

# Update

## Corporate Securities Law

April 13, 2009

### TSX Rule Change Proposed to Require Acquiror Shareholder Approval in Certain Public M&A Transactions

The Toronto Stock Exchange (the “**TSX**”) has proposed rule changes that would require TSX-listed acquirers to obtain the approval of their shareholders prior to proceeding with certain acquisitions of publicly-traded target issuers.

The proposal comes in the wake of the January 23, 2009 decision of the Ontario Securities Commission (the “**OSC**”) in connection with the then proposed (and since abandoned) acquisition by HudBay Minerals (“**HudBay**”) of Lundin Mining Corporation. In that decision the OSC overturned a determination by the TSX not to require approval of the Hudbay shareholders for the transaction; the OSC concluded that the “quality of the marketplace...would be significantly undermined” if shareholder approval were not required. (The OSC’s decision, and the background to the issue of acquirer shareholder approval which has been the focus of much attention and comment, are outlined in our update entitled “*The HudBay Minerals Proceedings and the Return of Acquiror-Side Shareholder Approval Rights*” dated January 26, 2009.)

On April 3, 2009, the TSX published for comments a proposal for changes to the security holder approval requirements for acquisitions. The key change would be to require a listed issuer proposing to acquire a publicly-traded target to obtain shareholder approval where the securities issued in payment for the acquisition would result in greater than 50% dilution.

The TSX’s proposal explains why a 50% threshold has been proposed, as distinct from the 25% threshold utilized by some other international stock exchanges, focusing upon the characteristics of the Canadian marketplace (particularly the acquisitive nature of resource-based issuers and the generally smaller capitalization of Canadian issuers).

The proposal, if implemented, would represent a significant change, as corporate and securities laws in Canada do not require shareholder approval of arm's length dilutive transactions, and the TSX’s exemption of such transactions from the requirement of shareholder approval would be removed. This may in turn affect the timing and structuring of public M&A transactions.

The TSX is requesting and accepting comments on these proposed changes to security holder approval up until May 4, 2009. We will keep you updated as to any developments regarding these rule changes. Please contact any member of the Goodmans corporate securities team to discuss the proposed changes by the TSX.