

Chapter 13

SROs, Marketplaces, Clearing Agencies and Trade Repositories

13.2 Marketplaces

13.2.1 TSX – Request for Comments – Amendments to Toronto Stock Exchange Company Manual

TORONTO STOCK EXCHANGE

REQUEST FOR COMMENTS

AMENDMENTS TO TORONTO STOCK EXCHANGE COMPANY MANUAL

Toronto Stock Exchange (“TSX” or the “Exchange”) is publishing proposed public interest amendments (the “Amendments”) to the TSX Company Manual (the “Manual”). The Amendments will introduce listing requirements for non-corporate entities, such as exchange traded and closed-end funds, by introducing a new Part XI to the Manual and amending Part I of the Manual. The public interest changes will be published for public comment for a 60-day period.

The Amendments will be effective upon approval by the Ontario Securities Commission (the “OSC”) following public notice and comment. Comments should be in writing and delivered by **March 16, 2015** to:

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A copy should also be provided to:

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Comments will be publicly available unless confidentiality is requested.

Overview

TSX is seeking public comment on the Amendments to the Manual. This Request for Comments explains the reasons for, and objectives of, the Amendments. Following the comment period, TSX will review and consider the comments received and implement the Amendments, as proposed, or as modified as a result of comments.

Text of the Amendments

The Amendments to the Manual are set out at **Appendix A**. The Amendments relate to the listing of Exchange Traded Products, Closed-end Funds and Structured Products, which are proposed to be added to the Manual and defined as follows:

“Closed-end Fund” means an investment fund, mutual fund, split share corporation, capital trust or other similarly formed entity that is managed in accordance with specific investment goals and strategies. TSX, in its discretion, shall determine if an issuer will be considered a Closed-end Fund.

“Exchange Traded Product” or “ETP” means redeemable equity securities (an “Exchange Traded Fund” or “ETF”) or debt securities (an “Exchange Traded Note” or “ETN”) offered on a continuous basis under a prospectus which gives an investor exposure to the performance of specific indices, sectors, managed portfolios or commodities through a single security. TSX, in its discretion, shall determine if the securities will be considered an ETP.

“Structured Product” means securities generally issued by a Financial Institution (or similar entity) under a base shelf prospectus and pricing supplement where an investor’s return is contingent on, or highly sensitive to, changes in the value of underlying assets, indices, interest rates or cash flows. Structured Products include securities such as non-convertible notes, principal or capital protected notes, index or equity linked notes, tracker certificates and barrier certificates. TSX, in its discretion, shall determine if the securities will be considered a Structured Product.

Background to the Amendments

The Manual is intended to provide a detailed and well-indexed compendium of the requirements applicable to all applicants for listing and all listed issuers to ensure a transparent, fair and orderly market for listed securities. The rules are intended to accommodate issuers that are diverse in size and activity. The rules and requirements currently set out in the Manual are principally designed for corporate entities. Over the years, the structure and nature of listed issuers has evolved from the more traditional corporate issuers to include issuers such as ETPs, Closed-end Funds and Structured Products.

Over the past decade, ETFs and Closed-end Funds have become more prevalent in Canada. At the end of 2008, there were three ETF providers in Canada, with 84 products listed on TSX. As of October 31, 2014, there were nine ETF providers in Canada with 335 ETFs listed on TSX, including 56 new ETFs listed in 2014. Over the last five years, TSX has averaged 35 new Closed-end Fund listings per year. Additionally, the quoted market value for all Closed-end Funds has increased from \$19B at the end of 2008 to \$26B as of October 31, 2014. It is expected that more ETF providers will enter the Canadian market over the coming years.

The Structured Product market in Canada is dominated by the six major Canadian banks, none of which currently list such products. There are currently only three providers of listed Structured Products in Canada, with six products listed on TSX or on other Canadian exchanges. TSX believes there may be benefits to public listings for such products. TSX is therefore proposing to introduce rules specifically tailored to listing ETPs, Closed-end Funds and Structured Products.

Over the last few months, TSX has consulted with ETP providers and Closed-end Fund managers, as well as lawyers, retail brokers and investment bankers active in this sector in formulating the proposed Amendments.

