

## POLICY 2.10

# LISTING OF EMERGING MARKET ISSUERS

The main headings in this Policy are:

1. Introduction
2. Defined Terms
3. Rationale for Additional Listing Requirements
4. Requirements/Procedures For Listing of Emerging Market Issuers
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### **1. INTRODUCTION**

#### **1.1 Overview**

This Policy sets out and provides guidance in respect of the requirements and procedures applicable to the listing of Emerging Market Issuers and, as applicable, Excluded Resource Issuers.

The requirements and procedures set out in this Policy are intended to complement and operate in conjunction with policy requirements applicable to all Issuers seeking a listing on the Exchange, in particular as set forth in Policy 2.1 – *Initial Listing Requirements* (“**Policy 2.1**”), Policy 2.2 – *Sponsorship and Sponsorship Requirements* (“**Policy 2.2**”), Policy 2.3 – *Listing Procedures* (“**Policy 2.3**”), Policy 3.1 – *Directors, Officers, Other Insiders & Personnel and Corporate Governance* (“**Policy 3.1**”) and Appendix 2A – *Review Procedure Guidelines* (“**Appendix 2A**”), and should be read in conjunction therewith.

#### **1.2 Applicability to Other Transactions**

Although the requirements and procedures set out in this Policy are principally intended to apply to New Listing transactions involving the listing of an Emerging Market Issuer, the Exchange may, at its discretion, apply the requirements and procedures to any transaction or series of transactions that will result in an Issuer becoming an Emerging Market Issuer.

### **2. DEFINED TERMS**

#### **2.1 Definitions**

Defined terms used in this Policy that are not specifically defined in this Policy shall have the meanings ascribed thereto in Policy 1.1 – *Interpretation*.

In this Policy:

“**CEO**” means the Chief Executive Officer of an Issuer.

“**CFO**” means the Chief Financial Officer of an Issuer.

“**Emerging Market Issuer**” means an Issuer, other than an Excluded Resource Issuer, whose principal business operations or operating assets are primarily located in or conducted from an Emerging Market Jurisdiction.

Guidance Notes:

N.1 In determining whether an Issuer is an Emerging Market Issuer, the Exchange will take into account the expected characteristics of the Issuer at the time of listing. For example, in the case of a Reverse Takeover, the characteristics of the Resulting Issuer upon completion of the transactions involved in the Reverse Takeover will be of relevance and not the characteristics of the Issuer prior to the completion of the transactions.

N.2 For the purposes of this definition, “principal business operations or operating assets” will generally mean the business operations or operating assets that the Issuer is relying upon in order to satisfy the Exchange’s industry-specific Initial Listing Requirements (as set forth in Policy 2.1), however, the Exchange may also take into consideration an Issuer’s other core business operations and operating assets if they are, in the Exchange’s view, of similar or greater significance to the Issuer’s overall operations.

In terms of assessing whether said business operations or operating assets are, as the case may be, primarily located in or conducted from an Emerging Market Jurisdiction, the Exchange will assess such matters on a case by case basis taking into account applicable qualitative and quantitative factors including, without limitation: (a) the nature of the Issuer’s business; (b) the physical location of the Issuer’s operating assets; (c) the physical location of the Issuer’s mind and management; and (d) the connection to, relationship with and reliance upon an Emerging Market Jurisdiction that the Issuer’s business has.

N.3 For greater certainty, an Excluded Resource Issuer will not be considered an Emerging Market Issuer for the purposes of this Policy. It should be noted, however, that certain of the guidance and requirements set forth in this Policy may otherwise be applicable to Excluded Resource Issuers to the extent that they are applicable to any Issuer under other Exchange policies such as, without limitation, Policies 2.1, 2.2, 2.3 or 3.1. For reference purposes, Part 5 of this Policy provides a summary of these matters.

“**Emerging Market Jurisdiction**” means any jurisdiction outside of Canada, the United States, Western Europe, Australia and New Zealand.

Guidance Note:

N.1 On a case by case basis, the Exchange will consider excluding other jurisdictions from the definition of Emerging Market Jurisdiction if the Exchange is satisfied that the jurisdiction has substantially comparable business practices, business culture, corporate law requirements, securities law requirements and rule of law as Canada. This is something that an Issuer should discuss with the Exchange at a pre-filing conference (refer to section 4.1 below).

“**Excluded Resource Issuer**” means an Issuer that is either a Mining Issuer or an Oil & Gas Issuer (under Policy 2.1) and for which all of the following persons either: (i) each have been resident in a non-Emerging Market Jurisdiction for a majority of the ten years preceding the

Issuer's Application for Listing; or (ii) each have an aggregate of not less than five years of experience as directors or senior officers of Exchange or TSX listed companies during the ten years preceding the Issuer's Application for Listing and have demonstrated a positive corporate governance and regulatory history:

- (a) a majority of the Issuer's senior officers;
- (b) a majority of the Issuer's directors; and
- (c) any director or senior officer of the Issuer that is also a Control Person of the Issuer, an Associate of a Control Person of the Issuer or a nominee of any such Person.

