

## Capital Pool Companies (CPC's) – Q&A

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*What is it?:* A CPC is nothing more than a company listed on the TSX Venture Exchange that has a purse full of money to be used to search out a target business for acquisition.

*Purpose:* A company may go public by developing a business prior to listing, by acquiring a business prior to listing, by acquiring a listed company through a reverse-takeover or by going the CPC route. The CPC program was designed as a corporate finance vehicle to provide businesses with an opportunity to obtain financing earlier in their development than might be possible with an initial public offering. The CPC program permits an IPO to be conducted and a Venture Exchange listing to be achieved by a newly created company that has no assets, other than cash, and has not commenced commercial operations. The CPC's use this pool of funds to identify and evaluate assets or businesses which, when acquired, qualify the CPC for listing as a Tier 1 or Tier 2 issuer on the Venture Exchange.

*Governing Policy:* A CPC is a creature of the TSX Venture Exchange and is specifically created and governed in accordance with by Policy 2.4., in addition to the policies of general application such as Policy 3.1 “Directors, Officers and Corporate Governance”, 3.2 Filing Requirements and Continuous Disclosure”, and Policy 4.4 “Incentive Stock Options.”

*Provincial Availability of the CPC Program:* The CPC program is not available in all provincial jurisdictions. Currently, the program is available in British Columbia, Alberta, Quebec, Ontario, Manitoba, Saskatchewan and Nova Scotia.

*Agreement in Principle:* The CPC program may not be used where the proposed CPC has an Agreement in Principle. An Agreement in Principle exists where the board of directors has a “meeting of the minds” with the other parties to a proposed Qualifying Transaction on all fundamental terms, and no material conditions exist which are beyond the reasonable control of the Non Arms Length Parties to the CPC or the Non Arms Length Parties to the Qualifying Transaction.

*An Agreement in Principal does not exist:* A public announcement of an intended acquisition is not evidence of an Agreement in Principal. If the CPC undertakes a best efforts financing that is material to the closing of the proposed transaction, then an Agreement in Principle does not exist. If the parties have not agreed on the consideration to be paid for the assets (or a formula to determine the consideration), or where there are significant uncertainties underlying source data or valuation techniques to be applied, then no Agreement in Principal exists. If financial statements relating to the assets to be acquired have not yet been prepared, then no Agreement in Principal exists. And, where significant due diligence matters remain unresolved, then no Agreement in Principal exists. Having said all this, there are special disclosure rules where the CPC has a proposed acquisition that is “probable”.

*Documentation:* The form of prospectus and the form of escrow agreement for use in the CPC process are forms prescribed by the TSX Venture Exchange. Form 3A provides the information required in the CPC prospectus, Form 2F is the CPC Escrow Agreement, and Form 2D sets out the Listing Agreement.

*Process:* The CPC process is a two-stage process: the first stage involves conducting a initial public offering of the CPC's common shares, and the second stage involves the CPC conducting its Qualified Transaction (commonly referred to as the "QT"). The following is a brief overview of the process.

#### First Stage – IPO: Highlights.

a. *Corporation:* The first stage requires a corporation, usually a newco created especially to become a CPC. Emphasis at this stage is on the board of directors and management.

b. *Management:* A CPC is sold on the basis of its management team and the Venture Exchange will focus its attention on the management team. Each proposed director and senior officer must be a resident of Canada or the US. In determining acceptability of the board in general, the TSX Venture Exchange will focus on whether members of the board generally possess a positive track record with junior companies (as evidenced by growth of such companies), the ability to raise financing, a positive corporate governance and regulatory history, appropriate technical expertise, the ability to locate and develop appropriate acquisition opportunities and positive experiences as directors/senior officers with public companies in Canada or the US.

c. *IPO Price:* The minimum IPO Price is \$0.10 per common share. Only common shares may be issued as IPO Shares (and Seed Shares).

d. *Seed Capital:* The minimum total amount of seed capital raised by a CPC through the issuance of seed shares issued at a price less than the IPO price is \$100,000 and can be no greater than \$500,000. Seed shares may be sold at 50% of the IPO price (subject to a minimum price of \$0.05 per Seed Share). Seed shares will be subject to the escrow provisions of section 11 of Policy 2.4 and held in escrow subject to the terms of an escrow agreement in accordance with TSX Venture Exchange form 2F.

e. *Private Placements:* A CPC can undertake private placements of its common shares in between the seed round and its IPO (see Escrow rules in section 10).

f. *IPO:* The CPC must raise a minimum of \$200,000 and a maximum of \$1,900,000 in its IPO and, after closing its IPO, the CPC must have a minimum of 200 shareholders each holding at least 1,000 free trading shares. The CPC must have a minimum of 1,000,000 issued and outstanding common shares in its public float.

g. *Maximum Amount of Capital:* The CPC is limited to raising a maximum of \$2,000,000 from its seed rounds, private placements and IPO.

h. *Limit on purchased common shares:* The maximum number of shares that can be acquired by a purchaser in the IPO is 2% of the total number of common shares offered in the IPO (and 4% together with the purchaser's associates and affiliates).

i. *Stock Options:* Stock Options may be issued to the CPC's directors and officers. The grants are governed by the provisions of Policy 2.4 and 4.4. The aggregate amount of options that may be granted is limited to 10% of the CPC's issued and outstanding shares at the closing of the IPO. There are also limits on how many options may be granted to any individual as well.

