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You Must Build It Before They Will Come: Health Canada Announces Significant Change to Cannabis Licensing Process

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In a significant departure from past practice, Health Canada will now require prospective applicants for cannabis cultivation, processing or medical sales licences to have fully built regulatory-compliant facilities before it will review and process their licence applications.

Health Canada expects this change to address the supply shortages that many retailers have experienced since the *Cannabis Act* came into force in October 2018. The agency reported that it has more than 700 pending applications and that more than 70% of applicants that passed Health Canada's paper-based licensing review in the past three years have still not submitted evidence demonstrating they have built regulatory-compliant facilities.

For existing applicants, Health Canada will conduct a high-level review of their applications, including confirmation of the facility's location, an assessment of whether the applicant has obtained all necessary municipal approvals and a review of security clearances in place. If this initial review is satisfactory, the full application will be reviewed in greater detail, on a priority basis according to its original application date.

Previously, cannabis licensing applicants were able to advance their applications and obtain some level of assurance regarding licensing before spending capital on production facilities. Many applicants were able to raise substantial capital for build-out purposes on the basis of a pending licence.

We expect Health Canada's new approach will mark an inflection point in the development and maturity of Canada's cannabis ecosystem, including capital markets activity. The change will benefit well-capitalized issuers that are prepared to invest in the development of regulatory-compliant facilities without any licensing assurance from Health Canada. We also expect it will divert investment capital to issuers that have a demonstrated track record of building and successfully licensing facilities. Some industry experts agree, believing the change will make it more difficult for new producers to enter the market, exacerbating supply shortages. Whether this change will alleviate supply shortages and wait times for existing applicants that are ready or nearly ready to begin commercial operation remains to be seen.

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