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SENT BY ELECTRONIC MAIL

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Dear Sirs/Mesdames:

Re: Request for Comment – Amendments to Toronto Stock Exchange Company Manual – Original Listing Requirements

This letter is provided to you in response to the Toronto Stock Exchange ("**TSX**") Request for Comment issued on March 6, 2025 (the "**Request for Comment**") regarding proposed amendments to Part III – Original Listing Requirements and Part V – Special Requirements for Non-Exempt Issuers of the TSX Company Manual (the "**Proposed Amendments**"). Following our initial comments, we will respond to specific questions set out in the Request for Comment. We appreciate the opportunity to provide this comment letter and hope that our submissions will be of assistance.

We are very supportive of TSX's efforts to reduce the burden faced by issuers and dealers with respect to new listings and ongoing compliance matters. Continued refreshment and refinement of the TSX Company Manual is vital to ensuring that the Canadian capital markets remain attractive to market participants and is consistent with recent efforts announced by the Canadian Securities Administrators to make it easier and more cost-effective for businesses to raise capital and grow in Canada.

We are generally supportive of the efforts to reorganize the original listing requirements ("**OLRs**"), particularly efforts to modernize and streamline certain of the categories. However, we submit that the categories specified in the Proposed Amendments remain overly complex with barriers to listing that can and should be further streamlined and simplified. We encourage TSX to consider a path of greater flexibility that provides with additional pathways for issuers to satisfy listing requirements of TSX.

Overall comments on listing categories

We encourage TSX to review and consider the listing categories and requirements of comparable exchanges, including the NYSE and Nasdaq. In both cases, the exchange listing requirements provide flexibility in meeting various categories. Specifically, both exchanges allow issuers to satisfy financial requirements through various pathways by satisfying only

certain financial requirements rather than specifying a series of tests that an issuer must satisfy to meet the financial listing requirements (as is proposed in the Proposed Amendments). For example, Nasdaq offers issuers the ability to satisfy financial requirements based on any of: 1) pre-tax earnings; 2) cash flows, market capitalization and revenue; 3) market capitalization and revenue; or 4) market capitalization and assets. There is no similar requirement under either Nasdaq or NYSE listing standards to provide "run rate" calculations as would be required under the Proposed Amendments.

Comparatively, the OLRs under the Proposed Amendments for each eligible category are complex with multiple requirements. This may have the effect of deterring issuers who cannot achieve all of the particular listing requirements of a given category. We encourage TSX to consider pathways for listing that are not materially divergent from competitor exchanges such as those that contemplate listing issuers who only meet one or two (rather than all) requirements. We think this is particularly important given the market's general concerns about Canadian issuers seeking to list on U.S. exchanges and raise capital in the U.S. market.

We acknowledge TSX's suggestion that a market capitalization of $50 million or $100 million or more is in line with recent initial public offerings and new listings on TSX and should not pose a significant hurdle for many issuers suited for TSX. However, we are concerned that the size of the hurdle, combined with the complexity of the listing categories, may have the effect of propelling more issuers to the TSX Venture Exchange who do not meet all the particular requirements of the Proposed Amendments.

Listing categories and exempt / non-exempt designations

While we recognize that National Policy 46-201 contemplates TSX designating issuers as "exempt", with the proposed removal of Part V of the Company Manual, we do not see a clear basis for including an "exempt" or "non-exempt" designation within the OLR categories or at all. We believe there is scope to remove the designation entirely given the requirement specified in NP46-201 and in the Proposed Amendments require a $100 million market capitalization for exempt status; even if TSX does not designate an "exempt" category, the result would be the same – issuers would not be able to avail themselves of the exemption in section 3.2(a) of NP46-201, the exemption in section 3.2(b) would be available and would be the same as proposed in the Proposed Amendments.

Even if TSX determines that a designation is required, we submit that the designation should not form part of the original listing categories. Instead, we recommend simply a recognition outside of the OLR categories that for a new listing any issuer that has or will have a market capitalization equal to or in excess of $100 million upon completion of the listing will be designated as "exempt". That would remove one element of complexity of the categories and move away from the need to have a "non-exempt" categorization.

Specific listing requirement comments

Beyond the general comments above, we are recommending that TSX consider specific changes to the OLRs as outlined in the Proposed Amendments:

- "Run rate" calculations – Respectfully, we view the proposed run rate formula as overly complicated with too many permutations for issuers (12, 18 and 24 months). We also believe the requirements leave too much discretion to management and TSX. As noted above, we submit that issuers should have the opportunity to satisfy a financial requirement for listing on the basis of meeting only certain conditions (such as market capitalization) without the need for a run rate calculation in all instances. Further, having varying requirements for what effectively amounts to a forecast for upwards of 24 months is unduly burdensome. The proposed market capitalization requirements for new listings act as a proxy for run rate value as determined by the market, and we suggest that retaining a run rate calculation requirement is superfluous and burdensome. To the extent TSX feels it must require run rate calculations in order to meet certain financial requirements, we encourage TSX to apply a uniform standard to the requirement of not more than 12 months.

