



Advancing Standards™

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Dear Ms. De Giusti and Ms. Greenglass:

**Re: Proposed Public Interest Amendments to the Toronto Stock Exchange Company Manual**

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The Portfolio Management Association of Canada ("PMAC"), through its Industry, Regulation & Tax Committee, is pleased to have the opportunity to provide comments on the proposed public interest amendments (the "Amendments") to the Toronto Stock Exchange (TSX) Company Manual (the "Manual") dated as of January 15, 2015. The Amendments apply to non corporate issuers comprising of exchange traded products, closed-end funds and structured products, by introducing a new Part XI to the Manual and amending Part I of the Manual. We understand that many of the Amendments codify existing TSX practice.

As background, PMAC represents investment management firms registered to do business in Canada as portfolio managers. The Association has grown steadily to over 200 members from across Canada that are comprised of both large and small firms managing total assets in excess of \$1 trillion for institutional and private client portfolios. Many of our Members are also registered as investment fund managers offering a variety of investment fund products to institutional investors and private clients. Certain of our Members offer closed-end funds and/or exchange traded products to their clients and thus, will be impacted by the Amendments.

Our mission is to advocate the highest standards of unbiased portfolio management in the interest of the investors served by Members. For more information about PMAC and our mandate, please visit our website at [www.portfoliomanagement.org](http://www.portfoliomanagement.org). For more information about PMAC and our mandate, please visit our website at [www.portfoliomanagement.org](http://www.portfoliomanagement.org).

PMAC supports the initiative of the TSX to modernize the Manual and to codify existing practices pertaining to original listing requirements – doing so, we believe, helps foster both consistency and transparency in the marketplace. We also applaud the TSX's efforts to consult managers of exchange-traded and closed-end funds, as well as to assess analogous rules of similarly situated exchanges such as NASDAQ and NYSE, in advance of proposing the Amendments.

While supportive of most of the proposals in the Amendments, we have some questions and concerns regarding certain Amendments. Our comments on the Amendments will focus on Sections 1111 and 1113 of the Manual. Specifically, we recommend that these sections be revisited to ensure their scope is not overly broad and to clarify what actions are caught under these provisions.

### ***Security Holder Approval Requirements (Section 1111)***

Section 1111 addresses certain scenarios, in addition to those required by securities laws, where securityholder approval would be required in order to proceed with a particular action. The Amendments propose requiring shareholder approval for:

- Any amendments to constating documents other than where permitted by general amendment provisions; and
- Extending a fund's originally contemplated termination date beyond the original termination date, unless security holders can redeem securities at NAV on the original termination date.

We query the policy objective behind these proposed changes. In our view, section 1111 as currently drafted may be overbroad and could inadvertently apply to scenarios and transactions that would not be of concern to the TSX and that should not, in the ordinary course, necessitate shareholder approval. For example, where an index fund name is changed, there is no requirement under National Instrument 81-102 to obtain security holder approval and in some cases, this is not always reflected in the fund's constating documents under the general amendment provisions. Accordingly, under the proposed TSX rules, security holder approval would be necessary to effect the name change in such cases. We question whether this is the intended objective of the TSX.

We believe that, to the extent warranted by the public interest, requirements pertaining to securityholder approval are most appropriately addressed through securities regulation where they can be consolidated. In our view, having substantive rules pertaining to the same subject matter -- such as a requirement for securityholder approval -- sourced in multiple rule books and instruments may engender unnecessary confusion and, potentially even, contribute to inadvertent non-compliance. **We, therefore recommend that this section be revisited with a view to limiting actions requiring shareholder approval.**

### ***Pre-clearance Requirements (Section 1113)***

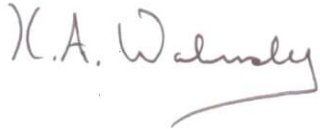
With respect to proposed Section 1113, the Amendments propose a pre-clearance requirement with the TSX for any materials sent to security holders, other than continuous disclosure documents (i.e. financial statements and management report of fund performance). Regarding notifications to the TSX, we request that clarification be provided to confirm that the requirement is intended to pertain only to those non-continuous disclosure materials which are "sent" to securityholders in accordance with National Instrument 54-101 – *Communication with Beneficial Owners of Securities of a Reporting Issuer* and would not capture, for example, press releases issued in the normal course. To assist issuers in understanding the universe of materials sought to be subject to this requirement, we request further clarity around the types of materials for which the pre-clearance requirement would apply to (e.g., information circulars). In addition, we have some concerns regarding how a pre-clearance requirement for all materials other than continuous disclosure documents might impact the planning by issuers of projects which may involve documents requiring pre-clearance.

**As such, we recommend that the TSX adopt and publish working guidelines regarding “turnaround times” for their review and pre-clearance which managers can then take into account in planning projects that trigger this requirement.**

In conclusion, we request that section 1111 and 1113 of the Amendments to the Manual be revisited to ensure they are appropriate in breadth and scope and that there is sufficient clarity for issuers affected by these new requirements. We would be pleased to address any questions regarding this submission. Please do not hesitate to contact Julie Cordeiro at [jcordeiro@portfoliomanagement.org](mailto:jcordeiro@portfoliomanagement.org) or Katie Walmsley ([kwalmsley@portfoliomanagement.org](mailto:kwalmsley@portfoliomanagement.org)) at (416) 504-7018 should you wish to discuss our comments.

Yours truly;

PORTFOLIO MANAGEMENT ASSOCIATION OF CANADA



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