Comparison to Other Exchanges

TSX conducted a review of the listing requirements for ETPs, Closed-end Funds and Structured Products of New York Stock Exchange (“NYSE”), NASDAQ, BATS, London Stock Exchange, Australian Securities Exchange, Canadian Securities Exchange and Aequitas Neo Exchange (“Aequitas”). Each marketplace is unique in terms of how ETPs, Closed-end Funds and Structured Products are regulated by the local securities regulators. These differences in regulation are reflected in each exchange’s listing requirements and many requirements of other exchanges do not apply to these products in Canada. We believe that the products listed on NASDAQ and NYSE are the most comparable to those listed on TSX. Comparable requirements are discussed below under the separate subsections for each of the product types.

Minimum Listing Requirements

There are fundamental differences in the trading, liquidity and ability to raise additional funds among the three different product categories and accordingly we are proposing different standards for each of the categories. For example:

- We are proposing a low minimum IPO raise or market capitalization requirement for ETPs as they are able to continuously offer additional securities from treasury and grow assets under management and their market capitalization once listed. We are proposing to set the minimum IPO raise or market capitalization requirement for Closed-end Funds higher and include specific distribution requirements to ensure that there is sufficient liquidity and trading in the secondary market.
- For Structured Products, we are proposing a lower minimum IPO raise or market capitalization requirement because these products have short or medium term expiry dates and trading liquidity may be supported by the issuer, acting as market maker.

ETPs

For ETPs, designated brokers subscribe to the initial securities listed on TSX for subsequent distribution to retail investors. Currently, there is no published minimum market capitalization requirement for ETPs, but the general practice has been to allow

ETPs to list with a minimum of \$2 million in market capitalization, with certain limited exceptions. Designated brokers prefer to minimize the initial capital to seed an ETP and have consistently requested that TSX lower the minimum market capitalization TSX has required for listing. In setting the minimum market capitalization threshold TSX considered that it may not necessarily correlate to liquidity, as an ETP can create new ETP securities at any time to increase the market capitalization, and the liquidity of an ETP is mainly derived from the underlying basket of securities. TSX also considered that retail investors may, however, consider the market capitalization to be a better indicator of liquidity.

The issue of designated brokers wanting to limit the amount of seed capital is not an issue unique to Canada. In the U.S., NYSE, NASDAQ, and BATS require that ETPs have a minimum of 100,000 securities. Therefore, an issuer could list with seed capital of \$1 million if the initial ETP securities were priced at \$10. Aequitas requires ETPs to have a minimum seed capital between \$1 and \$2 million, depending on the total market value of all ETPs managed by the same provider. Based on discussions with market makers in Canada and the requirements of other exchanges, TSX is proposing a \$1 million minimum market capitalization as an appropriate requirement for listing ETPs on TSX primarily because ETPs are in continuous distribution and redemption.

Closed-End Funds

For commercial reasons, we understand that Closed-end Fund issuers will not typically list a fund if they are unable to raise at least \$20 million, as it would be unprofitable for them to manage a publicly-listed fund with an asset base of less than \$20 million. For many years, TSX has required a minimum raise of \$20 million for Closed-end Funds and the proposed Amendments reflect this practice. In comparing the TSX requirement to the exchanges in the U.S., NYSE requires Closed-end Funds to have a minimum market value of \$60 million at the time of original listing and NASDAQ requires a minimum market value of \$75 million. Aequitas has set the minimum listing requirement for Closed-end Funds at \$20 million. We are therefore proposing \$20 million as an appropriate minimum, which is also consistent with existing TSX practice.

Structured Products

Only a handful of Structured Products are currently listed on Canadian exchanges. The majority of Structured Products are unlisted.

Structured Products are typically launched after a very short marketing period and raise a few million dollars per product. Financial institutions tend to be serial issuers of these products and will market multiple products at a time. These products typically have maturity dates between two to five years, and most investors tend to sell them close to the maturity date. Therefore, there is very little trading volume for most of the products' lives, and a larger public float would not necessarily increase trading liquidity. If a certain product or structure becomes popular among investors, financial institutions will typically create a new series of that product instead of re-opening a previously issued Structured Product.

