Additional Hold Period**

Shares issued to the Pro Group and Principals pursuant to a Change of Business which are not subject to other escrow requirements, are subject to the Exchange Hold Period in addition to any hold period applied pursuant to the SSRRs, up to a maximum of one year.

## **10.6 Avoidance**

- (a) The SSRRs may not be avoided by:
  - (i) qualifying the resale of the Seed Shares under the Issuer’s Prospectus; or
  - (ii) Companies applying for listing using a Listing Application without a public offering. The Exchange may apply the SSRRs and determine a deemed IPO price where applicable.

## **10.7 Legending/Pooling**

- (a) The Issuer must apply and enforce the SSRRs either by:
  - (i) legending each Seed Share certificate with the statement, “Subject to securities legislation, the holder of the securities shall not trade the securities before [specify date]”, and instructing its transfer agent not to remove the legend until the specified date has passed, except in accordance with the SSRRs; or
  - (ii) requiring each Seed Shareholder to enter into a pooling agreement with the Issuer’s transfer agent whereby the transfer agent will hold the certificates representing the Seed Shares until the SSRRs have expired.
- (b) If the statutory hold period applies, the securities must be legended accordingly to ensure they are not released prior to that date, notwithstanding that the SSRRs may impose a shorter hold period.

## **10.8 Filing Requirements**

- (a) The Issuer must file a list of Seed Shareholders with the Exchange which:
  - (i) indicates the number of shares held, the percentage of the IPO or Transaction Price paid for the shares, and the length of the SSRR hold period for each of the Seed Shareholders to which the SSRRs apply; and
  - (ii) contains a certification by a director or officer of the Issuer that the applicable Seed Share certificates are legended or all Seed Shareholders to which the SSRRs apply have entered into and delivered to the transfer agent signed pooling agreements in compliance with this Policy.



### 10.9 Seed Share Resale Rules – Matrix\*\*\*

<b>% of IPO / Transaction Price*</b>	<b>**Held &lt; 3 months</b>	<b>**Held &lt; 1yr</b>	<b>**Held &gt;1 year</b>
<\$0.05 per share	Escrow - In accordance with a Value Security Agreement	Escrow - In accordance with a Value Security Agreement	Escrow - In accordance with a Value Security Agreement
≤10% of IPO/ Transaction Price	Escrow - In accordance with a Value Security Agreement	<b>Tier 2 Issuers - 2 year hold</b> with 20% released every 6 months with first release on closing of the IPO/Transaction  <b>Tier 1 Issuers –</b> In accordance with a Value Security Agreement	<b>No hold</b>
>10% to <25% of IPO/Transaction Price	<b>Tier 2 Issuers - 2 year hold</b> with 20% released every 6 months with first release on closing of the IPO/Transaction  <b>Tier 1 Issuers –</b> In accordance with a Value Security Agreement	<b>1 year hold</b> with 20% released every 3 months with first release on closing of IPO/Transaction	<b>No hold</b>
≥25% to <50% of IPO/Transaction Price	<b>1 year hold</b> with 20% released every 3 months with first release on closing of IPO/Transaction	<b>4 month hold</b> with 20 % released each month with first release on closing of IPO/Transaction	<b>No hold</b>
≥50% to <75% of IPO/Transaction Price	<b>4 month hold</b> with 20 % released each month with first release on closing of IPO/Transaction	<b>No hold</b>	<b>No hold</b>
≥75% of IPO / Transaction Price	<b>No hold</b>	<b>No hold</b>	<b>No hold</b>

\* Transaction Price is the greater of the closing price prior to the announcement of the Transaction, the deemed acquisition price or the financing price.

\*\* In calculating how long shareholders have already held the securities, count backwards from the date the Exchange issues conditional acceptance of the RTO, Qualifying Transaction, or COB, or, if an IPO, from the date of the receipt for the preliminary Prospectus.

\*\*\* All hold periods noted on this table commence from the date the Transaction closes, or, in the case of an IPO, the date of the receipt for the final Prospectus.