

BULLETIN TYPE: Notice to Issuers
BULLETIN DATE: January 29, 2014

Re: Facilitating the Listing Process for Industrial, Technology and Life Sciences Issuers:
(a) Interpretative Guidance for “History of Operations/Validation of Business” Listing Requirement
(b) Enhancing the Utility of Pre-Filing Applications

Overview

This Notice to Issuers provides certain guidance intended to facilitate the listing process for Issuers seeking listing on TSX Venture Exchange (“**TSXV**” or the “**Exchange**”) under the “Industrial, Technology and Life Sciences Issuer” category (“**Non-Resource Issuers**”). This guidance is being provided with the intent of improving efficiencies in the listing process for Non-Resource Issuers under the Exchange’s existing policies and review framework applicable to the listing of Non-Resource Issuers. Ideally, this will help reduce the timeframe and certain of the costs involved with the listing process.

The guidance is focused on the following two areas:

1. Clarifying TSXV’s interpretation and application of the “history of operations/validation of business” initial listing requirement (“**ILR**”) applicable to Non-Resource Issuers pursuant to sections 2.5 and 2.6 of Policy 2.1 – *Initial Listing Requirements*.
2. Enhancing the utility of pre-filing applications, in particular as pertaining to the Exchange assessing an Issuer’s ability to satisfy the “history of operations/validation of business” ILR at an earlier stage in the listing process.

The “history of operations/validation of business” listing requirement is the key business-specific ILR that a Non-Resource Issuer must satisfy in order to list on the Exchange. At present, there is limited guidance on what criteria must be met in order for an Issuer to satisfy this listing requirement. By providing additional guidance and clarity in this regard, the Exchange believes that Non-Resource Issuers will, from the outset of the listing process, have a better understanding of the Exchange’s expectations and relevant considerations applicable to this listing requirement. Correspondingly, efficiencies should be created in the listing process as the Issuer will be better positioned to address the Exchange’s expectations and considerations from the outset as opposed to after the application process has already been initiated.

Interpretative Guidance for “History of Operations/Validation of Business” ILR

With respect to the guidance provided below, it must be noted that:

- A. Notwithstanding the fact that an Issuer may satisfy the “history of operations/validation of business” ILR by meeting the criteria set out below, the Issuer must still satisfy all other applicable listing requirements in order to be listed on TSXV.
- B. The following is not meant to be a definitive list of criteria for what is necessary in order to satisfy the “history of operations/validation of business” ILR as the stated criteria may not be adequately reflective of or applicable to all industry types and situations. As such, the fact that an applicant Issuer does not meet the criteria set out below will not automatically mean that the Issuer can’t otherwise satisfy the ILR based upon its merits. Such situations will be assessed by the Exchange on a case by case basis.

Tier 1 – Revenue Generating/Commercialization Stage:

An Issuer satisfying all of the following criteria will generally be considered by the Exchange as satisfying the “history of operations/validation of business” ILR for either a Tier 1 or a Tier 2 Non-Resource Issuer:

1. The Issuer’s product/service is at the commercialization stage and has been so for at least 12 months. This specifically means that, at the time of listing, the Issuer will have:
 - (a) a developed product or service that it is able to offer for sale;
 - (b) the means of producing/providing such product or service; and
 - (c) a history of revenues from the sale of the product/service of at least 12 months¹.
2. Aggregate revenues from the sale of the product/service since commercialization of not less than \$500,000¹ (with no time limit on when these revenues were generated).
3. Reasonable evidence (such as the existence of sales/service contracts) that the level of revenues from the sale of the product/service over the 12 months pre-listing will be maintained or increased in the 12 months post-listing.

Tier 2 – Non-Revenue Generating/Development Stage / Early Commercialization Stage:

An Issuer satisfying any three (3) of the following criteria will generally be considered by the Exchange as satisfying the “history of operations/validation of business” for a Tier 2 Non-Resource Issuer:

1. Either: (a) development of the Issuer’s product/service has been ongoing for at least 12 months; or (b) not less than an aggregate of \$250,000 has been expended on the development of the Issuer’s product/service (excluding general and administrative expenses).
2. The Issuer will expend not less than \$500,000 on the development or commercialization of the product/service over the 12 months post-listing.
3. A working prototype or beta version of the Issuer’s product (or, where applicable, the Issuer’s service) has been created which reasonably demonstrates that development of the final product (or delivery of the final service) with expected functionality is possible.
4. Based upon the stage of development of the product/service at the time of listing along with the Issuer’s intended activities and use of available funds following listing, there is a reasonable expectation that: (a) within 12 months of listing the Issuer will have a product/service at the commercialization stage (i.e. the Issuer will have a developed product or service that it is able to offer for sale and the means of producing/providing such product or service); and (b) within 24 months of listing the Issuer will be generating revenues from the sale of such product/service.
5. The Issuer has a joint venture or collaborating arrangement with a credible third party in respect of the development of its product or service. For a research and development issuer (Life Sciences), this may include having its research programs sponsored or supported by a credible third party institute such as a university.²

¹ The revenues may have been generated by the Issuer, Target Company or vendor, as the case may be.

