

TIPO DE BOLETÍN: Aviso a los emisores
FECHA DEL BOLETÍN: 26 de julio de 2019

Objeto: Apelaciones relativas a las decisiones de la Bolsa

TSX Venture Exchange (la "**Bolsa**") aporta enmiendas al Manual de Financiamiento Corporativo con efecto inmediato respecto de las apelaciones relativas a las decisiones de la Bolsa a fin de que se incluya un nuevo proceso para la reconsideración de una decisión ante al menos un alto funcionario de la Bolsa o ante un grupo que pueda contar hasta tres altos funcionarios de la Bolsa.

El Libro de Normas de la Bolsa anteriormente permitía que un emisor apelara las decisiones de la Bolsa ante un comité de revisión de sociedades inscritas y establecía el procedimiento que debía seguir el comité de revisión de sociedades inscritas para realizar sus exámenes. Las disposiciones del Libro de Normas de la Bolsa sobre los susodichos exámenes de las decisiones relativas a las inscripciones han sido suprimidas. Ahora el Manual de Financiamiento Corporativo articula el proceso relativo a las apelaciones por parte de los emisores, el cual presentamos a continuación.

- **Plazo para presentar la apelación:** La Bolsa debe recibir una solicitud de apelación por escrito en un plazo de 30 días corridos a partir de la decisión de la Bolsa. Este plazo reproduce el plazo enunciado en la legislación sobre valores mobiliarios de la provincia de Alberta y de la provincia de Columbia Británica para apelar una decisión tomada por una bolsa, estos siguen estando plenamente en vigor y continúan teniendo efecto.
- **Solicitud de apelación por escrito:** El emisor que apela una decisión debe enviar una solicitud de apelación y un expediente de sus observaciones en apoyo de sus alegaciones, por escrito. Para ser escuchados, los emisores deben presentar un expediente escrito. El expediente puede ser redactado con o sin la ayuda de un asesor jurídico, lo cual permite a los emisores ser escuchados a bajo costo. Además, el requisito de presentar el expediente escrito contribuye a que la Bolsa entienda plenamente las preocupaciones de los emisores con relación a la decisión inicial, así como permite que los altos funcionarios consideren adecuadamente el asunto en apelación.
- **Un alto funcionario o grupo de tres altos funcionarios examina la apelación:** La Bolsa tiene la facultad discrecional de hacer examinar la apelación por un alto funcionario de la Bolsa o por un grupo que pueda contar hasta tres altos funcionarios de la Bolsa. La Bolsa ha constatado que en casos particularmente complejos, lo indicado es que la Bolsa pueda confiar la toma de decisión, en el contexto de la apelación, a más de una persona.

En particular, la Bolsa enmienda el Manual de Financiamiento Corporativo a fin de (a) añadir un nuevo párrafo 5 a la Política 1.1 – *Interpretación* ("**Política 1.1**"), (b) suprimir el párrafo 5 de la Política 2.9 – *Interrupciones y Suspensiones de la Negociación y Exclusión de la Cotización* ("**Política 2.9**"), y (c) aportar determinadas enmiendas administrativas a las definiciones de la Política 1.1 (a las enmiendas aportadas al Manual de Financiamiento Corporativo se les denomina colectivamente las "**enmiendas al Manual de Financiamiento Corporativo**"). Adicionalmente, la Bolsa enmienda el Libro de Normas de la TSXV (TSX Venture Exchange Rule Book) a fin de suprimir determinados párrafos de la Norma B.100 – *Facultad de inscribir y de excluir a cotización*, de la Norma E.2.00[A] – *Generalidades en materia de audiencia*, y la Norma E.2.00 [C] – *Revisión de las sociedades inscritas* (Rule B.1.00 – *Power to List and Delist*, Rule E.2.00[A] – *Hearings General* and Rule E.2.00[C] – *Listed Company Reviews*), (colectivamente las "**enmiendas al Libro de Normas**", y junto con las enmiendas al Manual de Financiamiento Corporativo, las "**enmiendas**").

El texto integral del Manual de Financiamiento Corporativo enmendado al igual que la versión anterior de la Política 1.1 y de la Política 2.9 se encuentran disponibles en inglés en la página del sitio web de la Bolsa a continuación.

<https://www.tsx.com/listings/tsx-and-tsxv-issuer-resources/tsx-venture-exchange-issuer-resources/tsx-venture-exchange-corporate-finance-manual/tsxv-corporate-finance-manual-policies>

Véase el Apéndice A del presente Boletín para consultar los enunciados que llevan la marca de las enmiendas al Libro de Normas, y el Apéndice B para consultar el texto enmendado del Libro de Normas en limpio.

Cabe observar que lo que precede constituye solo un resumen. Es conveniente examinar los textos integrales de la Política 1.1 y de la Política 2.9 para conocer el verdadero alcance de las enmiendas.