Guidance Note:

N.1 Per the definition of "Issuer" in Policy 1.1 – *Interpretation*, it should be noted that the term Issuer in this context includes the subsidiaries of the applicant Company. As such, the Exchange will factor in the directors and senior officers of the applicant Company and its subsidiaries when assessing if an Issuer is an Excluded Resource Issuer.

### **3. RATIONALE FOR ADDITIONAL LISTING REQUIREMENTS**

#### **3.1 Mitigation of Potential Risks**

It is essential that all Issuers listed on the Exchange and accessing the Canadian capital markets adhere to the same high standard in regards to suitability for listing, corporate governance and disclosure.

The Exchange recognizes that, from a suitability for listing perspective, Emerging Market Issuers have a different risk profile as compared to non-Emerging Market Issuers due to various jurisdiction-related factors that are not generally applicable to a non-Emerging Market Issuer including, without limitation:

- differences in business culture and business practices from jurisdiction to jurisdiction;
- differences in the nature of the rule of law from jurisdiction to jurisdiction; and
- differences in applicable legal and regulatory requirements from jurisdiction to jurisdiction.

To help mitigate such risks, Exchange policies have historically imposed and will continue to impose certain additional requirements on Emerging Market Issuers at the listing stage. The additional requirements are not intended as a commentary on the business culture, laws or regulatory requirements of Emerging Market Jurisdictions. The additional requirements are designed to help achieve the goals of ensuring satisfactory listing standards and consistent governance and disclosure standards for all Issuers.

### 3.2 Potential Risks Associated with the Listing of Emerging Market Issuers

The Exchange has identified the following principal areas relevant to listing where there may be greater risks associated with the listing of Emerging Market Issuers:

(a) **Management and Corporate Governance:**

- **Knowledge of Canadian Regulatory Requirements:** If management lacks experience and familiarity with Canadian securities law and Exchange requirements, the likelihood of non-compliance with, or misunderstanding of, Canadian securities law requirements and the policies of the Exchange potentially increases. This may result in:
  - i. inadequate corporate governance standards and practices;
  - ii. less sensitivity to market concerns and regulatory requirements associated with Related Party Transactions which, in turn, may increase the likelihood of inadequate disclosure of such transactions and non-compliance with applicable shareholder approval and/or valuation requirements; and
  - iii. inadequate compliance with applicable continuous and timely disclosure requirements.
- **Communication:** Communication issues may exist if the board of directors or management are not all fluent in a common language, are not fluent in the language in which the Issuer conducts business or are not within close geographic proximity. In such situations, there is the potential for various communication-related issues to arise such as:
  - i. inadequate oversight of senior management by the board of directors;
  - ii. the inability of advisors (such as legal counsel and auditors) to adequately communicate with senior management and the board of directors;
  - iii. the inability of the CFO to properly carry out its duties;
  - iv. the inability of the audit committee to properly carry out its duties; and
  - v. the inability of senior management to adequately communicate with the Exchange and the applicable Securities Commissions.
- **Local Business Knowledge:** If management lacks experience and familiarity with the laws and requirements of the jurisdiction where the Emerging Market Issuer is principally carrying out its business activities, the likelihood of non-compliance with, or misunderstanding of, the legal and regulatory requirements applicable to its operations potentially increases.

(b) **Financial Reporting:**

- **Qualifications of Auditors:** If the Emerging Market Issuer’s Canadian auditors lack sufficient experience and expertise in the applicable Emerging Market Jurisdiction, the likelihood of errors or oversights in the audit process, and correspondingly the Issuer’s financial statements and related disclosure, may increase.
- **Adequacy of Internal Controls:** Inadequate internal controls over financial reporting matters may increase the likelihood of errors and misstatements in an Emerging Market Issuer’s financial statements. Although inadequacy of internal controls is a potential risk for any Issuer, certain factors may raise the risk profile for Emerging Market Issuers. These factors may include:
  - i. differences in banking systems and controls between jurisdictions;
  - ii. differences in business cultures and business practices between jurisdictions;  
and
  - iii. rules or limitations on the flow of funds between jurisdictions.
- **Qualifications of CFO and Audit Committee:** If the Emerging Market Issuer’s CFO or audit committee lacks sufficient expertise and experience with applicable financial reporting and audit practices and procedures, in particular in the context of international audit engagements for public companies, the likelihood of errors or oversights in the Issuer’s financial statements may increase.