² Within this context, the collaboration or sponsorship will generally mean that the third party is directly or indirectly supporting the development or R&D activities whether financially or through the provision of services or facilities. An Issuer contracting a third party to provide certain development or R&D related services does not constitute collaboration or sponsorship in this context.

6. The Issuer has principals/founders who have a successful track record in developing products or services within the same or similar industry as may be evidenced by, without limitation:
- the commercial sale of such products or services;
 - positive cash flow being generated from the sale of such products or services; and
 - where applicable, technical expertise in the industry sector.

Enhancing the Utility of Pre-Filing Applications

A pre-filing application is an application made by an Issuer with the Exchange in advance of the Issuer filing a full application to list on the Exchange. Pre-filing applications are a means of obtaining the Exchange's views and position in respect of a specific matter that is of material consequence to an Issuer's application to list and for which the Issuer may have some uncertainty as to what the Exchange's position will be. The utility of a pre-filing application in these instances is to have the matter in question addressed before the Issuer incurs the time and expense associated with preparing and submitting a full application to list with the Exchange.

The Exchange strongly encourages and recommends that Non-Resource Issuers submit a pre-filing application with the Exchange requesting a preliminary assessment of the Issuer's ability to satisfy the "history of operations/validation of business" ILR. This will allow the Issuer to obtain the Exchange's views and position on this material component of the Exchange's review and approval of the Issuer's listing merits prior to the Issuer incurring the time and expense of preparing and submitting a full application to list with the Exchange. A pre-filing application is recommended whether or not the Issuer believes it satisfies the "history of operations/validation of business" ILR based on the above-stated criteria.

A fulsome pre-filing application in respect of the "history of operations/validation of business" ILR will facilitate and create efficiencies within the listing process of a Non-Resource Issuer. To facilitate the Exchange's review of the pre-filing application and its assessment of the Issuer's ability to satisfy the "history of operations/validation of business" ILR (based on the above criteria or otherwise), the Issuer should provide the following information (as applicable) with the pre-filing application:

1. The particulars of the proposed listing transaction, if known.
2. The identity of the sponsor or agent/underwriter that will be involved with the proposed listing transaction, if known.
3. A brief description of the Issuer's product/service and its stage of development. Specifically, indicate whether the Issuer currently has a product/service at the commercialization stage or if it is in the process of developing its product/service.
4. A brief description of the development of the product/service to date including an itemized breakdown of development costs that discloses the entity that incurred the costs.
5. A summary of the revenues, if any, derived from the sale of the product/service in each fiscal year to date (including interim figures for the current fiscal year).
6. A brief description of any existing sales/service contracts.
7. For Issuers with a product/service at the commercialization stage:
 - (a) For product sellers, a brief description of the manner in which the product is and will be produced (i.e. description of production facilities, costs of production, etc.).

- (b) For service providers, a brief description of the manner in which the service is and will be provided (i.e. staffing requirements, cost of providing service, etc.).
8. For Issuers without a product/service at the commercialization stage:
- (a) A brief description of the remaining steps necessary for the Issuer to have a product/service at the commercialization stage including a timeframe and an itemized breakdown of remaining costs.
 - (b) Confirmation as to whether there is a working prototype or beta version of the Issuer's product (or, where applicable, the Issuer's service) which reasonably demonstrates that development of the final product (or delivery of the final service) with expected functionality is possible.
9. For Issuers with no history of revenues (or that do not otherwise satisfy the criteria of Tier 1 set out above):
- (a) A summary of the qualifications of the Issuer's principals in terms of developing products or services within the same or similar industry.
 - (b) A brief description of any joint venture or collaborating arrangement with a credible third party in respect of the development of its product or service.
10. Any other information the Issuer considers relevant to the Exchange's assessment of the Issuer's business and history of operations.

Please note that any pre-filing application will be subject to the "detailed preliminary assessment" fee set out in Policy 1.3 – *Schedule of Fees* (with such fee to be applied towards the full filing fees applicable to the Issuer's application to list, when and if made).

If you have any questions about this bulletin, please contact:

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