

TSX Adoption of Amendments – Majority Voting Requirement

On February 13, 2014, the Toronto Stock Exchange ("TSX") approved amendments (the "Amendments") to the TSX Company Manual that require each director of a TSX listed issuer to be elected by a majority (50% + 1 vote) of the votes cast with respect to his or her election other than at contested meetings (the "Majority Voting Requirement") where the number of directors nominated for election is greater than the number of seats available on the board. The Amendments are intended to improve corporate governance standards in Canada by providing a meaningful way for security holders to hold individual directors accountable.

The Amendments, first proposed for comment on October 4, 2012, supplement a number of corporate governance rule changes made by the TSX in 2012, and will take effect on June 30, 2014. Issuers with fiscal years ending on or after June 30, 2014 must comply with the Amendments at their first annual meeting following such date.

Overview of Changes

Pursuant to the Amendments:

- A listed issuer must implement a majority voting policy (a "Policy") unless it satisfies the Majority Voting Requirement in another manner acceptable to the TSX (for example, by applicable statutes, articles or by-laws).
- Any director who is not elected by at least a majority of the votes cast must immediately tender his or her resignation to the board of directors and:

- within 90 days of the applicable shareholders' meeting, the board shall determine whether or not to accept the resignation;
 - the resignation, effective when accepted by the board, shall be accepted absent "exceptional circumstances" (the TSX has not provided guidance on the interpretation of this beyond acknowledging that the board is best positioned to make this determination);
 - a director who tenders a resignation will not participate in any meeting of the board or any sub-committee of the board at which the resignation is considered;
 - the listed issuer shall promptly issue a news release with the board's decision and provide the TSX with a copy; and
 - provided that the board determines not to accept a resignation, the news release must fully state the reasons for that decision.
- An issuer who adopts a Policy must fully describe the Policy on an annual basis in its materials sent to security holders in connection with a meeting at which directors are being elected.

Issuers that are majority controlled are exempt from the Majority Voting Requirement but must disclose reliance on such exemption annually in their proxy materials and their reasons for not adopting majority voting.

Implications

TSX listed issuers that have not previously adopted a Policy will now be required to do so. Issuers that have already adopted a Policy prior to the Amendments should review the terms of such policy to ensure compliance with the new rules.

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[a cautionary note](#)

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