



# RE: AMENDMENTS TO TORONTO STOCK EXCHANGE COMPANY MANUAL

May 5, 2025



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**May 5, 2025**

Attention:

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Dear Ms. Sancı:

We write in response to [the Proposed Amendments to the Toronto Stock Exchange Company Manual](#) ("Proposed Amendments")

#### **EXECUTIVE SUMMARY**

While the IIAC continues to generally support the Proposed Amendments, at this stage, they should be supported by quantitative and qualitative analysis.

The recommendations enclosed include:

- Integration of OLR standards with market making and liquidity testing.
- Demarcation of GAAP and non-GAAP principles.
- Ticker extensions for speculative securities.
- Greater flexibility in discount rates for oil & gas issues.

Governance issues continue to present opportunity.

#### **I. RECOMENDATIONS ACCEPTED**

We acknowledge with appreciation the TSX acceptance of the following IIAC prior recommendations:

- i) With respect to oil & gas issuers, the acceptance of:
  - The \$50 million market capitalization requirement.

- 2P2 (prove plus provable) reserves.
  - The value of guidance on discount rates. Comments are provided in this correspondence regarding the discount rates suggested.
- ii) With respect to market support considerations, the provision of data specifically excluding closed end funds, SPACs, and REITs in the determination of market capitalization thresholds.

We continue to support and are pleased to see the continued inclusion of:

- Agnosticism of public or private funding.
- Alignment of reserves with National Instrument 43-101.
- The removal of Part V from the TSX company manual.

## **II. GENERAL SUPPORT**

The removal of impediments to new listings on the TSX remains a worthy endeavor. We value the opportunity to reexamine these further Proposed Amendments as a whole and provide additional recommendations for consideration. In so doing, we have considered investor protection concerns in particular. Marketplaces that protect investors are more prestigious, and attract higher quality issuers with greater demand, which, in turn, provides the benefit of further protection.

## **III. THE NEED FOR QUANTITATIVE AND QUALITATIVE ANALYSIS**

The TSX, being at the center of trading, financing and clearing activity, has a most data rich environment. This quantitative data should form part of the public consultation process and be utilized by the TSX to support its positions when making substantial changes as in the Proposed Amendments.

At this stage, at a minimum, the following data should be provided regarding issuers that currently qualify under the OLR that are proposed to be replaced and, where possible, the change anticipated by the Proposed Amendments:

- a) The 1-, 3-, 5- and 10-year compound annual growth rates (CAGR).
- b) The distribution of returns in aggregate.
- c) The mean, and median return, both on an arithmetic and geometric basis.
- d) The volume patterns.
- e) The ATWS.
- f) The impact of takeovers and bankruptcies on the data reviewed.
- g) The number of issues in a) that would not qualify pursuant to the Proposed Amendments.

h) A comparison of a) to g) to the general stock list.

A qualitative assessment of market integrity and investor protection concerns would also be valuable. These are addressed further below.

#### **IV. MARKET SUPPORT: MARKET CAPITALIZATION + TRADING**

Market capitalization is welcomed as an indicia of market support, which will ultimately be demonstrated through trading.

Listed issuers pay, via the listings fee, for some “promise” of secondary trading activity, which is also advertised by the unique position that exchanges have to offer market making services in their rules (as opposed to ATS’). Similarly, investors expect a measure of secondary liquidity. This is of particular concern for New Enterprises when lockups and other incentives may expire.

Integration of OLR standards with market making over time would enhance both listings prestige and the market making program. Integration should include a liquidity test with consideration of expected vs. actual turnover in a security.

Different capitalization of securities, across different sectors, which are trading at different prices would be expected to have different turnover. A market capitalization of \$50 mm or \$100mm does not mean as much where that capitalization is turned over only 10% annually as opposed 1% daily. The former would lead to large market impact costs on secondary, trading, while the latter, less so. This is meaningful to and protective of investors.

As different capitalization securities issued at different prices have different expected spread and activity goals, subsequent reviews of those goals could potentially be a factor in dropping proposed symbol extensions which indicate the speculative and potentially illiquid nature of a security discussed further in this correspondence.

#### **V. METRICS: PRACTICE & EXPECTATION**

We recommended that the TSX support and defer to the professional judgement of market actors in the interpretation of undefined standards.

Descriptive terminology around metrics used should reflect industry practice and expectations. Tangible assets have been long considered in regulation, as ephemeral based valuations cause concern. Listings standards should also be relevant across the entire business cycle, and across types of economies in a generation.

In consideration of the above, the following is provided for further consideration:

- GAAP principles be included in the proposed definition of run rate, currently a non-GAAP measure.
- ‘Working capital’ as a metric used by investors not simply as a flow measure of duration of a security’s potential life, but also as a capability to withstand potential shocks and

unexpected changes in costs. (e.g. South American companies with higher inflation expectations have a much higher working capital ratio than North American companies).

- “Diversified” as a one-size catch-all may be too broad. ‘Adequate funding’ may be linked to the business sector with capital expenditure intensive sectors needing more funding than others.