These products typically have a market capitalization ranging from approximately \$1 to \$15 million. Aequitas has set the minimum market capitalization requirement at \$4 million to list Structured Products. In the past, TSX has allowed Structured Products to list with a minimum of \$2 million of market capitalization based on the requirements for the supplemental listing of debt for corporate issuers. Based on the limited need for liquidity and short product life, TSX is proposing \$1 million of market capitalization as an appropriate minimum.

Rationale for the Amendments

TSX is proposing the Amendments for transparency and to facilitate the implementation and enforcement of rules in the Manual for ETPs, Closed-end Funds and Structured Products.

Recent CSA Initiatives

On June 19, 2014, the Canadian Securities Administrators (the "CSA") announced the adoption of amendments to NI 81-102 – *Mutual Funds* that are specifically targeted at improving regulation of Closed-end Funds. One of these amendments restricts Closed-end Funds from distributing rights or warrants to current security holders. The CSA are of the view that these distributions are potentially harmful to Closed-end Funds' security holders because security holders may be coerced into exercising the rights or warrants or forced to suffer dilution. As a result, TSX has not provided for any rules regarding warrant and rights offerings for Closed-end Funds in the proposed Amendments. Additionally, the CSA have amended the requirements for Closed-end Funds that propose to merge with another Closed-end Fund or convert into an open-ended mutual fund and, as a result, TSX rules on this matter are redundant and no longer required in the Manual and will be removed concurrent with the implementation of the Amendments.

Summary of the Amendments

The following is a summary of the proposed Amendments. The Amendments that relate to matters other than original listing requirements generally codify TSX's existing practice. Non-Corporate Issuers generally have very little transactional activity after initial listing.

Please refer to **Appendix A** for the full text of the Amendments.

Requirement	ETPs	Closed-end Funds	Structured Products
Minimum IPO Raise or Market Capitalisation	\$1 million	\$20 million	\$1 million
Distribution	-	1,000,000 freely tradeable securities 300 public board lot holders	-
Principal listing documents	Prospectus (continuous offering)	Prospectus	Base shelf prospectus + Pricing supplement
Board & Management	ETPs other than those issued by Financial Institutions – Issuer or its Manager: CEO, CFO, Secretary and Independent Review Committee (“IRC”). Management responsible for day-to-day operations of the ETP will be reviewed to ensure they meet the requirements of Section 325 of the Manual.	Issuer or its Manager: CEO, CFO + Secretary and IRC. Management responsible for day-to-day operations of the Closed-end Fund will be reviewed to ensure they meet the requirements of Section 325 of the Manual.	Structured Products other than those issued by Financial Institutions – Issuer or its Manager: CEO, CFO, Secretary and two independent directors. Management responsible for day-to-day operations of the Structured Product will be reviewed to ensure they meet the requirements of Section 325 of the Manual. Non-Financial Institutions proposing to list Structured Products are encouraged to have preliminary discussions with TSX in advance of filing a listing application.
Net Asset Value (NAV)	ETPs, Closed-end Funds and Structured Products must have and maintain a publicly accessible website. Issuers must provide TSX with a representation that the NAV will be calculated daily for ETPs and weekly for Closed-end Funds and Structured Products and will be made available to the public on such website.		

Requirements applicable to transactions

Requirement	ETPs	Closed-end Funds	Structured Products
Issuance of Securities (General)	Immediate notification to TSX of any transaction involving the issuance or potential issuance of any new class of securities that is convertible into a listed class of securities.	Immediate notification to and pre-approval by TSX of any transaction involving the issuance or potential issuance of any securities other than unlisted, non-voting, non-participating securities.	
Additional Listing	Any creation of securities to be effected in accordance with constating documents and National Instrument 81-102 – <i>Mutual Funds</i> if applicable.	The issuance of additional securities should be at a price that yields net proceeds per security of no less than 100% of the most recently calculated NAV per security calculated immediately prior to the pricing of such issuance other than by way of distributions to all security holders on a pro rata basis.	

