



2017-0009

October 16, 2017

**Sections 306 and 325  
Minimum Listing Requirements and  
Management**

**Part VII  
Halting of Trading, Suspension and Delisting of Securities**

**STAFF NOTICE TO APPLICANTS, LISTED ISSUERS, SECURITIES LAWYERS AND  
PARTICIPATING ORGANIZATIONS**

Toronto Stock Exchange ("**TSX**") is providing guidance in respect of Section 306, Section 325 and Part VII (collectively, the "**Requirements**") of the TSX Company Manual (the "**Manual**"). TSX uses Staff Notices to provide applicants and listed issuers with a better understanding of existing TSX requirements and the rationale underlying such requirements, with a view to facilitating the listing process and supporting successful listings on TSX.

**Requirements**

Regardless of the industries in which they operate, pursuant to Section 306 and Section 325, TSX satisfies itself that the business of applicants or listed issuers will be conducted (i) with integrity and in the best interests of the issuer's security holders and the investing public, and (ii) in compliance with the rules and regulations of TSX and all other regulatory bodies having jurisdiction.

TSX notes that the Requirements apply to all applicants and listed issuers. However, due to the significant number of inquiries received regarding entities engaging in activities related to the cultivation, distribution or possession of marijuana in the United States ("**Subject Entities**"), TSX is providing clarity regarding the application of the Requirements to applicants and listed issuers in the marijuana sector.

TSX is aware that a number of U.S. states have legalized the cultivation, distribution or possession of marijuana to various degrees and subject to various conditions. Nevertheless, marijuana remains a Schedule I drug under the U.S. federal *Controlled Substances Act*. This means it is illegal under U.S. federal law to cultivate, distribute or possess marijuana in the United States. Furthermore, financial transactions involving proceeds generated by, or intended to promote, marijuana-related business activities in the U.S. may form the basis for prosecution under applicable U.S. federal money laundering legislation. While TSX is aware of the federal guidance<sup>1</sup> concerning the enforcement of these legislative provisions, TSX notes that such guidance does not have the force of law and can be revoked or amended at any time.

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<sup>1</sup> See the memoranda issued by James M. Cole, Deputy Attorney General, U.S. Department of Justice entitled *Memorandum for All United States Attorneys: Guidance Regarding Marijuana Enforcement* (August 29, 2013) and *Memorandum for All United States Attorneys: Guidance Regarding Marijuana Related Financial Crimes* (February 14, 2014).

Issuers with ongoing business activities that violate U.S. federal law regarding marijuana are not complying with the Requirements. Such business activities may include, in order of concern to TSX: (i) direct or indirect ownership of, or investment in, Subject Entities; (ii) commercial interests or arrangements with Subject Entities that are similar in substance to ownership of, or investment in, Subject Entities; (iii) providing services or products that are specifically designed for, or targeted at, Subject Entities; or (iv) commercial interests or arrangements with entities engaging in the business activities described in (iii). The business activities in (iii) and (iv) are referred to as "**Ancillary Services Activities**".

### **Continued Listing Review**

As part of TSX's standard continued listing review of listed issuers, TSX selects issuers for in depth reviews based on their continuous disclosure records. TSX notes that the Manual requires that each listed issuer disclose material information regarding its business and affairs.

In the context of its continued listing review of listed issuers in the marijuana sector, TSX expects to group issuers into two categories. The first category is composed of issuers with business activities that involve the cultivation, distribution or possession of marijuana in any jurisdiction. The second category is composed of issuers that do not cultivate, distribute or possess marijuana, but that appear to be engaging in Ancillary Services Activities. TSX expects to contact listed issuers identified in its continued listing review by the end of the year for a more comprehensive review.

Listed issuers should proactively work to address any gaps in their compliance with the Requirements. TSX notes that if a listed issuer is engaging in activities that are contrary to the Requirements, TSX has the discretion to initiate a delisting review under Part VII of the Manual.

### **Pre-Filing Meetings**

TSX is aware that legislation applicable to the marijuana sector is evolving rapidly. TSX has prepared this Staff Notice based on its experience to date and continues to monitor legal developments affecting this sector. TSX strongly recommends that applicants and listed issuers considering engaging in marijuana-related activities in the United States consult with TSX and consider the guidance in this Staff Notice accordingly. TSX continues to welcome all qualified applicants that are conducting business activities in any sector provided that the applicant is complying with the Requirements. In particular, TSX continues to welcome qualified applicants in the marijuana sector that operate within Canada and comply with applicable Canadian law.

If you have any questions about this Staff Notice, please contact your listed issuer services manager or relationship manager. Contact information for your listed issuer manager and relationship manager is available at <https://www.tsx.com/listings/tsx-and-tsxv-issuer-resources/tsx-issuer-resources/tsx-listings-staff> and <https://www.tsx.com/tsx-company-services/contact-us>, respectively.