



Pension Investment
Association of Canada

Association canadienne des
gestionnaires de caisses de retraite

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RE: Consultation Paper on Emerging Market Issuers (the “Consultation”)

This submission is made by the Pension Investment Association of Canada (“PIAC”) in reply to the Consultation jointly issued by the Toronto Stock Exchange and TSX Venture Exchange (collectively, the “Exchanges”) on December 17, 2012 concerning the listing requirements applicable to issuers with a significant connection to an emerging market jurisdiction (“Emerging Market Issuers”).

PIAC has been the national voice for Canadian pension funds since 1977. Senior investment professionals employed by PIAC's member funds are responsible for the oversight and management of over \$1 trillion in assets on behalf of millions of Canadians. PIAC's mission is to promote sound investment practices and good governance for the benefit of pension plan sponsors and beneficiaries.

We are pleased that the Exchanges have undertaken a review of the potential risks associated with Emerging Market Issuers. We agree that companies operating with significant business operations in foreign jurisdictions may be associated with greater levels of risk and encourage the consideration of new listing requirements for Emerging Market Issuers to mitigate such risks. In our view, the Exchanges have an important role in setting minimum standards for its listed issuers that support investor confidence and

the reputation of Canada's capital markets. We provide the following comments in respect of the corporate governance issues that are of the most concern to our members.

Management and Corporate Governance

(a) What, if any, specific attributes and experience do independent directors require in order to properly oversee management of an Emerging Market Issuer? For example, TSX seeks at least one independent director with both public company experience and significant knowledge and experience in the principal business jurisdiction of the issuer.

(b) How many directors (or what percentage of the board) should be independent directors with public company and local business experience?

We believe that Emerging Market Issuers should have at least two independent directors with both public company experience and significant knowledge and experience in the principal business jurisdiction of the issuer to effectively mitigate the potential risks outlined in the Consultation. In our view, the Consultation's proposal for a single independent director with local market experience is insufficient because a lone director can be too easily isolated or have his or her concerns dismissed.

(c) Should TSX require an independent chair for all Emerging Market Issuers? Is it sufficient to require an independent chair only if other risk factors are present, such as when a significant security holder is also a senior officer of the issuer?

By establishing agendas, priorities and procedures, the Chair position plays a critical role setting the direction for all aspects of the Board's work. PIAC believes that an independent leader reduces potential conflicts of interests and helps ensure that management acts strictly in the best interest of the issuer. We believe that TSX should generally require an independent Chair for all of its listed issuers, regardless of whether other risk factors are present.

However, we believe that the Exchanges should provide controlled issuers with an exception to the requirement for a separate Chair and CEO. In our view, controlling shareholders have a legitimate role in being actively involved on the board. A combined Chair/CEO is acceptable for issuers in which a shareholder holds over 50% of the issuer's equity if an independent lead director has been appointed.

(d) If an independent chair is not required or present, is an independent lead director sufficient?

While an independent Chair is generally preferable in terms of setting a pro-shareholder agenda and overseeing the board, we believe than an independent lead director may be an acceptable substitute for non-independent Chair if the role is well defined and the lead director has real powers to exercise it.

(e) Are there any corporate governance measures TSX should consider for Emerging Market Issuers?

One of the principal rights of voting shareholders is to elect the board of directors who oversee the issuer. Majority voting provides a meaningful way for shareholders to hold directors accountable for their performance and to ensure that board members have the confidence of a majority of shareholders. PIAC believes that a majority voting standard should be adopted by all listed issuers.

Given that one of the most important decisions that a board of directors must make is the selection of the CEO of the issuer, we believe that TSX should also consider evidence of a succession planning process as an additional governance requirement for Emerging Market Issuers. While succession planning is an important function all boards, it is particularly important for family controlled entities that are prevalent in many emerging markets. Ensuring leadership continuity can help mitigate significant business risks as control is passed on from one generation to the next.

Related Party Transactions

(a) Should TSX take an expanded view of “related party transactions” to capture transactions where an Emerging Market Issuer appears to be engaging in non-arm’s length transactions that do not meet the definition for related party transactions? If so, what additional elements should be included in the definition to capture such transactions? Should TSX make such decisions on a discretionary basis?

We question whether taking an expanded view of related party transactions will result in capturing all transactions which appear to be non-arms length as intended under the Exchange’s rules given the range of scenarios under which such transactions can take place. Instead, we believe that the Exchanges should make determinations of whether transactions are non-arms length on a discretionary basis. In our view, a principles based approach would provide the Exchanges the necessary flexibility to address complex or unique scenarios.

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We appreciate this opportunity to comment. Please do not hesitate to contact Stéphanie Lachance, Chair of the Corporate Governance Committee (514-925-5441; slachance@investpsp.ca) if you wish to discuss any aspect of this letter in further detail.

Yours sincerely,



Brenda McInnes
Chair