(c) **Non-Traditional Corporate/Capital Structures:**

- **Complexity of Corporate and Capital Structures:** The Exchange understands that tax or foreign ownership restrictions in certain jurisdictions may encourage or necessitate more complex corporate or capital structures. These may include, for example, structures in which the Issuer does not hold a direct ownership interest in its principal assets and instead holds its rights indirectly through contractual arrangements with a foreign-domiciled entity (e.g. a variable interest entity structure) or structures in which a foreign-domiciled entity is granted an earn-in or similar right that permits it to acquire a controlling or substantial share position in the Issuer for nominal consideration (e.g. a “slow walk” arrangement structure). Where such corporate or capital structures are utilized, there may be potential risks, such as the following:
  - i. if the structure requires that legal ownership of the Issuer’s operating assets be vested in a non-affiliated entity, title to and control over such assets by the Issuer may be compromised, a potential risk which may be amplified depending on the rule of law in the applicable jurisdiction;

- ii. the structure may limit or otherwise inhibit the ability of the shareholders to have recourse against the assets of the Issuer; and
- iii. inadequate public disclosure of the nature, material characteristics and risks associated with the structure.

**(d) Legal Matters Relating to Title and Ability to Conduct Operations:**

- **Validity of Title to Principal Operating Assets:** Legitimacy and certainty of title to principal operating assets are key listing requirements and fundamental to the listing of any Issuer. An Issuer must validly own and be able to operate the business upon which its listing is based. For Emerging Market Issuers, there may be an increase in title risk or difficulty demonstrating that these key listing requirements are satisfied.
- **Legal Right to Conduct Operations:** Many jurisdictions require specific permits or business licenses in order for an Issuer to carry out its business operations and that the applicable requirements may be different from jurisdiction to jurisdiction, even within the same industry. Furthermore, the requirements applicable to an Issuer may be different if the Issuer is considered “foreign” from the perspective of the applicable jurisdiction (for example, China may have requirements specific to a non-Chinese owned entity conducting business operations in China). The associated risks and considerations related to an Issuer’s ability to carry out its business operations are more likely to be relevant to an Emerging Market Issuer given the location of its operations.

**4. REQUIREMENTS/PROCEDURES FOR LISTING OF EMERGING MARKET ISSUERS**

The following requirements and procedures are applicable to the listing of Emerging Market Issuers pursuant to any New Listing transaction. The purpose and intent of these requirements and procedures is to mitigate, in part, the potential risks associated with the listing of Emerging Market Issuers identified by the Exchange.

The Exchange may, at its discretion, waive the application of any of the stated requirements and procedures that may be applicable to a particular Issuer. Any such waiver will be considered on a case by case basis taking into account the facts specific to the Issuer.

For greater certainty, Emerging Market Issuers will be required to comply with the applicable listing requirements and procedures set forth in this Policy in addition to such other requirements and procedures that may be applicable under Exchange policies including, without limitation, Policies 2.1, 2.2, 2.3 and 3.1.

#### 4.1 Pre-Filing Conference

As set out in section 1.2(b) of Policy 2.7 – *Pre-Filing Conferences* (“**Policy 2.7**”), it is strongly recommended that any Issuer that may be considered an Emerging Market Issuer have a pre-filing conference with the Exchange in advance of initiating its Application for Listing.

The principal purposes of the pre-filing conference will be to:

- (a) introduce the Exchange to the Issuer, its business and key individuals;
- (b) discuss any questions related to the listing process identified by the Issuer and its advisors;
- (c) identify the requirements and procedures set out in this Policy that the Exchange expects will be applicable to the Issuer’s application; and
- (d) identify potential issues or areas of concern the Exchange may have with the proposed listing.

The Exchange recommends that members of management (in particular the CEO and CFO), the Issuer’s counsel, the Issuer’s auditors and the Sponsor all attend the pre-filing conference. These meetings are mutually beneficial, allowing the Exchange and the Issuer to communicate directly and identify concerns, if any, at an early stage and consider how such concerns could be addressed. These meetings also provide an early opportunity for senior management and key representatives of the applicant to ask questions and understand the Exchange’s listing requirements.

Issuers should refer to Part 4 of Policy 2.7 for the types of documentation and information that are recommended to be filed with the Exchange in advance of a pre-filing conference so as to maximize its utility.

As referenced in section 1.3 of Policy 2.7, failure to hold a pre-filing conference will in all likelihood result in the listing process taking additional time to be completed.

#### 4.2 Qualifications of Management and Corporate Governance

- (a) **Public Company Experience:** Section 5.10(b) of Policy 3.1 requires that an Issuer’s management team have adequate reporting issuer experience in Canada or a similar jurisdiction. As outlined in section 5.12 of Policy 3.1, the Exchange takes numerous factors into consideration when assessing this matter.

In applying section 5.10(b) of Policy 3.1 within the context of an Emerging Market Issuer, the Exchange will require that:

- i. Each of the CEO and CFO and, when taken as a whole, the board of directors must have adequate knowledge and experience with Canadian public company

requirements (i.e. Canadian securities law requirements and the policies of the Exchange). This may be demonstrated by the individuals in question having recent experience as directors or senior officers of Exchange or TSX-listed issuers with a positive track record of compliance with applicable Canadian public company requirements. Reference should be made to section 5.12 of Policy 3.1 for additional guidance as to the factors the Exchange may take into consideration.