Para toda pregunta relativa al presente Boletín, sírvase comunicar con una de las personas a continuación:

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Apéndice A

Marca de las modificaciones realizadas en las normas

Norma B.1.00 – *Facultad de inscribir y de excluir a cotización (Power to List and Delist)*

B.1.01

[...]

~~(6) — Where the Exchange has made a decision that:~~

~~(a) — an application by an issuer for a listing of securities on the Exchange is declined;~~

~~(b) — any class of securities of a listed issuer shall be suspended or delisted;~~

~~(c) — the tier upon which an issuer's securities shall trade shall be redesignated or that an issuer shall be designated Inactive (as defined in Corporate Finance Policy 1.1);~~

~~(d) — an application by a listed issuer for acceptance of a Reverse Take-Over or a Qualifying Transaction (as such terms are defined in Corporate Finance Policy 1.1) is declined;~~

~~(e) — one or more of the directors, officers, insiders, promoters, lawyers, employees, consultants or other agents relied on by the issuer are not acceptable to the Exchange or that continued acceptability is subject to conditions; or~~

~~(f) — in respect of securities subject to an Exchange administered escrow agreement, acceptance of any application for cancellation, discretionary transfer or release of securities or consent to any amendment to the terms of any such escrow agreement is declined;~~

~~then the issuer or the person found not to be acceptable to the Exchange or whose acceptability is subject to conditions, may apply for a review pursuant to Rule E.2.00[C].~~

~~(7) — An application for a review of an Exchange decision must be made in writing to the Hearing Officer (as defined in Rule E.2.04[A]) of the Exchange within 30 days from the date the decision was delivered to the applicant.~~

Normas B.1.01 (6) y (7) suprimidas 26 de julio de 2019

[...]

Norma E.2.00 – *Generalidades en materia de audiencia (Hearings General)*

E.2.04[A] – Hearing Officer (Suprimida)

~~The Exchange shall designate an officer of the Exchange to be responsible for the co-ordination and administration of Listed Company Reviews, referred to for the purposes of this Rule as the "Hearing Officer". The Hearing Officer shall have all of the powers needed to administer the processes contemplated by Rule E. The Exchange may also designate Deputy Hearing Officers, who, under the general direction of the Hearing Officer, shall assist the Hearing Officer and shall have the same power as the Hearing Officer.~~

Norma E.2.04[A] suprimida 26 de julio de 2019

E.2.05[A] – Costs (Suprimida)

- (1) ~~Following the completion of a review initiated pursuant to Rule B.1.00 and on application by the Exchange to the Listed Company Review Panel that has conducted the review, the Respondent may be assessed costs in respect of the hearing.~~
- (2) ~~Costs, which are in the discretion of the Listed Company Review Panel, shall include but are not limited to:~~
- ~~(i) recording and transcription fees;~~
 - ~~(ii) witness fees and expenses;~~
 - ~~(iii) costs of preparing transcripts;~~
 - ~~(iv) costs associated with notification of the hearing;~~
 - ~~(v) all costs of the Listed Company Review Panel including fees charged by the panel members;~~
 - ~~(vi) legal and accounting costs incurred by the Exchange; and~~
 - ~~(vii) other expenses incurred by the Exchange that the Listed Company Review Panel, exercising its discretion, determines are reasonable in the circumstances.~~

Norma E.2.05[A] suprimida 26 de julio de 2019

[...]

E.2.16[C] – Listed Company Review Panel Roster (Suprimida)

- (1) ~~The Exchange shall maintain an Appointing Committee and a Listed Company Review Panel Roster.~~
- (2) ~~The Appointing Committee shall be composed of the President of the Exchange, a member of the National Advisory Committee and a representative, director-level or higher, of the General Counsel's Office of TSX Group Inc. The President of the Exchange shall appoint the National Advisory Committee representative and the General Counsel Office's representative to the Appointing Committee.~~
- (3) ~~The Exchange will propose candidates for appointment to the Listed Company Review Panel Roster. Nominees must be a member in good standing of the Law Society of British Columbia, the Alberta Law Society or a person retired from membership in good standing of either organization. Each proposed candidate for appointment to the Listed Company Review Panel Roster shall be reviewed by the Appointing Committee. The Appointing Committee shall appoint to the Listed Company Review Panel Roster those candidates which it considers to be suitable having regard to such matters as legal or industry experience, regulatory background, level of commitment and good reputation.~~
- (4) ~~The Appointing Committee shall confirm with each appointee to a Listed Company Review Panel Roster that he or she is willing to serve a term which shall continue until the later of three years after the date of appointment or the resolution of any proceedings for which the appointee has been appointed to serve on a Listed Company Review Panel. Present or past members of a Listed Company Review Panel Roster may be nominated and appointed for further terms.~~