Insiders and creditors will always have relatively better access to information than equity investors. Part of the role of TMX in creating these standards is to act as a proxy and consolidated agent of power to defend the interests of equity holders. From an investor protection perspective, it is also recommended that:

- Non-GAAP metrics are clearly articulated as being non-GAAP and discretionary/subjective.
- Management disqualification criteria are explicitly articulated.

The above is provided as a balance to the broadness of ‘business concept’ and ‘appropriate capital structure’, which may benefit from public guidance rather than strict definition.

## **VI. DISTINGUISHING FEATURES**

Different listing categories offer issuers opportunities to consider lower aggregate costs.

Listing categories should be meaningful to all investors, including retail. The transparency of those standards between venues, and across paths within venues, will allow investors to determine for themselves which avenues have meaning.

### **a) Speculative Issuers**

Retail investors may not fully appreciate the differences between a producing and senior company in mining and oil & gas vs. exploration stage or new enterprise companies.

TSX should also have safeguards in place to protect against promotional activity in “concept” stocks. The SPAC boom in the United States, along with other speculative booms of “promotional” securities are examples of what were conceivably well-funded, failed enterprises.

It is recommended that new enterprise and exploration stage listings, have special symbols, such as “N” and “E” respectively, and be categorized as speculative. These ticker extensions bring transparency of materially different inherent risks. As a further measure, these securities may also be excluded from certain trading modalities, such as market-on-close to further highlight risk. Should market spreads, volumes, after-market and post IPO activity over a 24-month period prove these safeguards to be unnecessary, they may be reconsidered.

## **b) Senior Issuers**

Listings may have lost stature as non-corporates such as ETFs, SPACs and structured products. saturated the market, creating less marginal incentive to be on such a list.

The TSX could benefit from creating a Senior – operating company only stock list, reflective of its prestige, trading history and historical standards of the TSX.

## **c) Oil & Gas Issuers**

As part of the minimum listing requirements for oil & gas issuers, the proposed amendments provide that the value of reserves should be calculated as the net present value of future cash flows before income taxes, prepared on a forecast basis, and discounted at a rate of 10%.<sup>1</sup> This discount rate is also reflected in National Instrument 51-101, Standards of Disclosure for Oil & Gas Activities<sup>2</sup>.

The codification of discount rates at 10% irrespective of market realities risks misleading valuations for retail investors. The cost of capital is based on the underlying risk-free rate, sovereign risk (incorporating f/x changes and inflation expectations), credit risk, and the market risk premium for equities. These dynamic factors are all incorporated in appropriate discount rates.

It is recommended that a more flexible approach be taken which permits discount rates to change appropriately with, for example, inflation rates and interest policies.

## **VII. SPONSORSHIP**

The TSX's sensitivity to issuer concerns regarding the cost and time required to obtain a sponsorship letter and its efforts to reduce issuer burden related to such costs are appreciated. TSX's belief in a simpler, transparent and targeted approach is supported.

The concern is that the Proposed Amendments seek to maintain and codify an unfettered discretion to require sponsorship for other reasons not specifically described.

In keeping with the stated goals of this change, it is recommended that the TSX publish other reasons where sponsorship may be required. The TSX's expectation that the discretion would be rarely required is acknowledged.<sup>3</sup>

## **VIII. GOVERNANCE**

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<sup>1</sup> Proposed Amendments, Footnote 41.

<sup>2</sup> Part 2, Annual Filing Requirements, 2.1 (2)(b)(i); Form 51-101F1, Statement of Reserves Data and Other Oil & Gas Information.

<sup>3</sup> TSX "[Request for Feedback](#)", page 7.

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This is a missed opportunity to address weaknesses in Canadian corporate governance. These include multiple share classes, multiple voting share classes and founder, family and insider controls, which are best addressed at the time of original listing.

Answers to the questions posed are included in Schedule A.

Respectfully submitted,

***Investment Industry Association of Canada***

***cc.***

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## Schedule A

**1. Is the proposed \$750,000 annual pre-tax net income from continuing operations requirement appropriate for Income & Revenue-Producing issuers under Section 309(a)?**

Generally speaking, thresholds are somewhat subjective and based on competitive positioning to other venues which may have different thresholds.

We suggest annual pre-tax net income should be at least \$1MM to be considered a “senior” board listing, noting that:

- a) Many private enterprises generate at least \$1MM in pre-tax operating income.
- b) Executive compensation levels.
- c) This figure needs to withstand time and inflation.
- d) Single family homes across the country are greater than \$1MM. Any threshold below this amount may not be meaningful to retail investors.

**2. Is the proposed \$10 million annual revenue requirement appropriate for Income & Revenue-Producing issuers under Section 309(a)?**

Please see the response to question 1 regarding competitive positioning which is supported.

**3. Is the proposed minimum \$5,000,000 work program appropriate for Mineral Exploration and Development-Stage Companies under Section 314(b)?**

Please see response to question 2.

**4. Are the proposed minimum market capitalization requirements, namely \$100,000,000 for Exempt Issuers and \$50,000,000 for Non-Exempt Issuers (other than the New Enterprise category), appropriate for TSX-listed issuers?**

Please see response to question 2.

**5. Do you have concerns with the proposed removal of Part V requirements?**

No. It is supported.

**6. Do you have concerns with our proposed approach to sponsorship?**

As per enclosed correspondence.