j. *Agent:* The CPC must have an agent who is registered under the securities laws of the relevant jurisdictions that will permit it to act as selling agent, and who is also a Member of the Venture Exchange. Agent's may be compensated through cash and securities. Any securities are limited to a non-transferable option to acquire no more than 10% of the CPC's issued and outstanding shares at the closing of the IPO at an exercise price no less than the IPO price and for a period no longer than 24 months from listing of the common shares. The agent can exercise no more than 50% of these options prior to the CPC conducting its Qualifying Transaction.

k. *Prohibited payments and use of proceeds:* Policy 2.4 prohibits various payments to non arm's length parties (see section 8.1) and restricts the use of proceeds raised (see section 8.4). Permitted uses of proceeds are enumerated in sections 8.2 and 8.3. The CPC may reimburse non arm's length parties for such things as office supplies, rent and utilities and reasonable out of pocket expenses. The CPC may advance up to \$225,000 of its proceeds to a target company as a refundable deposit or secured loan (\$25,000 may be advanced as a non-refundable deposit) (See section 8.5).

1. *Escrow.* All seed shares issued at a price lower than the price of the IPO shares, all shares which are owned directly indirectly or beneficially owned or controlled by non arm’s length parties and any seed share purchased by members of the Pro Group (brokers) will be held in escrow under the “CPC Escrow Agreement” and will be released as follows:

1. 2. Release Dates	<b>Percentage of Total Escrowed Securities to be Released</b>
<b>[Insert date of Final Exchange Bulletin after closing of QT]</b>	<b>10% 1/10 of your escrow securities</b>
<b>[Insert date 6 months following Final Exchange Bulletin]</b>	<b>1/6 of your remaining escrow securities</b>
<b>[Insert date 12 months following Final Exchange Bulletin]</b>	<b>1/5 of your remaining escrow securities</b>
<b>[Insert date 18 months following Final Exchange Bulletin]</b>	<b>1/4 of your remaining escrow securities</b>
<b>[Insert date 24 months following Final Exchange Bulletin]</b>	<b>1/3 of your remaining escrow securities</b>
<b>[Insert date 30 months following Final Exchange Bulletin]</b>	<b>1/2 of your remaining escrow securities</b>
<b>[Insert date 36 months following Final Exchange Bulletin]</b>	<b>all of your remaining escrowed securities</b>
<b>TOTAL</b>	<b>100%</b>

\* In the simplest case, where there are no changes to the escrow securities initially deposited and no additional escrow securities, the release schedule outlined above results in the escrow securities being released in equal tranches of 15% after completion of the release on the date of the Final Exchange Bulletin.

m. *General.* Given the preceding parameters, the CPC is like any other prospectus offering and one must adhere to the general requirements concerning a prospectus offering. Once completed, the CPC’s common shares are listed for trading on the TSX Venture Exchange. After the closing of the IPO, the CPC cannot issue any securities without the written acceptance from the TSX Venture Exchange. The TSX Venture Exchange will not accept any further private placements where the proceeds from such a placement, together with the proceeds from the IPO and the seed shares exceeds \$2,000,000.

## Stage 2: Qualifying Transaction - Highlights.

The TSX Venture Exchange may suspend from trading or delist the common shares of a CPC that the Exchange has not issued a Final Exchange Bulletin for a Qualifying Transaction (a “QT”) within 24 months of its Listing Date. A CPC that fails to complete a QT within the allowable time may apply for a listing on NEX rather than be delisted (see section 14.3).

*Trigger:* An Agreement in Principle triggers the second stage of the CPC process. Once an Agreement In Principle is reached, the CPC must issue a comprehensive news release (see section 12.2 for the requirements of the press release) and a material change report. The press release must be sent to the Venture Exchange for review prior to its release.

*Trading Halt:* Trading in the CPC’s listed shares will be halted pending announcement of the Agreement in Principle. Trading will remain halted until the CPC files the documentation required by section 12.3.

*Refusal of Qualifying Transaction:* In spite of the fact that a transaction may meet the definition of a Qualifying Transaction, the TSX Venture Exchange may refuse to approve the QT where the CPC fails to meet Minimum Listing Requirements upon completion of the QT or for any other reason at the sole discretion of the TSX Venture Exchange.

*CPC Combinations:* In order to facilitate CPC’s in their identification and completion of a Qualifying Transaction, the Venture Exchange will permit the combination of certain CPC’s and a transaction between a CPC and an existing public company in connection with the completion of a Qualifying Transaction. CPC’s must hold a pre-filing conference with the Venture Exchange in order to be eligible to undertake such a combination.

*CPC Combinations and a Qualifying Transaction:* A CPC may undertake a combination with one or more CPC’s in order to complete a QT provided (i) that the share exchange ratio among the CPC’s is based on the cash value of the CPC’s on a pre-transaction basis, (ii) the aggregate number of common shares owned by the Pro Group on completion does not exceed 20% of the resulting issuer, (iii) the funds available to the combined CPC does not exceed \$2,000,000, and (iv) the CPC provides certain disclosure and each of its directors and officers provides certain undertakings (see section 15.3).

This second stage of the CPC process is a very technical process involving a business combination or asset purchase. It usually involves a sponsor, shareholder approval, high level of disclosure by way of filing statement or management information circular