- ii. In the case of the CEO and CFO, where the individual does not have recent experience as a director or senior officer of Exchange or TSX-listed issuers, the individual will need to demonstrate to the Exchange's satisfaction that he/she has otherwise obtained or will obtain prior to listing an adequate knowledge of Canadian public company requirements.

Guidance Note:

- N.1 As referenced in section 5.12(a)(viii) of Policy 3.1, the requirements of item ii. may be accomplished through the individual's satisfactory completion of one or more corporate governance or reporting issuer management courses acceptable to the Exchange for these purposes.

- (b) Jurisdiction Experience:** Section 5.10(a) of Policy 3.1 requires that an Issuer's management team have adequate experience and technical expertise relevant to the Issuer's business and industry. As outlined in section 5.11 of Policy 3.1, the Exchange takes numerous factors into consideration when assessing this matter.

In applying section 5.10(a) of Policy 3.1 within the context of an Emerging Market Issuer, the Exchange will require that the senior officers and board of directors, when taken as a whole, have adequate industry and, as applicable, technical experience in the applicable Emerging Market Jurisdiction.

Guidance Note:

- N.1 Satisfaction of the foregoing requirement will be assessed by the Exchange on a case by case basis taking into account the experience and expertise of the Issuer's management team. In general, the Exchange will require that at least one of the Issuer's senior officers and one of its directors (who are not the same person) have experience and familiarity with the laws and requirements of the relevant jurisdiction that are applicable to the relevant industry. This may be demonstrated by the individuals having recent industry experience in the relevant jurisdiction. Reference should be made to section 5.11 of Policy 3.1 for additional guidance as to the factors the Exchange may take into consideration.

By way of example, in the case of a mineral exploration company that is an Emerging Market Issuer, the Issuer may address the Exchange's jurisdiction experience requirements by demonstrating that one of the Issuer's senior officers and one of its directors (who are not the same person) have recent experience in the mineral exploration industry of the jurisdiction in which the Issuer's Qualifying Property is situated and that such experience has allowed them to develop a familiarity with the laws and requirements of such jurisdiction that are applicable to the mineral exploration industry.



- (c) **Communication:** In order to satisfy the Exchange that potential communication issues have been adequately mitigated, the Exchange will require that:
- i. The Issuer must identify to the Exchange which senior officers and directors are bilingual in either English or French and the primary language of the relevant Emerging Market Jurisdiction.
  - ii. Where some or all of an Issuer's senior officers and board members are not fluent in either English or French and the primary language of the relevant Emerging Market Jurisdiction, the Issuer must demonstrate to the Exchange how the language barrier will be overcome within the Issuer's management team and also, as applicable, between the Issuer's management team and its advisors (e.g. legal counsel and auditors) and between the Issuer's management team and its operating staff in the Emerging Market Jurisdiction. This may, without limitation, require that the Issuer have a formal communication plan that is satisfactory to the Exchange which sets out the measures that will be taken to mitigate potential communication related issues.
  - iii. For all material agreements and documentation that the Issuer is required to file with the Exchange, both at the time of listing as well as post-listing, that are prepared in a language other than English or French, the Issuer must file an English or French translation with the Exchange that has been prepared by a duly certified translator.
- (d) **Chief Financial Officer:** The Exchange considers a properly qualified and experienced CFO as necessary to help mitigate many of the potential risks identified by the Exchange in respect of the listing of Emerging Market Issuers. In this regard, Emerging Market Issuers must demonstrate to the Exchange's satisfaction that the following requirements are met:
- i. The CFO is financially literate (as defined in National Instrument 52-110 – *Audit Committees* (or applicable successor instrument) (“**NI 52-110**”)) (per section 5.8(b) of Policy 3.1, this is a requirement for a CFO of any Issuer).
  - ii. The CFO has a strong understanding of Canadian securities laws related to financial reporting.
  - iii. The CFO has a strong understanding of the business environment in the jurisdiction in which most of the Issuer's transactions are conducted.
  - iv. The CFO is knowledgeable of and has experience with applicable financial reporting and accounting standards, including disclosure standards.

- v. The CFO is knowledgeable of and has experience with the design and evaluation of disclosure controls and procedure and internal controls over financial reporting for Exchange or TSX-listed Issuers.

Satisfaction of the requirements outlined in items i. to iv. above is required both at the time of listing and on an ongoing basis post-listing.

