

BC Instrument 51-509
Issuers Quoted in the U.S. Over-the-Counter Markets

Contents

PART 1 – DEFINITIONS AND REPORTING ISSUER DESIGNATION

- 1 Definitions
- 2 National Instrument definitions apply
- 3 Reporting issuer designation
- 4 Ceasing to be an OTC reporting issuer

PART 2 – DISCLOSURE

- 5 Additional disclosure requirements
- 6 Timely disclosure obligations
- 7 Registration Statement
- 8 Investor relations activities
- 9 Technical reports – mineral properties

PART 3 – RESALE OF PRIVATE PLACEMENT SECURITIES

- 10 Resale of seed stock
- 11 Legends on certificates
- 12 Resale of private placement securities acquired after ticker-symbol date
- 13 No other hold periods

PART 4 – OTHER EXEMPTION RESTRICTIONS

- 14 Securities for debt
- 15 Take-over bid

PART 5 – EFFECTIVE DATE AND TRANSITION

- 16 Coming into Force
- 17 Transition – financial disclosure for non-SEC filers
- 18 Transition – audit committee rule

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PART 1 – DEFINITIONS AND REPORTING ISSUER DESIGNATION

Definitions

1 In this Instrument

“**OTC issuer**” means an issuer

- (a) that has issued a class of securities that are OTC-quoted securities, and
- (b) that has not issued any class of securities that are listed or quoted on
 - (i) TSX-Venture Exchange,
 - (ii) The Toronto Stock Exchange,
 - (iii) Canadian Trading and Quotation System Inc.,
 - (iv) New York Stock Exchange,
 - (v) American Stock Exchange, or
 - (vi) NASDAQ Stock Market;

“**OTC-quoted securities**” means a class of securities that has been assigned a ticker symbol on the OTC Bulletin Board or the Pink Sheets;

“**OTC reporting issuer**” means an OTC issuer that is a reporting issuer;

“**ticker-symbol date**” means the date that an OTC issuer is first assigned a ticker symbol for any class of its securities on the OTC Bulletin Board or Pink Sheets.

National Instrument definitions apply

- 2** Terms used in this Instrument that are defined or interpreted in National Instrument 14-101 *Definitions* or National Instrument 51-102 *Continuous Disclosure Obligations* have the same meaning in this Instrument.

Reporting issuer designation

- 3** Subject to section 4, an OTC issuer is a reporting issuer under the *Securities Act* if
- (a) on or after September 15, 2008, its business has been directed or administered in or from British Columbia,
 - (b) on or after September 15, 2008, investor relations activities have been carried on in or from British Columbia by or on behalf of the OTC issuer, or
 - (c) the OTC issuer’s ticker-symbol date is on or after September 15, 2008, and, on or before the ticker-symbol date, the issuer distributed a security to a person resident in British Columbia and that security is of the class of securities that became the issuer’s OTC-quoted securities.

Ceasing to be an OTC reporting issuer

- 4** (1) An OTC issuer ceases to be a reporting issuer under section 3 if
- (a) its business is not directed or administered, and has not been directed or administered for at least one year, in or from British Columbia,
 - (b) investor relations activities, by or on behalf of it, are not carried on, and have not been carried on for at least one year, in or from British Columbia,
 - (c) more than one year has passed since its ticker-symbol date, and
 - (d) it has filed a notice in the required form.
- (2) An OTC reporting issuer that ceases to be an OTC issuer must file a notice in the required form at least 10 days before it is next required to file a record.

PART 2 – DISCLOSURE**Additional disclosure requirements**

- 5** In addition to all other provisions of securities legislation that apply to a reporting issuer, an OTC reporting issuer must comply with the provisions of
- (a) National Instrument 13-101 *System for Electronic Data Analysis and Retrieval (SEDAR)* that apply to an electronic filer, despite section 2.1 of that Instrument,
 - (b) National Instrument 51-102 *Continuous Disclosure Obligations* that apply to a reporting issuer that is a venture issuer,
 - (c) Part 6 of National Instrument 51-102 *Continuous Disclosure Obligations* despite section 6.1 of that Instrument,
 - (d) National Instrument 52-110 *Audit Committees* that apply to a reporting issuer that is a venture issuer, and
 - (e) National Instrument 58-101 *Disclosure of Corporate Governance Practices* that apply to a reporting issuer that is a venture issuer.

Timely disclosure obligations

- 6** Section 14.2 of National Instrument 71-101 *The Multijurisdictional Disclosure System* does not apply to an OTC reporting issuer.

Registration Statement

- 7** (1) If an OTC issuer becomes a reporting issuer on its ticker-symbol date, the OTC reporting issuer must file, within 5 days of the date it became a reporting issuer, a copy of the most recent registration statement it filed with the SEC.
- (2) The OTC reporting issuer must file the registration statement in electronic format under section 2.2 of National Instrument 13-101 *System for Electronic Data Analysis and Retrieval (SEDAR)*.

Investor relations activities

- 8** (1) If a person will carry on investor relations activities under an agreement, arrangement, commitment or understanding with an OTC reporting issuer, the

OTC reporting issuer must file a notice in the required form describing the activities and the relationship of the OTC reporting issuer with the person.

- (2) The OTC reporting issuer must file the notice under subsection (1)
 - (a) at least 1 day before the investor relations activities commence, or
 - (b) if, on the date the OTC issuer became an OTC reporting issuer, investor relations activities are being carried on, within 5 days of that date.
- (3) The OTC reporting issuer must file the notice in electronic format in accordance with National Instrument 13-101 *System for Electronic Data Analysis and Retrieval (SEDAR)*.