Requirement	ETPs	Closed-end Funds	Structured Products
	<p>No prior approval required from TSX for issuance or potential issuance of securities of a class already listed on TSX.</p> <p>Issuers will provide TSX with a legal opinion on a quarterly basis for all new security issuances during the previous quarter.</p>		
Supplemental Listings	<p>The minimum distribution requirement is the prescribed number of units if the new class of securities is convertible into a currently listed class of securities.</p> <p>If the new class of securities is not convertible into an already listed class of securities then the minimum requirements for an original listing apply.</p>	<p>The minimum market value is \$2M for the new class of securities provided that such securities are convertible into a currently listed class. There must also be at least 100,000 publicly held securities by at least 100 public board lot holders at the time of listing.</p> <p>If the new class of securities is not convertible into an already listed class of securities, then the minimum requirements for an original listing apply.</p>	N/A*
Dividends & Other Distributions	<p>In accordance with Sections 428 – 435 of the Manual.</p> <p>Due Bill trading will not apply to special distributions to be paid in securities where the securities to be distributed are immediately consolidated after the distribution, resulting in no change to the number of securities held by security holders.</p> <p>For distributions that are payable in securities, and where those securities will be re-invested and the resulting securities immediately consolidated so that the number of securities held by each investor will not change, TSX will require issuers to press release the estimated distribution amount four days prior to the declared record date. Upon determination of the exact amount of any estimated distribution, the issuer must disseminate the final details by news release.</p>		
Management Fees	<p>Any management fees payable with securities issued from treasury will be subject to Section 613 of the Manual – <i>Security Based Compensation Arrangements</i>.</p>		
Security holder Approval	<p>In addition to the matters requiring security holder approval under Section 5.1 of NI 81-102 – <i>Mutual Funds</i>, security holder approval will be required for the following items:</p> <p>(i) Any amendments, not covered by the general amendment provisions, to the articles of incorporation or Declaration of Trust (or equivalent documents); and,</p> <p>(ii) Extension beyond the originally contemplated termination date, unless security holders are given an opportunity to redeem securities at NAV on the originally contemplated terminate date.</p>		
Termination/ Voluntary Delisting	<p>Unless they have a fixed termination date, TSX will require that all Closed-end Funds, ETPs and Structured Product issuers provide 30 days' notice to security holders.</p> <p>Voluntary delistings in accordance with Section 720 of the Manual.</p>		
Notification to TSX	<p>Non-Corporate Issuers must pre-clear materials sent to security holders, other than continuous disclosure documents.</p>		

Requirement	ETPs	Closed-end Funds	Structured Products
Continued Listing Requirements	N/A	\$3M per Closed-end Fund 150 public board lot holders	N/A
Personal Information Forms (PIFs)	Directors and officers of the issuer, the manager or management responsible for day-to-day operations will be required to submit a PIF. Clearance valid for one year. PIF valid for three years.		

* A supplemental listing by issuers of Structured Products will be reviewed as an Original Listing.

Questions

1. Are the proposed original listing requirements for ETPs, Closed-end Funds and Structured Products appropriate? In particular, are the proposed minimum initial public offering conditions appropriate?
2. For Closed-end Funds that do not calculate NAV on a daily basis, what is a reasonable time period within which they should be required to price an offering of additional listed securities?
3. For Closed-end Funds, is it appropriate to require new funds to publish a daily NAV on their website? Should exemptions be made for certain fixed-income funds or alternative asset funds?
4. Does Independent Review Committee approval for fund mergers provide any value to the TSX? Is there any other way to provide comfort to TSX, when security holder approval is not sought, that the merger of two funds is fair and reasonable for current security holders of both funds?
5. Should TSX require security holder approval for any other matters for ETPs, Closed-end Funds and Structured Products?
6. Are the proposed continued listing requirements appropriate?
7. Are there any other rules or requirements contained in the Manual that should be adapted to better suit ETPs, Closed-end Funds and Structured Products?

Public Interest

TSX is publishing the Amendments for a 60-day comment period, which expires **March 16, 2015**. The Amendments will only become effective following public notice and the approval of the OSC.