- (e) **Audit Committee:** The Exchange considers a properly qualified and experienced audit committee as necessary to help mitigate certain of the potential risks identified by the Exchange in respect of the listing of Emerging Market Issuers. In this regard, an Emerging Market Issuer must demonstrate to the Exchange's satisfaction that the following requirements are met:

- i. Every member of the audit committee is financially literate (as defined in NI 52-110).
- ii. Every member of the audit committee is independent (i.e. as per section 21(b) of Policy 3.1, they must not be Officers, employees (or equivalent) or Control Persons of the Issuer or any of its Associates or Affiliates).
- iii. At least one member of the audit committee has the following skills: (1) Canadian financial reporting skills; and (2) experience with audit engagements for public companies.

Satisfaction of the requirements outlined in items i. to iii. above is required both at the time of listing and on an ongoing basis post-listing.

Guidance Notes:

- N.1 With regards to the requirement in item iii.(2), satisfaction of this requirement will be assessed by the Exchange on a case by case basis taking into account the experience and expertise of the individual in question. In general, the Exchange will consider the requirement satisfied if the individual has recent experience either: (a) as an audit committee member of a public company of a comparable size and nature to the Issuer; or (b) auditing financial statements of a public company of a comparable size and nature to the Issuer.

- (f) **Independent Oversight of Related Party Transactions:** Exchange policies including, without limitation, Policy 5.9 – *Protection of Minority Security Holders in Special Transactions* contain various requirements in respect of Related Party Transactions and transactions with Non-Arm's Length Parties to an Issuer. In addition to being required to comply with said requirements, an Emerging Market Issuer will be required to adopt specific internal written policies in respect of Related Party Transactions and transactions with Non-Arm's Length Parties to the Issuer. These internal policies should address such matters as, without limitation, management of conflicts of interest, independent director oversight and approval, adequate timely disclosure to the public, adequate disclosure in the Issuer's financial statements and compliance with all applicable regulatory requirements.

### 4.3 Background and Corporate Searches

Exchange policies including, without limitation, Policy 3.1 require that a Form 2A – *Personal Information Form* (a “**PIF**”) be filed in respect of each director, officer and Insider of an Issuer. Upon receipt of a duly completed PIF, the Exchange conducts background searches on the individual including, as applicable, searches in all jurisdictions where the individual has resided in the preceding ten years.

In addition to background searches on the directors, officers and Insiders of an Issuer, for an Emerging Market Issuer the Exchange may, at its discretion, conduct corporate due diligence searches in the relevant jurisdiction(s).

Some or all of the foregoing searches may require that the Exchange retain a third party to complete the searches in the relevant jurisdiction(s). Issuers will be required to pay the costs associated with these searches to the Exchange in advance of the searches being initiated.

### 4.4 Qualifications of Auditors

The Exchange considers a properly qualified and experienced auditor as necessary to help mitigate certain of the potential risks identified by the Exchange in respect of the listing of Emerging Market Issuers. The Exchange will only list an Emerging Market Issuer if the Exchange is satisfied that the audit firm that will serve as its auditor following listing has adequate qualifications and experience relevant to the Issuer’s business and operations. In the context of the listing of an Emerging Market Issuer, the principal factors the Exchange will take into consideration in assessing this matter will include the following:

- demonstrated satisfactory experience and expertise in the relevant jurisdiction by the audit partners and staff including the adoption of quality controls to ensure compliance with Canadian standards of quality control;
- the size and general resources of the firm;
- whether the firm is a “participating audit firm” (as such term is defined in National Instrument 52-108 – *Auditor Oversight* (or applicable successor instrument)) that is in compliance with any restrictions, sanctions or remedial action imposed by the Canadian Public Accountability Board (“**CPAB**”) and is otherwise in good standing with CPAB;
- the ability to communicate effectively with the Issuer’s CFO, audit committee and board of directors; and
- the ability to directly execute or directly supervise the audit field work necessary to support the audit opinion.

Guidance Note:

- N.1 For greater certainty, the foregoing auditor qualification and experience requirements applicable to Emerging Market Issuers apply to the audit firm that will serve as the Issuer's auditor following listing. The Exchange will not apply these requirements to the audit firms that serve or have served as the Issuer's auditor (or the Target Company's auditor, as the case may be) prior to listing.

#### **4.5 Adequacy of Disclosure Controls and Procedures and Internal Control over Financial Reporting**

The Exchange may require an Emerging Market Issuer to establish and maintain disclosure controls and procedures (“**DC&P**”) and internal control over financial reporting (“**ICFR**”) (as such terms are defined in National Instrument 52-109 – *Certification of Disclosure in Issuers’ Annual and Interim Filings* (or applicable successor instrument) (“**NI 52-109**”)) at the time of listing and following listing. The Exchange will assess the applicability of these requirements to each Emerging Market Issuer on a case by case basis with a view to the facts specific to the Issuer. In assessing this matter, the Exchange will take into consideration such factors as, without limitation, the nature, size and complexity of the Issuer's operations or corporate structure. It is strongly recommended that Issuers discuss the possible applicability of these requirements with the Exchange at a pre-filing conference.