Amended December 3, 2004 Norma E.2.16[C] suprimida 26 de julio de 2019

E.2.17[C] – Hearing Panels – Listed Company Reviews (Suprimida)

- (1) ~~Upon receiving an application for a review pursuant to Rule B.1.00, the Hearing Officer shall appoint a Listed Company Review Panel consisting of three appointees from the Listed Company Review Panel Roster.~~
- (2) ~~When appointing a Listed Company Review Panel, the Hearing Officer shall:~~
- ~~(a) unless there is a practical reason to do otherwise, request the participation of appointees to the Listed Company Review Panel Roster in a sequence which will over time give appointees an approximately equal number of opportunities to serve on Listed Company Review Panels, but ensuring to the extent possible that at least one member of each Listed Company Review Panel has experience as a solicitor and one has experience as a litigator;~~
 - ~~(b) unless there is a practical reason to do otherwise, appoint individuals who are resident in the Province in which the review will be conducted;~~
 - ~~(c) provide prospective appointees to a Listed Company Review Panel with such information about the parties and matters in issue regarding an existing or proposed application for a review pursuant to Rule B.1.00 as will likely be needed by that member to identify potential conflicts; and~~
 - ~~(d) appoint to the Listed Company Review Panel only those individuals who appear to have no conflicts of interest.~~
- (3) ~~The Listed Company Review Panel, once appointed, shall designate one of its members to act as Chair.~~
- (4) ~~Where it will not create unfairness, appointees to a Listed Company Review Panel may be replaced by new appointees.~~
- (5) ~~Individuals appointed to a Listed Company Review Panel may receive remuneration for time spent participating on such panels.~~

Amended December 3, 2004 Norma E.2.17[C] suprimida 26 de julio de 2019

E.2.18[C] – Pre-hearing Conferences (Suprimida)

- (1) ~~A pre-hearing conference may be scheduled at any time by the chair of a Listed Company Review Panel upon the Chair's own motion or upon a request made by the Exchange, the person applying for a review pursuant to Rule B.1.00 (the "Applicant") or the Hearing Officer.~~
- (2) ~~At a pre-hearing conference, a Listed Company Review Panel may make any procedural order which it deems appropriate, including without limiting the generality of the above an order:~~
- ~~(a) setting deadlines for any procedural steps;~~
 - ~~(b) requiring the Exchange or an Applicant to produce documents or give particulars;~~
 - ~~(c) granting adjournments in whole or in part;~~
 - ~~(d) staying a decision of the Exchange that was made under Rule B.1.00 and in respect of which a review application has been brought.~~
- (3) ~~A Listed Company Review Panel may impose conditions on any order made and, without limiting the generality of the above, upon granting an adjournment at the request of an Applicant, a Listed Company Review Panel may impose the condition that:~~
- ~~(a) where the Applicant is a listed company, the trading of the Applicant's securities be suspended until the completion of the hearing process; and~~

~~(b) — where the Applicant is an individual, the Applicant withdraw from its association with any Exchange listed company until the completion of the hearing process.~~

Amended January 17, 2001 Norma E.2.18[C] suprimida 26 de julio de 2019

E.2.19[C] – Rules Applying at a Listed Company Review (Suprimida)

At a hearing before the Listed Company Review Panel, the following Rules shall apply:

- ~~(1) — The hearing of an application for a review pursuant to Rule B.1.00 shall, unless otherwise ordered by the Listed Company Review Panel, take the form of an appeal on the record from the decision of the Exchange.~~
- ~~(2) — Where the Listed Company Review Panel is of the opinion that the record of the decision of the Exchange which is the subject of the review is incomplete, the Listed Company Review Panel may require the Applicant or any other person who is under the jurisdiction of the Exchange or who may have evidence relating to the matters raised in the decision which is the subject of the application for a review pursuant to Rule B.1.00 to attend at the hearing and testify.~~
- ~~(3) — The Listed Company Review Panel may order that the hearing be adjourned to a later date or a different location and may impose such terms or conditions with respect to the order as it deems fit.~~
- ~~(4) — The Applicant shall be entitled to be represented by counsel or an agent and may remain in attendance throughout the hearing.~~
- ~~(5) — The Exchange shall be entitled to be represented by counsel or an agent.~~
- ~~(6) — The Listed Company Review Panel may direct that submissions of the Exchange or the Applicant be made to the Listed Company Review Panel either orally or in writing, or both.~~
- ~~(7) — Except to the extent limited in clause (8) of Rule E.2.19[C], if the Listed Company Review Panel orders that oral evidence may be introduced, the Applicant or the Exchange, as the case may be, shall have the right to cross-examine all witnesses adducing evidence.~~
- ~~(8) — Where the Listed Company Review Panel determines that it will not cause unfairness by unduly restricting the ability of the Applicant or the Exchange to cross-examine a witness, the Exchange or the Applicant may introduce the evidence of witnesses by telephone or video-conference facility and such witnesses may give an oath or affirmation in the same fashion.~~
- ~~(9) — Without limiting what other evidence may be introduced, the Exchange may introduce a record of whatever statements, interviews or responses have been given by the Applicant or its representatives.~~
- ~~(10) — The Listed Company Review Panel will generally confirm the decision of the Exchange unless:

 - ~~(a) — the Exchange has proceeded on some incorrect principle;~~
 - ~~(b) — the Exchange has erred in law;~~
 - ~~(c) — the Exchange has overlooked some material evidence, or~~
 - ~~(d) — new and compelling evidence is presented to the Listed Company Review Panel that was not presented to the Exchange. If one of these conditions is established, the Listed Company Review Panel will make a decision on the merits of the case or refer the matter back to the Exchange.~~~~
- ~~(11) — The Listed Company Review Panel is not bound by the legal or technical rules of evidence.~~

- (12) ~~The proceedings of the hearing shall be recorded on an electrical device or in another appropriate manner. Such record of the proceedings shall be preserved until the time for hearing and review and appeal provided for by any applicable securities legislation has expired. The record of the proceeding shall include oral and documentary evidence admitted by the Listed Company Review Panel and oral and written submissions delivered by all parties. The failure to keep an appropriate record shall not affect the validity of any proceedings.~~
- (13) ~~Subject to Rule E.2.20[C](14) below, any hearing in respect of an application for review pursuant to Rule B.1.00 shall be open to the public.~~
- (14) ~~The Listed Company Review Panel may order that the public be excluded for all or part of the hearing.~~

~~Amended January 17, 2001 Norma E.2.19[C] suprimida 26 de julio de 2019~~

~~E.2.20[C] – Communication with Listed Company Review Panel (Suprimida)~~

~~No person who has made an application for a review pursuant to Rule B.1.00, nor any person acting on the Applicant's behalf, after an application has been made and prior to the resolution of the proceedings which are the subject of the application, shall enter into any communication regarding the application with any member of a Listed Company Review Panel appointed pursuant to Rule E.~~

~~Norma E.2.20[C] suprimida 26 de julio de 2019~~

~~E.2.21[C] – Decision Following Listed Company Review (Suprimida)~~

~~The Listed Company Review Panel shall, following a hearing, make a decision to confirm, vary, or set aside a decision that is the subject of the application for a review pursuant to Rule B.1.00.~~

~~Amended January 17, 2001 Norma E.2.21[C] suprimida 26 de julio de 2019~~

~~E.2.22[C] – Form of Decision (Suprimida)~~

~~At the conclusion of any hearing, the Listed Company Review Panel shall issue a decision in written form which shall contain the substance of its decision relating to the decision which is the subject of the application for a review pursuant to Rule B.1.00 and the reasons for its decision.~~

~~Norma E.2.22[C] suprimida [X], 2019~~

~~E.2.23[C] – Decision of the Listed Company Review Panel Final (Suprimida)~~

- (1) ~~Subject to Rule E.2.23 [C](2) below, the decision of the Listed Company Review Panel shall be final, subject to the right of hearing and review and appeal provided by any applicable securities legislation.~~
- (2) ~~The Listed Company Review Panel may revoke in whole or in part or vary any decision made by them.~~

~~Amended January 17, 2001 Norma E.2.23[C] suprimida 26 de julio, 2019~~

Apéndice B - Texto enmendado del Libro de Normas en limpio

Norma B.1.00 – *Facultad de inscribir y de excluir a cotización (Power to List and Delist)*

B.1.01

[...]

Normas B.1.01 (6) y (7) suprimidas 26 de julio de 2019

[...]

Norma E.2.00 – *Generalidades en materia de audiencia (Hearings General)*

E.2.04[A] – (Suprimida)

Norma E.2.04[A] suprimida 26 de julio de 2019

E.2.05[A] – (Suprimida)

Norma E.2.05[A] suprimida 26 de julio de 2019

[...]

E.2.16[C] – (Suprimida)

Norma E.2.16[C] suprimida 26 de julio de 2019

E.2.17[C] – (Suprimida)

Norma E.2.17[C] suprimida 26 de julio de 2019

E.2.18[C] – (Suprimida)

Norma E.2.18[C] suprimida 26 de julio de 2019

E.2.19[C] – (Suprimida)

Norma E.2.19[C] suprimida 26 de julio de 2019

E.2.20[C] – (Suprimida)

Norma E.2.20[C] suprimida 26 de julio de 2019

E.2.21[C] – (Suprimida)

Norma E.2.21[C] suprimida 26 de julio de 2019

E.2.22[C] – (Suprimida)

Norma E.2.22[C] suprimida 26 de julio de 2019

E.2.23[C] – (Suprimida)

Norma E.2.23[C] suprimida 26 de julio de 2019