APPENDIX A

TEXT OF PROPOSED AMENDMENTS TO THE TSX COMPANY MANUAL

Part I – Interpretation

Part I will be amended by adding each of the following definitions:

“**Closed-end Fund**” means an investment fund, mutual fund, split share corporation, capital trust or other similarly formed entity that is managed in accordance with specific investment goals and strategies. TSX, in its discretion, shall determine if an issuer will be considered a Closed-end Fund;

“**Exchange Traded Product**” or “**ETP**” means redeemable equity securities (an “**Exchange Traded Fund**” or “**ETF**”) or debt securities (an “**Exchange Traded Note**” or “**ETN**”) offered on a continuous basis under a prospectus which gives an investor exposure to the performance of specific indices, sectors, managed portfolios or commodities through a single security. TSX, in its discretion, shall determine if the securities will be considered an ETP;

“**Financial Institution**” means a financial institution regulated by the Office of the Superintendent of Financial Institution (“**OSFI**”) or, if a foreign financial institution, regulated by a regulatory body equivalent to OSFI with not less than \$150 million market capitalization;

“**Manager**” means a person or company who is a registered investment fund manager;

“**Non-Corporate Issuer**” means an ETP, Closed-end Fund and / or Structured Product; and

“**Structured Product**” means securities generally issued by a Financial Institution under a base shelf prospectus and pricing supplement where an investor’s return is contingent on, or highly sensitive to, changes in the value of underlying assets, indices, interest rates or cash flows. Structured Products include securities such as non-convertible notes, principal or capital protected notes, index or equity linked notes, tracker certificates and barrier certificates. TSX, in its discretion, shall determine if the securities will be considered a Structured Product.

A new section, Part XI, will be added to the Manual, as follows:

PART XI – REQUIREMENTS APPLICABLE TO NON-CORPORATE ISSUERS

This section sets out the requirements that are specifically applicable to Non-Corporate Issuers.

In addition to the specific requirements outlined in this Part XI, Non-Corporate Issuers must also comply with the following sections of the Manual:

Part IV – MAINTAINING A LISTING

All Sections, other than Shareholders' Meeting and Proxy Solicitation (Sections 455-465)

Part VI – CHANGES IN CAPITAL STRUCTURE

- (A) Discretion (Section 603), Security Holder Approval (Section 604), Changes in Issued Securities (Section 605)
- (C) Security Based Compensation Arrangements (Section 613)
- (F) Substitutional Listings (Sections 618 - 622)
- (I) Redemption of Listed Securities (Section 625)
- (L) Normal Course Issuer Bids (Sections 628 - 629)

Part VII – HALTING, SUSPENSION AND DELISTING

All Sections, other than Market Value and Public Distribution (Section 712)

Part IX – DEALING WITH THE NEWS MEDIA

All Sections

A. Original Listing Requirements

1101. Introduction

This section outlines the minimum listing requirements for each of ETPs (Section 1102), Closed-end Funds (Section 1103) and Structured Products (Section 1104), as defined under Part I of the Manual.

The Exchange generally expects that an original listing application of a Non-Corporate Issuer will be accompanied by a prospectus which will be concurrently or has been recently filed with the OSC. The Exchange recommends that prospective applicants without a prospectus obtain a preliminary opinion from TSX as to their eligibility for listing.

These minimum listing requirements should be read in conjunction with the Section 325, which sets out the Exchange's requirements regarding the quality of management.

These minimum listing criteria have been designed as guidelines and the Exchange reserves the right to exercise its discretion in applying them. This discretion may well take into consideration facts or situations unique to a particular applicant, resulting in the granting or denial of a listing application notwithstanding the published criteria.

The Exchange will also take into consideration an applicant's status regarding compliance with the requirements of other regulatory agencies. In addition, the Exchange must be satisfied that an applicant is in compliance with Exchange policies applicable to listed issuers, including policies described in Part III.

Please refer to Sections 338 to 360 for the Listing Application Procedure.

1102. Requirements for ETPs

- (a) **Minimum market capitalization.** Initial public offering or market value of freely tradeable securities to be listed of at least \$1,000,000;

(b) **NAV.** NAV must be calculated on each trading day and be made available on a publicly accessible website; and

(c) **Management.** If the ETP is not issued by a Financial Institution, the ETP or its Manager must have a CEO, CFO (who is not also the CEO), Secretary and an IRC. The ETP or its Manager must have adequate and appropriate experience in the asset management industry, as determined by the Exchange. For ETPs issued by Financial Institutions, individuals responsible for day-to-day management and operations of the ETP must be identified. TSX must be satisfied that management of the ETP, the Manager or the individuals designated by the Financial Institution will fulfill the requirements of Section 325 of the Manual.

