Goodmans LLP Update

Corporate Securities Law

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Prospectus Exemption for Existing Security Holders

The British Columbia Securities Commission (BCSC) recently adopted an exemption that, subject to certain conditions, will allow issuers listed on the Toronto Stock Exchange, TSX Venture Exchange, and the Canadian Securities Exchange (collectively, the "**Exchanges**") to raise money by issuing securities to their existing security holders without the need for a prospectus or offering document (the "**Exemption**").

The securities regulatory authorities in Alberta, Saskatchewan, Manitoba, Québec, New Brunswick, Nova Scotia, Yukon, Northwest Territories, Nunavut, and Prince Edward Island (with the BCSC, the "**Regulators**") also adopted the Exemption.

The Exemption

The Exemption which has been long-awaited by both issuers and non-accredited investors, represents the Regulators' efforts to afford smaller issuers an opportunity to access a wider pool of capital, while maintaining investor protection.

The rationale underlying the Exemption is that an investor who already holds a listed security of the issuer has previously made an investment decision concerning the issuer and its securities and therefore should be able to subscribe for the same security without requiring the issuer to incur significant time and expense associated with preparing a prospectus or offering document. In essence, the Exemption represents a significantly streamlined avenue for reporting issuers to raise funds from their existing security holders.

Previously, if an Exchange-listed issuer wanted to distribute securities to existing shareholders who were not accredited investors, the issuer would have to prepare and file a prospectus or seek to rely on a prospectus exemption that required delivery of a disclosure document, such as an offering memorandum or a rights offering circular.

The Exemption now permits issuers to offer existing security holders who are not accredited investors the opportunity to participate in offerings of securities, which were previously only available to accredited investors and close friends, family and business associates. This broadens the pool of potential capital available to issuers and allows ordinary retail investors who, for all practical intents and purposes, were limited to participating in the secondary market access to primary offerings.

Requirements

To rely on the Exemption, an issuer must, among other things:

- have a class of equity securities listed on one of the Exchanges;
- have timely filed all continuous disclosure documents;
- offer only a class of securities listed on the Exchange or units comprising a listed security and a warrant to acquire the listed security;
- issue a news release disclosing the proposed offering, including that the issuer is relying on the Exemption, details of the use of proceeds, the number and pricing of the securities to be issued (including minimum and maximum amounts, if applicable), and how the issuer intends to deal with any oversubscriptions;
- make the offer available to all persons who, as of the record date, held a listed security of the issuer of the same class and series as the listed security to be distributed under the Exemption; and
- provide investors with a right of action in the event of a misrepresentation in the issuer's continuous disclosure, or in an offering document it voluntarily provides to investors.

The Exemption limits each investor to acquiring no more than $15,000 of the issuer's securities in any 12-month period unless the investor has obtained advice as to the investment's suitability from a registered investment dealer.

Ontario

The Ontario Securities Commission has proposed to adopt a similar security holder exemption based broadly on the Exemption with some additional conditions. All comments on Ontario's proposed exemption are due by June 18, 2014.

For more information on the Exemption, please contact any member of our Corporate Securities Group.