



November 13, 2013

British Columbia Securities Commission
Alberta Securities Commission
Saskatchewan Financial and Consumer Affairs Authority
Manitoba Securities Commission
Ontario Securities Commission
Autorité des marchés financiers
New Brunswick Financial and Consumer Services Commission
Superintendent of Securities, Prince Edward Island
Nova Scotia Securities Commission
Securities Commission of Newfoundland and Labrador
Superintendent of Securities, Yukon Territory
Superintendent of Securities, Northwest Territories
Superintendent of Securities, Nunavut

DELIVERED BY EMAIL

Attention: The Secretary
Ontario Securities Commission
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Email: comments@osc.gov.on.ca

Me Anne-Marie Beaudoin
Corporate Secretary
Autorité de marchés financiers
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Email: consultation-en-cours@lautorite.qc.ca



Dear Sirs/Mesdames:

Re: CSA Notice and Request for Comment – Consultation Paper 54-401 – Review of the Proxy Voting Infrastructure

TMX Group Limited (“**TMX Group**”) welcomes the opportunity to provide comment on behalf of its subsidiaries, TMX Equity Transfer Services (“**TMX Equity**”), The Canadian Depository for Securities Limited (“**CDS**”), Toronto Stock Exchange (“**TSX**”), and TSX Venture Exchange (“**TSXV**”) in respect of CSA Notice and Request for Comment – Consultation Paper 54-401 – *Review of the Proxy Voting Infrastructure* (the “**Request for Comment**”) published by the Canadian Securities Administrators (“**CSA**”) on August 15, 2013.

All capitalized terms have the same meanings as defined in the Request for Comment unless otherwise defined in this letter.

As the premier provider of trade and post-trade clearing and settlement services in Canada, TMX Group supports the CSA’s review of the state of Canada’s proxy voting infrastructure. While we understand that the CSA has not concluded that regulatory action is desirable, or even required, and that amendments to rule-making authority under current law and/or regulation may be required, we concur with the CSA’s desire to clarify the respective viewpoints of Issuers, investors, and other stakeholders regarding the integrity and reliability of Canada’s proxy voting infrastructure. We note that CSA Staff Notice 54-302 dated October 31, 2013, states that certain CSA jurisdictions also intend to hold further consultations on this subject in early 2014. TMX Group looks forward to participating in the ongoing dialogue on this important issue.

The Request for Comment poses two key questions for comment, which we address below.

1) Is accurate vote reconciliation occurring within the proxy voting infrastructure?

TMX Group entities have been made aware of instances, by market participants, in which vote reconciliation was not accurate. The materiality of these issues, however, may depend upon the impact of such inaccuracies on the vote result and on investor confidence and engagement in the voting system.

In the infrequent cases where voting outcomes are not decisive, and a vote is close, full and accurate vote reconciliation is required. Without such accurate vote reconciliation, investor engagement and market confidence may be diminished.



While TMX Group cannot speak with respect to the market as a whole, we support the CSA further exploring the question of materiality of inaccuracies in the proxy voting infrastructure and the degree of vote reconciliation accuracy required to ensure investor and market confidence.

Except in circumstance where CDS holds all the outstanding shares of an Issuer, there is no single entity that holds all voting rights in respect of any specific security. Canadian transfer agents, custodians, and CDS each play a role in the share voting process. No single entity or group, however, has a complete view of all the steps in this process. CDS is, by a significant margin, the largest intermediate holder in Canada's indirect holding system. While CDS manages and reconciles other securities entitlements (dividend rights, for example), CDS does not manage or reconcile voting rights. A proxy voting hub operated by a third party provider could, in principle, mitigate or resolve perceived vote reconciliation inaccuracies.

Without having a significant impact on the current voting infrastructure, such a hub could facilitate the collection, collation, and reconciliation of Shareholder information with share positions from proxy providers. Securities Issuers or their agents, in theory, would be able to access a hub, for proxy information, and manage vote reconciliation from the time a proxy is granted to the time a vote is cast.

With respect to vote tabulation, TMX Group submits that the accuracy of the infrastructure requires that the tabulator or scrutineer have the ability to validate all votes and voting beneficial holders, throughout the tabulation process. During vote validation and tabulation, for example, it is common for investors, including Objecting Beneficial Owners (OBOs), to attend and to cast votes in person at a Shareholder meeting. Balloting, if required on a motion, would be significantly streamlined if the identity of the OBOs could be validated by the tabulation agent at the time a vote is cast, while privacy and confidentiality concerns can be mitigated with appropriate agreements and/or policies or procedures.

In the event that voting rights are affected by securities lending transactions (which some commentators have mentioned as a source of inaccuracy), votes which are attached to such security positions should be treated in a manner consistent with industry standards. TMX Group would only note that, irrespective of whether the right to vote a share rests with the borrower or the lender, a robust and reliable reconciliation process remains a critical infrastructure component.



2) What type of end-to-end vote confirmation system should be added to the proxy voting infrastructure?

TMX Group is of the view that an end-to-end voting confirmation system should establish minimum confirmation standards for all proxy votes and that such agreed upon standards should include input from beneficial shareowners. Security holder position records should be reconciled to the furthest extent possible by financial intermediaries prior to transmission to a service provider for distribution. Confirmation of the acceptance of, or rejection of, votes should be provided to the security holder and the intermediary as soon as possible after the vote is received, and in advance of the meeting, whenever possible.

Based on CDS' participation in various proxy voting discussion panels with interested parties, TMX Group believes that minimum confirmation standards should be established, and should be applied to all proxy votes; such standards should ensure the following:

- that votes are received by the intermediary precisely as input;
- that votes are accepted by the tabulator; and,
- that votes are counted as input at 100% of the voting strength of a security position and according to the number of shares owned (this ensures that votes are not pro-rated due to over-voting)

As proxy tabulator and scrutineer, TMX Equity is accountable to both securities Issuers and to security holders, and believes that all parties with a role in the voting processes should be accountable to the security holders, who depend on the system for their vote to be cast, and to Issuers, who rely on the results they receive in order to conduct their business. As proxy tabulator and scrutineer for companies trading in both the United States and Canada, TMX Equity is subject to audits by both Canadian and US securities regulators, and is accountable to the Issuers it acts for as agent.

At present, an intermediary vote is, in fact, a collection of voting instructions received from various security holders, and is cast as an aggregated vote. As transfer agent, TMX Equity is asked to tabulate such votes. In certain cases, there may be an insufficient number of shares available for a specific intermediary, resulting in the acceptance and confirmation of only a portion of the vote and, in certain cases, the rejection of the entire vote. Where only a portion of the vote is deemed valid, it is an open question how intermediaries are able to identify all underlying beneficial security holders.

Finally, and in general, should securities regulators determine that changes to rules are advised or necessary, TMX Group would support changes that avoid imposing an undue burden on



Canada's capital market participants, and that promote the integrity and reliability of the proxy voting infrastructure

TMX Group reiterates its appreciation for the opportunity to provide this comment, and is eager to expand upon its views at the upcoming OSC roundtable on January 29, 2014. We look forward to maintaining an open and continuous dialogue with the CSA, provincial regulators and market participants on this important issue in coming months.

Sincerely,

A handwritten signature in black ink that reads 'Kevan Cowan'. The signature is written in a cursive, flowing style.

Kevan Cowan
President TSX Markets and
Group Head of Equities
TMX Group