1103. Requirements for Closed-end Funds

(a) **Minimum market capitalization.** Initial public offering or market value of freely tradeable securities to be listed of at least \$20,000,000;

(b) **NAV.** NAV must be calculated at least on a weekly basis and be made available on a publicly accessible website;

(c) **Public distribution.** At least 1,000,000 freely tradable securities must be held by at least 300 public holders, each holding one board lot or more; and

(d) **Management.** The Closed-end Fund or its Manager must have a CEO, CFO (who is not also the CEO), a Secretary and an IRC. The Manager must have adequate and appropriate experience in the asset management industry, as determined by the Exchange. TSX must be satisfied that management of the Manager will fulfill the requirements of Section 325 of the Manual.

1104. Requirements for Structured Products

(a) **Minimum market capitalization.** Initial public offering or market value of freely tradeable securities to be listed of at least \$1,000,000;

(b) **NAV.** NAV must be calculated at least on a weekly basis and be made available on a publicly accessible website; and

(c) **Management.** If the Structured Product is not issued by a Financial Institution, the issuer or its Manager must have at least two independent directors, a CEO, CFO (who is not the CEO), and a Secretary. The Manager must have adequate and appropriate experience in the asset management industry, as determined by the Exchange. For Structured Products issued by Financial Institutions, individuals responsible for the management and day-to-day operations of the Structured Product must be identified. TSX must be satisfied that management of the Manager or the individuals designated by the Financial Institution will fulfill the requirements of Section 325 of the Manual.

Prior to filing a listing application, the Exchange recommends that issuers other than Financial Institutions proposing to list Structured Products obtain a preliminary opinion as to the eligibility for listing.

1105. Listing Related Procedures

Please refer to Sections 338 to 360.

B. Changes in Capital Structure

1106. General

(a) ETPs

Every listed ETP shall immediately notify the Exchange in writing of any transaction involving the issuance or potential issuance of any new class of securities that is convertible into a listed class of securities. ETPs are not required to provide prior notification to the Exchange of the issuance or potential issuance of listed securities offered on a continuous basis.

(b) Closed-end Funds and Structured Products

Every listed Closed-end Fund and Structured Product shall immediately notify the Exchange in writing of any transaction involving the issuance or potential issuance of any securities other than unlisted, non-voting, non-participating securities.

1107. Additional Listings

(a) ETPs

- (i) The creation of any securities of an ETP must be effected in accordance with its constating documents and National Instrument 81-102 – *Mutual Funds*, if applicable; and
- (ii) ETPs must provide the Exchange on a quarterly basis with a Form 1 – Change in Outstanding and Reserved Securities and an opinion of counsel that all securities issued during the previous quarter have been validly issued as fully paid and non-assessable securities of the ETP.

(b) Closed-end Funds and Structured Products

- (i) A Closed-end Fund or Structured Product may not proceed with a Subsection 1106(b) transaction unless accepted by TSX. Failure to comply with this provision may result in the suspension and delisting of the listed issuer's listed securities (see Part VII of this Manual).
- (ii) TSX will advise the Closed-end Fund or Structured Product in writing generally within seven (7) business days of receipt by TSX of the notification required under Subsection 1106(b), of its decision to accept or not to accept the notice, indicating any conditions of acceptance or its reasons for non-acceptance. Further information or documentation may be requested before TSX decides to accept or not accept notice of a transaction. In reviewing the transaction described in the notice, TSX will consider the applicable provisions of this Manual.
- (iii) Where a Closed-end Fund or Structured Product proposes to enter into transaction which requires notification under Subsection 1106(b), any public announcement of the transaction must disclose that the transaction is subject to TSX acceptance or approval.
- (iv) The issuance of additional listed securities must yield net proceeds per security to the issuer of no less than 100% of the most recently calculated NAV per security, calculated immediately prior to the pricing of such issuance, other than distributions to all security holders on a pro rata basis. All transactions must close within 30 days of the most recently calculated NAV.
- (v) Closed-end Funds and Structured Products must notify the Exchange whether an "if, as, and when issued" market may be requested.