- Lease Test – Relatedly, the Lease Test seems to have only limited value and is overly complex for a pre-income producing company. This appears to be narrowly targeted to possible real estate issuers. The requirement is not likely applicable to many pre-revenue issuers.

- Section 311 – With respect to the TSX definition of an "independent director", we submit that TSX should consider amending its definition to align more closely with securities law requirements for director independence. Specifically, the provisions of item (b) of the test can create unnecessary hurdles for independence determinations. We do not agree with the premise that a nominee of a 10% shareholder should be deemed to be not-independent and believe the provision should be struck. If anything, a nominee of a 10% shareholder has the most alignment with the balance of shareholders and, in the absence of another relationship with management, should clearly be able to provide independent oversight.

- Section 314 – In addition to our comments on run rate calculations above, the drafting of section 314 raises a further challenge in this regard. In particular, a "run rate calculation" is defined to be a calculation signed by the issuer's CFO. In 314(a)(iii), the run rate calculation must be signed by a "qualified person". In addition to the drafting inconsistency with regard to the signatory, we do not believe it would be appropriate to ask a 43-101 QP to complete a run rate financial calculation. For purposes of this category, TSX should be able to look exclusively at a feasibility study, pre-feasibility study or scoping study regarding project costs.

More generally on section 314, we submit the distinctions between categories are unnecessarily complex. Rather than having three categories, we suggest that TSX should consider no more than two: 1) development stage entities with pre-feasibility or feasibility level studies and those who are currently producing issuers; and 2) exploration stage issuers, with categories revised and simplified accordingly.

- Section 319 – As a general comment, while we somewhat agree with TSX's comment in relation to the maturity of North American oil sands operations, we encourage TSX to reconsider the removal of the development-stage company category. When assessing whether the development-stage company category remains relevant, we believe TSX should consider the impact of removal of the category on potential future listings by other companies that are not focused on the North American oil and gas operations and may not meet the requirements for proved and probable reserves. This is particularly the case for international exploration and development issuers with properties outside of North America and exploration-focused issuers that may have more robust exploration initiatives (and related contingent resources) at times when commodity prices may be relatively higher. We also note that the Proposed Amendments would significantly increase the threshold for proved and probable reserves. The result is a noticeable disparity across TSX's listing requirements where oil and gas companies would face more stringent requirements than mining companies and diversified companies. We expect this will have a negative impact on the listings on TSX by directing more oil and gas companies to the TSX Venture Exchange, creating obstacles to graduation from the TSXV, and causing companies to list on other exchanges that do not have the same disqualifying industry-specific criteria.

Sponsorship

We are generally supportive of changes to sponsorship requirements given the time and cost to coordinate sponsorship. However, we propose that TSX consider further amendments to the sponsorship requirements to make clear that they would not, by default, apply in the context of a secondary listing from an issuer listed on a senior exchange in another jurisdiction (in the same way that they would not apply to a TSX Venture Exchange graduation). By way of example, if an issuer listed exclusively on NYSE sought a secondary listing on TSX, we do not believe they should, absent unusual circumstances (such as governance issues or other matters identified in the balance of the proposed sponsorship triggers), require sponsorship.

Within the requirements of section 326 of the Proposed Amendments, we also encourage TSX to consider the placement of the reference to a graduation from the TSX Venture Exchange. Currently the qualifier only applies to exempt a graduating issuer from the capital raising requirement. While we understand a potential request for sponsorship in the case of governance issues, management issues or resource property issues, the drafting suggests that sponsorship would be required for an issuer to graduate based solely on their assets being emerging market assets. In the case where TSX Venture Exchange has already vetted an issuer, we do not believe

that sponsorship in the case of a graduation of an emerging market issuer should be a default requirement.

Removal of Part V of the Company Manual

We are very supportive of the efforts to remove the provisions of Part V. The Non-Exempt issuer provisions were often overlooked, forgotten or confusing to issuers that were, should have been or meant to be subject to the provisions. With the robust protections of Multilateral Instrument 61-101, we do not believe there needs to be overlapping requirements in the TSX Company Manual.

With respect to the specific questions contained in the Request for Comment:

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)?*

   Subject to our comments above that categories should provide for more flexibility; we do not have a specific concern with this requirement.

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

   Subject to our comments above that categories should provide for more flexibility; we do not have a specific concern with this requirement.

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

   Subject to our comments above that categories should provide for more flexibility; we do not have a specific concern with this requirement.

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?*

   We refer you to our comments above regarding the Exempt designation. We do not believe they should be category specific requirements.

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

   As noted above, we are very supportive of the removal of the requirements in Part V from the Company Manual.

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

   Subject to our comments above regarding sponsorship, we are supportive of the Proposed Amendments.

We would be happy to discuss our comments with you; please direct any inquiries to James R. Brown (jbrown@osler.com or 416.862.6647), Rosalind Hunter (rhunter@osler.com or 416.862.4943), Desmond Lee (dlee@osler.com or 416.862.5945), Jason Comerford (jcomerford@osler.com or 212.991.2533), Justin Sherman (jsherman@osler.com or 403.260.7008) or Jessica Myers (jmyers@osler.com or 403.260.7040).

Yours very truly,

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