

(ii) *Plans intended to meet the requirements of Section 423 of the Internal Revenue Code;*

(iii) *Parallel excess plans. A parallel excess plan is a plan that is a pension plan within the meaning of the Employee Retirement Income Security Act that is designed to work in parallel with a plan intended to be qualified under Internal Revenue Code Section 401(a) to provide benefits that exceed the limits set forth in Internal Revenue Code Section 402(g) (the section that limits the contributions and benefits under qualified plans), Internal Revenue Code Section 401(a)(17) (the section that limits the amount of an employee's compensation that can be taken into account for plan purposes) and/or Internal Revenue Code Section 415 (the section that limits the contributions and benefits under qualified plans) and/or any successor or similar limitations that may hereafter be enacted.*

*A plan will not be considered a parallel excess plan unless:*

(a) *It covers all or substantially all employees of an employer who are participants in the related qualified plan whose annual compensation is in excess of the limit of Internal Revenue Code Section 401(a)(17) or any successor or similar limits that may hereafter be enacted;*

(b) *Its terms are substantially the same as the qualified plan that it parallels except for the elimination of the limits described in the preceding sentence and the limitation described in clause (c) below; and*

(c) *No participant receives employer equity contributions under the plan in excess of 25% of the participant's cash compensation.*

(iv) *An equity compensation plan that provides non-U.S. employees with substantially the same benefits as a comparable Section 401(a) plan, Section 423 plan or parallel excess plan that the listed company provides to its U.S. employees, but for features necessary to comply with applicable foreign tax law, are also exempt from shareholder approval under this section.*

(6) *Transition Rules. Except as provided below, a plan that was adopted before the date of the Securities and Exchange Commission order approving this rule will not be subject to shareholder approval under this section unless and until it is materially revised.*

*In the case of a discretionary plan, as defined in Rule 5.3(d)(3)(A)(ii), whether or not previously approved by shareholders, additional grants may be made after the effective date of this rule without further shareholder approval only for a limited transition period, defined below, and then only in a*

*manner consistent with past practice. In applying this rule, if a plan can be separated into a discretionary plan portion and a portion that is not discretionary, the non-discretionary portion of the plan can continue to be used separately, under the appropriate transition rule. For example, if a shareholder approved plan permits both grants pursuant to a provision that makes available a specific number of shares, and grants pursuant to a provision authorizing the use of treasury shares without regard to the specific share limit, the former provision (but not the latter) may continue to be used after the transition period, under the general rule.*

*In the case of a formula plan, as defined in Rule 5.3(d)(3)(A)(i), that either has not previously been approved by shareholders or does not have a term of ten years or less, additional grants may be made after the effective date of this rule without further shareholder approval only for a limited transition period defined below.*

*The limited transition period will end upon the first to occur of:*

(A) *The listed company's next annual meeting at which directors are elected that occurs more than 180 days after the effective date of this rule;*

(B) *The first anniversary of the effective date of this rule; and*

(C) *The expiration of the plan.*

*A shareholder approved formula plan may continue to be used after the end of this transition period if it is amended to provide for a term of ten years or less from the date of its original adoption or, if later, the date of its most recent shareholder approval. Such an amendment may be made before or after the effective date of this rule, and would not itself be considered a material revision requiring shareholder approval.*

*A formula plan may continue to be used, without shareholder approval, if the grants after the effective date of this rule are made only from the shares available immediately before the effective date, in other words, based on formulaic increases that occurred prior to such effective date.*

(7) *Broker Voting. The Exchange will preclude its ETP Holders from giving a proxy to vote on equity compensation plans unless the beneficial owner of the shares has given voting instructions. This is codified in Rule 9.4 (Proxy Voting). Amended Rule 9.4 will be effective for any meeting of shareholders that occurs on or after the 90th day following the date of the Securities and Exchange Commission order approving the rule change.*

(8) *[(2)] The issuance will result in a change of control of the issuer.*

(9) *[(3)] In connection with the acquisition of the stock or assets of another company, shareholder approval is needed in the following circumstances:*

(A) *[(i)] If any director, officer, or substantial shareholder of the listed company has a 5% or greater interest (or such persons collectively have a 10% or greater interest), directly or indirectly, in the company or assets to be acquired or in the consideration to be paid in the transaction (or series of related transactions) and the present or potential issuance of common stock, or securities convertible into or exercisable for common stock, could result in an increase in outstanding common shares or voting power of 5% or more; or*

(B) *[(ii)] Where the present or potential issuance of common stock, or securities convertible into or exercisable for common stock (other than in a public offering for cash), could result in an increase in outstanding common shares of 20% or more or could represent 20% or more of the voting power outstanding before the issuance of such stock or securities.*

(10) *[(4)] In connection with a transaction other than a public offering involving:*

(A) *[(i)] The sale or issuance by the company of common stock (or securities convertible into or exercisable for common stock) at a price less than the greater of book or market value, which together with sales by officers, directors or principal shareholders of the company equals 20% or more of presently outstanding common stock, or 20% or more of the presently outstanding voting power; or*

(B) *[(ii)] The sale or issuance by the company of common stock (or securities convertible into or exercisable for common stock) equal to 20% or more of presently outstanding stock or voting power for less than the greater of book or market value of the stock.*

(11) *[(5)] Exceptions may be made upon application to the Corporation when:*

(A) *[(i)] The delay in securing shareholder approval would seriously jeopardize the financial viability of the enterprise; and*

(B) *[(ii)] Reliance by the company on this exception is expressly approved by the audit committee of the board or a comparable body.*

*A company relying on this exception must mail to all shareholders, no later than ten days before issuance of the securities, a letter alerting them to its omission to seek the shareholder approval that would otherwise be required and indicating that the audit committee of the board or a comparable*