1108. Supplemental Listings

An ETP or Closed-end Fund proposing to list securities of a class that is not already listed should apply for the listing by letter addressed to TSX. The letter must be accompanied by one copy of the preliminary prospectus describing the provisions of the securities. The Exchange recommends that ETPs and Closed-end Funds without a preliminary prospectus contact the Exchange to obtain a preliminary opinion as to the eligibility to list the supplemental securities.

Structured Product issuers proposing to list securities of a class that is not already listed will be considered under original listing requirements set out in Section 1104, other than the Management requirements in Subsection 1104(c).

If TSX conditionally approves the listing of the securities:

- (i) This fact may be disclosed in the final prospectus or in other documents, in accordance with Section 346, and TSX will so advise the securities regulatory authorities.
- (ii) The following documents must be filed with TSX within ninety (90) days of its conditional acceptance of the supplemental listing (or within such later time as TSX may stipulate):
 - (1) a notarial or certified copy of the resolution of the board of directors (or equivalent body) of the ETP, Closed-end Fund or the Manager (as the case may be) authorizing the application to list the securities;
 - (2) a notarial or certified copy of the amended declaration of trust or equivalent document, giving effect to the creation of the securities;
 - (3) one commercial copy of the final prospectus, or other offering document, if applicable;

- (4) an opinion of counsel that the securities to be listed have been validly created in accordance with applicable law and that the securities are validly issued as fully paid and non-assessable;
- (5) a definitive specimen of the generic or customized security certificate, if any, in accordance with the requirements set out in Appendix D;
- (6) a copy of the unqualified letter of confirmation from CDS disclosing the CUSIP number assigned to the securities (see Section 350); and
- (7) for Closed-end Funds, evidence of satisfactory distribution of the securities to be listed, which evidence may take the form of a letter from the underwriters/agents setting out the anticipated distribution of the securities based on the subscriptions received as of the date of the letter and that, at the time of listing, the distribution requirements set out in Section 1108(b)(i) or (ii) will be met.

(a) ETPs

(i) If the new class of securities to be listed is convertible into a currently listed class of securities, the number of securities of the new class must be not less than the minimum prescribed number of units as set out in the constating documents.

(ii) If the new class of securities to be listed is not convertible into a currently listed class of securities, the minimum original listing requirements for ETPs found in Subsections 1102 (a) and (b) apply.

In the case of the listing of securities being offered to the public, the listing may take place prior to the closing of the offering, at the listed issuer's request. TSX staff will advise the listed issuer of the requirements in this regard. Any trading that takes place prior to closing will be on an "if, as and when issued" basis.

(b) Closed-end Funds

(i) If the new class of securities to be listed is convertible into a currently listed class of securities: (1) the market value of the securities of the new class listed must not be less than \$2,000,000; and (2) at least 100,000 freely tradeable securities must be held by at least 100 public holders, each holding one board lot or more.

(ii) If the new class of securities to be listed is not convertible into a currently listed class of securities, the minimum original listing requirements for Closed-end Funds in Subsections 1103 (a), (b) and (c) apply.

In the case of the listing of securities being offered to the public, the listing may take place prior to the closing of the offering, at the listed issuer's request. TSX staff will advise the listed issuer of the requirements in this regard. Any trading that takes place prior to closing will be on an "if, as and when issued" basis.

1109. Dividends and Other Distributions

Refer to Sections 428 to 435 of the Manual for the requirements applicable to dividends and other distributions.

Due Bill trading will not be implemented for special distributions of additional listed securities where such securities are immediately consolidated. Issuers must disseminate a news release with the estimated distribution amount at least four (4) trading days prior to the record date. Upon determination of the exact amount of any estimated distribution, the issuer must disseminate the final details by way of news release in accordance with the TSX timely disclosure policy.

1110. Management Fees

Any management fees payable in respect of a Non-Corporate Issuer providing for an issuance of securities from treasury will be subject to the requirements of Section 613 of the Manual.