For those Emerging Market Issuers that the Exchange requires to establish and maintain DC&P and ICFR at the time of listing and following listing, the following requirements will be applicable:

- (a) In designing the Issuer's ICFR, the Issuer must use a control framework (as prescribed by section 3.4 of NI 52-109).
- (b) As a condition to listing the following steps must be taken:
  - i. The Issuer's CEO and CFO must evaluate, or cause to be evaluated under their supervision, the effectiveness of the Issuer's DC&P and ICFR at the financial year end date of the audited financial statements included in the principal disclosure document the Issuer prepares in connection with its listing. The CEO and CFO must also consider any changes to the Issuer's ICFR that have been made subsequent to the date of the audited financial statements. As part of this evaluation process, the Issuer must engage an audit firm to provide, at a minimum, observations and recommendations on the documented design of the ICFR as compared to the control framework selected. The observations and recommendations of the audit firm must be presented in writing to the CEO, CFO and audit committee.
  - ii. Based on the evaluation described in item i., the Issuer's CEO and CFO must confirm to the Exchange in writing that the Issuer's ICFR provides reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with GAAP (the “**Confirmation**”). If during the evaluation material weaknesses relating to the

design or operations of the ICFR are identified, the Confirmation must specifically include:

- a description of the material weaknesses;
  - the impact of the material weaknesses on the Issuer's financial reporting and its internal controls; and
  - the Issuer's current plans, if any, or any actions already undertaken, for remediating the material weaknesses.
- iii. The Exchange must be satisfied with the form of the Confirmation, the adequacy of the ICFR and the scope and nature of any identified material weaknesses.
- iv. The Issuer must include the Confirmation in the applicable principal disclosure document the Issuer prepares in connection with its listing.
- (c) Up to and including the filing of the Issuer's annual financial statements for the second full financial year of the Issuer following listing, the Exchange will require that:
- i. Concurrently with the public filing of the Issuer's annual financial statements on SEDAR, the Issuer must file and make public on SEDAR the CEO and CFO certification in the form prescribed by Form 52-109F1 – *Certification of Annual Filings Full Certificate* of NI 52-109 (or applicable successor form and instrument).
  - ii. Concurrently with the public filing of the Issuer's interim period financial statements on SEDAR, the Issuer must file and make public on SEDAR the CEO and CFO certification in the form prescribed by Form 52-109F2 – *Certification of Interim Filings Full Certificate* of NI 52-109 (or applicable successor form and instrument).
- (d) On an annual basis, the Issuer's CEO and CFO must evaluate, or cause to be evaluated under their supervision, the effectiveness of the Issuer's DC&P and ICFR as at the Issuer's financial year end date and report the results of their evaluation to the audit committee prior to the audit committee approving the Issuer's annual financial statements. This should be specifically provided for in the audit committee's charter.

Guidance Notes:

- N.1 With regards to the requirements in section 4.5(c), the Issuer must comply with these requirements irrespective of whether they may be exempt under NI 52-109 from having to file the noted certifications.
- N.2 For greater certainty with regards to the timeframe in which the requirements in section 4.5(c) will be applicable, the following example is provided. An Issuer with a financial year end of December 31 completes its listing transaction on February 15, 2014. The requirements of section 4.5(c) will be applicable up to and including the filing of its annual financial statements for the financial year ended December 31, 2016 (i.e. in this example, the two full financial years following completion of the listing transaction on February 15, 2014 will be the financial years ended December 31, 2015 and 2016).

#### 4.6 Non-Traditional Corporate/Capital Structure

In circumstances where an Emerging Market Issuer intends to employ a non-traditional corporate structure or share capital structure (e.g. a variable interest entity structure or a “slow walk” arrangement structure), the Exchange will impose the following requirements:

- (a) **Satisfactory Reason for Using Structure:** The Issuer must provide an explanation to the Exchange why the non-traditional corporate structure is necessary in the given circumstances. In the absence of the Exchange being satisfied that the non-traditional corporate structure is necessary, the Exchange may refuse listing on this basis.
- (b) **Legal Opinion:** Where the Exchange has concerns with the structure, the Exchange may require a legal opinion addressing the noted concerns. These concerns may include, without limitation, the legality of the structure under the laws of the applicable jurisdiction, the Issuer’s ability under the structure to repatriate funds from the Emerging Market Jurisdiction, the Issuer’s ability under the structure to enforce applicable contracts and the ability of the Issuer’s shareholders under the structure to have recourse against the assets of the Issuer.
- (c) **Adequate Disclosure:** Full, true and plain disclosure of the nature, material characteristics and associated risks of the corporate/capital structure must be disclosed in the applicable principal disclosure document the Issuer prepares in connection with its listing. This disclosure should include, without limitation, disclosure related to the ability of shareholders to have recourse against the assets of the Issuer. Post-listing, the Issuer will be required, on an annual basis, to include the same disclosure in either: (i) its management discussion and analysis for its audited annual financial statements; or (ii) its annual information form (or equivalent document under applicable Securities Laws) if one is filed by the Issuer.

