



April 28, 2005

**DELIVERED AND VIA E-MAIL**

Ms. Patricia Johnston  
Director  
Legal Services & Policy Development  
Alberta Securities Commission  
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Mr. Lang Evans  
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British Columbia Securities Commission  
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Dear Mr. Evans and Ms. Johnston:

**Re: Application to Amend Recognition Orders of TSX Venture Exchange Inc.**

TSX Venture Exchange Inc. (TSX Venture) hereby makes application to amend and restate the recognition orders of TSX Venture granted by the Alberta Securities Commission (ASC) and the British Columbia Securities Commission (BCSC) to amend the definition of an independent director in paragraph 20 of each recognition order.

TSX Group Inc. (TSX Group) and TSX Inc. have also applied to the Ontario Securities Commission (OSC) for an order to amend and restate their recognition orders dated September 3, 2002 to amend the definition of an independent director in paragraphs 1(b) and 8(c). A copy of that application was provided to you on April 20, 2005.

TSX Venture proposes that paragraph 20 of each of TSX Venture's recognition orders be deleted and replaced with the definition of an independent director as set out in Multilateral Instrument 52-110 - Audit Committees (MI-52-110), and the requirement that the board of directors adopt standards for determining when a director can be considered independent. We propose that the board of directors of TSX Venture will initially adopt the standards set out in Schedule "C". These standards may be amended from time to time.

With recent and proposed changes to corporate governance policies and rules, and changes arising as a result of TSX Group becoming a reporting issuer, TSX Group, TSX Inc., and TSX Venture have reviewed the terms and conditions of their recognition orders to consider changes to be made to reflect their business reality of operating a diversified business and the changing governance environment. We attach draft amended and restated recognition orders for TSX Venture as Schedules "A" and "B". The proposed changes are shown as blacklined text in Schedules "A" and "B" and are discussed below.

The approach taken by the ASC, the BCSC and the OSC in 2002 was to harmonize the recognition orders of TSX Venture, TSX Group and TSX Inc. to the extent possible. With TSX Venture being a subsidiary of a public company, we submit (as the commissions recognized in 2002) that investors and members of the public are best served by applying one transparent standard to the independence of the directors of each of these companies. This will enable the public to measure the independence of TSX Venture's directors in a meaningful way while at the same time allowing TSX Venture, TSX Group, and TSX Inc. to constitute their boards with the same individuals. This permits the directors of each company to have a high degree of familiarity with the operations of each company, which would not be the case if each board were comprised of different individuals.

It is a basic and fundamental principle of corporate law that TSX Venture's directors have an overriding duty to act honestly, fairly and with a view to the best interests of TSX Venture. In discharging this duty, directors are obliged to put the interests of TSX Venture first and to make decisions independent of any personal interests. In assessing the best interests of TSX Venture, its directors must consider a multitude of factors relevant to its business. The recognition orders are foremost of these as it is only by compliance with them that TSX Venture is permitted to operate its business.

The discipline for TSX Venture to ensure that the public interest is protected exists because the failure to do so would result in a loss of confidence in our capital markets. Investor confidence is central to the success of Canadian capital markets. Accordingly, it is in the best interests of TSX Venture, as the operator of Canada's junior market, to protect the public interest. All directors must accordingly act and be motivated in discharging their fiduciary obligations to act in a manner which preserves the public interest.

We believe that the MI 52-110 independence standard coupled with the proposed board standards is a better test for independence than the test that is currently applied under the existing recognition orders. The proposed board standards identify classes of individuals who are considered to have a material relationship with TSX Venture and are therefore considered not to be independent. For example, an individual who is an employee, associate (within the meaning of TSX Venture's by-law), or executive officer of a Participating Organization or Member is considered to have a material relationship with the corporation and therefore considered not to be independent. The board of directors may, however, determine that certain individuals who at first instance are considered to have a material relationship with TSX Venture (under section 4 of the board standards) are nonetheless independent if the board of directors is satisfied that the material relationship will not reasonably interfere with the exercise of the individual's independent judgment. This process provides the board with flexibility that may be necessary in certain cases.

We enclose the following:

- (a) the draft ASC amended and restated recognition order of TSX Venture (blacklined to show the proposed changes) attached as Schedule "A";
- (b) the draft BCSC amended and restated recognition order of TSX Venture (blacklined to show the proposed changes) attached as Schedule "B"; and

- (c) proposed board standards on the independence of directors for TSX Venture attached as Schedule "C".

Yours very truly,

"Deanna Dobrowsky per"

Sharon C. Pel  
SCP/gd  
Encls.

cc: Leslie Rose, *BCSC*  
Cindy Petlock, *OSC*  
Susan Greenglass, *OSC*

Richard Nesbitt, *TSX Group Inc.*  
Linda Hohol, *TSX Venture Exchange*  
Jacinthe Bouffard, *AMF*