1111. Security Holder Approval for Amendments to Constating Documents

For ETPs and Closed-end Funds, in addition to the matters requiring security holder approval pursuant to Section 5.1 of NI 81-102 – *Mutual Funds* and as otherwise required by the Manual, the Exchange requires security holder approval for:

- (i) any amendments to the articles of incorporation or declaration of trust that are not covered by the general amendment provisions thereof; and,

(ii) the extension of an ETP or Closed-end Fund beyond the originally contemplated termination date, unless security holders are provided the opportunity to redeem securities at NAV on or about the originally contemplated termination date.

1112. Termination / Voluntary Delisting

Unless a Non-Corporate Issuer has a fixed termination date, the Non-Corporate Issuer must provide security holders with at least 30 days' notice prior to termination.

A Non-Corporate Issuer wishing to have all or any class of its listed securities voluntarily delisted from TSX should refer to Section 720 of the Manual.

1113. Notification to the Exchange

Non-Corporate Issuers must pre-clear any materials sent to security holders, except for continuous disclosure documents such as financial statements or management report of fund performance.

1114. Continued Listing Requirements

Please refer to Part VII of the Manual. All of Part VII of the Manual applies to Non-Corporate Issuers, except for (D) – Delisting Criteria (Section 712).

The securities of Closed-end Fund may be suspended or delisted if:

- (i) the market value of its securities listed on TSX is less than \$3,000,000 over any period of 30 consecutive trading days;
- (ii) the number of freely-tradable, publicly held securities is less than 500,000; or
- (iii) the number of public security holders, each holding a board lot or more, is less than 150.

The securities of an ETP or Structured Product may be suspended or delisted if, in the opinion of the Exchange, the continued listing of such securities would not be consistent with preserving the overall quality of the market. In making its determination, the Exchange will consider factors, including the following and any other relevant considerations:

- (i) the level of trading liquidity of the listed securities;
- (ii) the market value of the listed securities;
- (iii) in the case of an ETP, the absence of a designated broker for the listed securities;
- (iv) in the case of a Structured Product, where the Financial Institution (or other similar institution) that has issued the Structured Product has ceased to act as a market maker for the Structured Product; and
- (v) the bid and ask spread of the listed securities.

No set of criteria can effectively anticipate the unique circumstances which may arise in any given situation. Accordingly, each situation is considered individually on the basis of relevant facts and circumstances. As such whether or not any of the delisting criteria has become applicable to a listed issuer or security, TSX may, at any time, suspend from trading and delist securities if, in the opinion of TSX, such action is consistent with the objective cited above or further dealings in the securities on TSX may be prejudicial to the public interest.

Section 716 to be amended as follows:

716. Management

TSX requires that each listed issuer must meet, on an ongoing basis, the management requirements relevant to its category of listing that are described in Section 311(for Industrial Issuers), Section 316 (for Mining Issuers), ~~and~~ Section 321 (for Oil & Gas Issuers), Section 1102 (ETPs), Section 1103 (Closed-end Funds) and Section 1104 (Structured Products). TSX may delist the securities of a listed issuer that has failed to meet such management requirements.

Upon receipt of a Form 3 (see Section 424) from a listed issuer, or upon notice of a new insider of a listed issuer, TSX will conduct a review of the new director, officer, trustee or insider with a view to determining the suitability of such individual or entity as an insider of the listed issuer. Upon the request of TSX, listed issuers will submit a Personal Information Form (Form 4—Appendix H) for any person so requested. TSX may delist the securities of a listed issuer in the event TSX determines that such individual or entity is not suitable as an insider of the listed issuer.

Once submitted, a Personal Information Form (Form 4 – Appendix H) is valid for a time period of three years, absent any material change in the information submitted. Once a Personal Information Form (Form 4 – Appendix H) has been cleared by the Exchange, such clearance is valid for a period of one calendar year for Non-Corporate Issuers. After one year, subject to there having been no material change in the information submitted to the Exchange in the original Personal Information Form (Form 4 – Appendix H), an insider of a Non-Corporate Issuers may submit a completed Declaration (Form 4B – Appendix H) in connection with a new listing application.