#### 4.7 Legal Matters Relating to Title and Ability to Conduct Operations

With regards to title and the Issuer’s ability to conduct its operations, the Exchange will require the following in connection with the listing of an Emerging Market Issuer:

- (a) **Title Opinion:** If the Issuer’s principal properties or assets are located outside of Canada or the United States, the Issuer will be required to provide a satisfactory title opinion or other appropriate confirmation of title to the Exchange. If title to the principal properties or assets is held through an affiliated entity, the Issuer will generally be required to also provide a satisfactory corporate opinion confirming the validity of the Issuer’s ownership of such affiliated entity.

For greater certainty, if the Issuer is a Mining Issuer or an Oil & Gas Issuer, its “principal properties or assets” will include, without limitation, its Qualifying Property and Principal Properties.

- (b) **Opinion on Necessary Licenses and Permits:** The Issuer will be required to provide a

satisfactory legal opinion that the Issuer has all required permits, licenses and other applicable governmental and regulatory approvals to carry out its business operations in the relevant jurisdiction.

#### 4.8 Sponsorship Requirements

The due diligence and review completed by a Sponsor in respect of any listing that requires sponsorship plays an important role in satisfying the Exchange that the Issuer meets the Exchange's listing requirements and is otherwise suitable for listing. In order to enhance the utility provided by a Sponsor in this regard within the context of Emerging Market Issuers, the following requirements are applicable.

- (a) **Sponsorship Exemptions for Listing of Emerging Market Issuers:** Policy 2.2 sets forth both the circumstances where sponsorship for a New Listing transaction is required as well as the circumstances when a New Listing transaction may be exempt from sponsorship. With respect to the exemptions from sponsorship prescribed by sections 3.1(a) and 3.4(a)(ii) of Policy 2.2, these exemptions will only be available to an Emerging Market Issuer if the Exchange has the ability to directly query the applicable Member firm or financial institution, as the case may be, on matters related to the Exchange's assessment of the Issuer's listing merits and the Member firm or financial institution, as the case may be, is able to provide the Exchange with satisfactory responses to any such queries. For greater certainty, if the applicable Member firm or financial institution, as the case may be, is unwilling, unable or otherwise not in a position to provide responses to the Exchange's queries, the Emerging Market Issuer will not be able to rely upon the exemptions from sponsorship prescribed by sections 3.1(a) and 3.4(a)(ii) of Policy 2.2.
- (b) **Detailed Sponsor Reports:** As provided for in section 7.4(b) of Policy 2.2, the Exchange has the discretion to require that a Sponsor prepare and complete a detailed Sponsor Report that includes, in addition to the requirements of Form 2H – *Sponsor Report* ("**Form 2H**"), disclosure as to the completion of the applicable review procedures set forth in Appendix 2A. The Exchange typically requests a detailed Sponsor Report in circumstances where there are issues or listing matters for which the Exchange considers specific comment from the Sponsor as prudent or necessary.

In the context of the listing of an Emerging Market Issuer for which sponsorship is required, it should be expected by the Sponsor that the Exchange will exercise its discretion under section 7.4(b) of Policy 2.2 and require a detailed Sponsor Report. The additional detailed information to be required in a Sponsor Report for an Emerging Market Issuer will depend upon the specific facts and issues applicable to such Issuer, however, it should be expected by the Sponsor that the Exchange will require some or all of the following detailed information be provided by the Sponsor:

- i. Specific comment on the level and adequacy of the public company knowledge and experience of senior management and the board of directors on an individual and collective basis.

- ii. Specific comment on the level and adequacy of industry experience held by senior management and the board of directors (on an individual and collective basis) in the jurisdiction where the Issuer's principal operations are situated.
- iii. Where some or all of an Issuer's senior officers and board members are not fluent in either English or French and the primary language of the jurisdiction where the Issuer's principal operations are situated, specific comment on the adequacy of the Issuer's plans to mitigate any potential communication issues.
- iv. Specific comment on the adequacy of the CFO's qualifications.
- v. Specific comment on the adequacy of the Issuer's internal policies in respect of Related Party Transactions and transactions with Non-Arm's Length Parties to the Issuer.
- vi. If section 4.5 of this Policy is applicable to the Issuer, specific comment on the matters set forth in item (c)(iv) of Appendix 2A (regarding ICFR).

Guidance Notes:

N.1 The Exchange's expectation is that the Sponsor will review the Confirmation and, as prescribed by item (c)(iv) of Appendix 2A, will discuss the existence and effectiveness of the Issuer's internal controls with the Issuer's auditors, CEO, CFO and audit committee including whether the Issuer needs to implement or adjust those controls. In the Sponsor Report, the Sponsor will be expected to specifically confirm that it has completed this process, summarize whether it is satisfied with the form and contents of the Confirmation and provide any other related information the Sponsor considers relevant based upon its discussions with the auditors, CEO, CFO and audit committee.