Technical reports – mineral properties

- 9 Section 4.1 of National Instrument 43-101 *Standards of Disclosure for Mineral Projects* does not apply to an OTC reporting issuer.

PART 3 – RESALE OF PRIVATE PLACEMENT SECURITIES

Resale of seed stock

- 10 (1) The exemptions in securities legislation from the registration requirement or the prospectus requirement do not apply to a trade of a security of an OTC reporting issuer on or after the ticker-symbol date, if the security was acquired on or after September 15, 2008 and before the ticker-symbol date, except for the exemption in section 2.16 of National Instrument 45-106 *Prospectus and Registration Exemptions*.
- (2) A person must not trade a security of an OTC reporting issuer that the person acquired on or after September 15, 2008 and before the ticker-symbol date unless
 - (a) the certificate representing the security carries the legend, or the ownership statement issued under a direct registration system or other electronic book entry system relating to the security bears the legend restriction notation, set out in subsection 11(2),
 - (b) the person trades the security through an investment dealer from an account at that investment dealer in the name of that person, and
 - (c) the investment dealer executes the trade through the OTC Bulletin Board or Pink Sheets.

Legends on certificates

- 11 (1) As soon as practicable after the ticker-symbol date, an OTC reporting issuer must place
 - (a) a legend on each certificate representing a security issued before the ticker-symbol date, and
 - (b) a legend restriction notation on each ownership statement issued under a direct registration system or other electronic book entry system relating to a security issued before the ticker-symbol date.

- (2) The legend or legend restriction notation must state the following:

Unless otherwise permitted under securities legislation, the holder of this security must not trade the security in or from British Columbia unless

- (a) the security holder trades the security through an investment dealer registered in British Columbia from an account at that dealer in the name of that security holder, and*
- (b) the dealer executes the trade through the OTC Bulletin Board or Pink Sheets.*

Resale of private placement securities acquired after ticker-symbol date

- 12** (1) Unless the conditions in subsection (2) are satisfied, the first trade by a person of a security of an OTC reporting issuer distributed to that person after the ticker-symbol date under an exemption from the prospectus requirement is a distribution.
- (2) For the purposes of subsection (1), the conditions are
- (a) a 4-month period has passed from the date
 - (i) the OTC reporting issuer distributed the security, or
 - (ii) a control person distributed the security,
 unless the security was acquired under a director or employee stock option,
 - (b) if the person trading the security is a control person of the OTC reporting issuer, the person has held the security for at least 6 months,
 - (c) the number of securities the person proposes to trade, plus the number of securities of the OTC reporting issuer of the same class that the person has traded in the preceding 12-month period, does not exceed 5% of the OTC reporting issuer's outstanding securities of the same class,
 - (d) the person trades the security through an investment dealer,
 - (e) the investment dealer executes the trade through the OTC Bulletin Board or the Pink Sheets,
 - (f) there has been no unusual effort made to prepare the market or create a demand for the security,
 - (g) no extraordinary commission or other consideration is paid to a person for the trade,
 - (h) if the person trading the security is an insider of the OTC reporting issuer, the person reasonably believes that the OTC reporting issuer is not in default of securities legislation, and
 - (i) the certificate representing the security carries a legend, or the ownership statement issued under a direct registration system or other electronic book entry system relating to the security bears a legend restriction notation, stating the following:

Unless otherwise permitted under securities legislation, the holder of this

security must not trade the security in or from British Columbia unless the conditions in section 12 (2) of BC Instrument 51-509 Issuers Quoted in the U.S. Over-the-Counter Market are met.

No other hold periods

- 13** Sections 2.3, 2.4, 2.5 and 2.6 of National Instrument 45-102 *Resale of Securities* do not apply to the first trade of a security of an OTC reporting issuer distributed under an exemption from the prospectus requirement.

PART 4 – OTHER EXEMPTION RESTRICTIONS

Securities for debt

- 14** Section 2.14 of National Instrument 45-106 *Prospectus and Registration Exemptions* does not apply to a trade of a security of an OTC reporting issuer.

Take-over bid

- 15** Section 4.2 of Multilateral Instrument 62-104 *Take-Over Bids and Issuer Bids* does not apply to a take-over bid for an OTC reporting issuer for two years after the ticker-symbol date.

PART 5 – EFFECTIVE DATE AND TRANSITION

Coming into Force

- 16** (1) Subject to subsection (2), this Instrument comes into force on September 15, 2008.
 (2) Sections 5, 6, 7, and 8 come into force on September 30, 2008.

Transition – financial disclosure for non-SEC filers

- 17** For an OTC reporting issuer that does not have a class of securities registered under section 12 of the 1934 Act and is not required to file reports under section 15 (d) of the 1934 Act, the requirements of National Instrument 51-102 *Continuous Disclosure Obligations* and National Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings* concerning the filing of
- (a) annual financial statements, related MD & A and annual certificates apply only to financial years beginning on or after January 1, 2008,
 - (b) interim financial statements, related MD & A and interim certificates apply only to interim periods that
 - (i) begin on or after January 1, 2008, and
 - (ii) end after September 15, 2008,
 - (c) AIFs apply only to financial years beginning on or after January 1, 2008.

Transition – audit committee rule

- 18** If an OTC reporting issuer is a reporting issuer in British Columbia and not in any other jurisdiction of Canada, National Instrument 52-110 *Audit Committees* does not

apply to an OTC reporting issuer until the earlier of:

- (a) the issuer's first annual meeting on or after September 30, 2008, and
- (b) September 30, 2009.