- vii. Specific comment on the nature of the rule of law in the relevant jurisdiction.

It should be noted that although a Sponsor's conclusion and confirmation that an Issuer satisfies the Exchange's listing requirements and is suitable for listing on the Exchange is important to the Exchange's consideration of the Issuer's listing merits, the Sponsor's conclusions and confirmations in this regard are in no manner binding upon the Exchange. The final decision as to whether an Issuer satisfies the Exchange's listing requirements and is suitable for listing on the Exchange rests with the Exchange.

#### **4.9 Ongoing Compliance with Exchange Policy Requirements**

The Exchange will require that all Emerging Market Issuers continue to comply with the requirements set forth in this Policy on an ongoing basis, as applicable. Issuers should at all times be mindful of the potential impact of corporate actions such as, without limitation, changes of directors or senior officers, changes to the composition of the Issuer's audit committee and change of auditors as these actions may impact the Issuer's continued compliance with the applicable requirements set forth in this Policy. Furthermore, the Exchange may from time to time, at its discretion, require an Emerging Market Issuer to satisfy the Exchange that the Issuer remains in compliance with the applicable requirements set forth in this Policy.



## **5. SUMMARY OF REQUIREMENTS AND PROCEDURES**

The table on the following page sets out in summary form the requirements and procedures for the listing of Emerging Market Issuers set out in Part 4 of this Policy. For ease of reference, the table also sets out the requirements and procedures in this Policy that are applicable to Excluded Resource Issuers (on the basis that they are otherwise applicable to such Issuers under Exchange policies such as, without limitation, Policies 2.1, 2.2, 2.3 or 3.1).

The table is provided for reference purposes only and is qualified by the more detailed information set out in this Policy.

|  | Emerging Market Issuer | Excluded Resource Issuer |
|--|------------------------|--------------------------|
| <b>Pre-filing conference (s. 4.1)</b>  | Y                      | Y                        |
| <b>CEO/CFO Public company experience (s. 4.2(a)):</b> Each of CEO and CFO and, collectively, the board must have Canadian public company knowledge/experience.                       | Y                      | N <sup>(1)</sup>         |
| <b>Jurisdiction experience (s. 4.2(b)):</b> Senior officers and board, as a whole, have adequate industry experience in the jurisdiction in which principal operations are situated. | Y                      | Y                        |
| <b>Address communication issues (s. 4.2(c))</b>  | Y <sup>(2)</sup>       | Y <sup>(2)</sup>         |
| <b>Enhanced CFO requirements (s. 4.2(d))</b>   | Y                      | N                        |
| <b>Enhanced audit committee requirements (s. 4.2(e))</b>   | Y                      | N                        |
| <b>Internal policies for Related Party Transactions (s. 4.2(f))</b>  | Y                      | N                        |
| <b>Background and corporate searches (s. 4.3)</b>  | Y <sup>(3)</sup>       | Y <sup>(3)</sup>         |
| <b>Pre-clearance of auditors (s. 4.4)</b>  | Y                      | N                        |
| <b>Establish and maintain internal control over financial reporting (s. 4.5)</b>   | Y <sup>(4)</sup>       | N                        |
| <b>Requirements related to non-traditional corporate/capital structures (s. 4.6)</b>   | Y <sup>(5)</sup>       | Y <sup>(5)</sup>         |
| <b>Legal opinions re: title and necessary permits/licenses (s. 4.7)</b>  | Y                      | Y                        |
| <b>Ability to rely on exemptions to sponsorship requirement (s. 4.8)</b>   | Y <sup>(6)</sup>       | Y                        |
| <b>Detailed Sponsor Report</b>   | Y                      | Y <sup>(7)</sup>         |

- (1) The public company experience requirements prescribed by section 5.10(b) of Policy 3.1 are still applicable.
- (2) Only applicable if some or all of an Issuer's senior officers and board members are not fluent in either English or French and the primary language of the jurisdiction.
- (3) Exchange will conduct background searches on all directors, officers and other Insiders. Corporate searches may be required, at the Exchange's discretion, if the Issuer or its material operating subsidiary are domiciled outside of Canada.
- (4) The applicability of this requirement will be assessed on a case by case basis and may not be imposed on all Emerging Market Issuers.
- (5) Only applicable if the Issuer intends to employ a non-traditional corporate structure or share capital structure.
- (6) As set out in section 4.8 of this Policy, an Emerging Market Issuer can rely upon the stated sponsorship exemptions subject to certain additional conditions.
- (7) Per Policy 2.2 and Appendix 2A, the Exchange may, at its discretion, require a Sponsor to provide specific detailed information in a Sponsor Report. For an Excluded Resource Issuer, this would be assessed on a case by case basis.