

July 22, 2014

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

The Secretary
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Me Anne-Marie Beaudoin, Corporate Secretary
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Dear Secretary and Me Beaudoin:

Re: Proposed National Policy 25-201 Guidance for Proxy Advisory Firms

The Canadian Investor Relations Institute (CIRI), a professional, not-for-profit association of executives responsible for communication between public corporations, investors and the financial community, is pleased to comment on Proposed Policy 25-201 *Guidance for Proxy Advisory Firms* (the Proposed Policy). CIRI advocates and supports good corporate governance practices for its members and recognizes its value as a contributing factor in establishing and maintaining the integrity and efficiency of capital markets. CIRI has previously contributed to this dialogue with our submission in September 2012 in response to the CSA Consultation Paper 25-401 *Potential Regulation of Proxy Advisory Firms* and provided therein a series of recommendations.

CIRI membership represents over 200 publicly listed issuers with a combined market capitalization of just under \$1.4 trillion. CIRI issuer members represent 87% of the S&P/TSX 60 Index companies and 54% of the S&P/TSX Composite Index companies. More information about CIRI is noted in Appendix 1.

Overall Concerns

We commend the CSA for reviewing proxy advisory firms, particularly in light of the impactful role they play in our capital markets. However, CIRI and its members are disappointed that the CSA have decided in the Proposed Policy to pursue a guidance-based approach rather than adopting regulations, which was the intent of the suggestions previously recommended by CIRI, issuers and other organizations representing the interests of the issuer community.

CIRI recognizes and understands that proxy advisory firms (PAFs) play a beneficial role in the capital markets by providing services that can improve institutional investors' ability to exercise their stewardship responsibilities. CIRI further recognizes that the primary relationship between PAFs and their principal clients is a contractual one and that regulators may be less willing to impose regulatory constraints on such relationships than on other market participants, such as corporate issuers and intermediaries.

However, the reports and voting recommendations produced by PAFs have a direct impact on the issuers. We contend that the existing practices of PAFs lack transparency, accuracy and engagement, all key drivers of market integrity and efficiency. While the Proposed Policy does go some way to improving transparency (assuming PAFs accept and implement the guidelines regarding disclosure of methodologies and procedures), it does little to foster improved accuracy and engagement with issuers.

One of CIRI's previous key recommendations was that draft research reports from PAFs should be provided to the subject issuer with a reasonable review period that allows for engagement should inaccuracies or misinterpretations be identified prior to distribution to clients. This is so factual errors can be identified and corrected, thus increasing the accuracy of such reports – to the benefit of all involved.

CIRI also recommended that in the event of a "negative" voting recommendation, that the reports issued to PAF clients include a section whereby the issuer has the option to provide commentary, an attempt to increase engagement and provide investors with a balanced view of a given issue – again to the overall benefit of all involved. CIRI continues to believe these are reasonable and appropriate requirements for PAFs.

The Proposed Policy, under the heading Corporate Governance Practices, states, in part, *"We wish to remind issuers that they may engage with their shareholders, who have the ultimately responsibility of determining how to exercise their right to vote, to explain why they have adopted a given corporate governance practice."* and *"If issuers have practices that are different from the standards set out in the proxy advisory firms' proxy voting guidelines, these practices can be discussed with institutional investors."*

One of the primary roles and responsibilities of the investor relations function in corporations, large and small, is to engage and communicate effectively with their shareholders and investors on a wide range of issues, including corporate governance practices. However, such engagement is significantly constrained in Canada where it is sometimes impossible to properly identify shareholders that have elected to be objecting beneficial owners (OBOs), unless their holdings exceed the current 10% Early

Warning Reporting (EWR) threshold. CIRI has been and continues to be supportive of proposed regulatory initiatives to reduce the EWR threshold to 5%. This change to 5% would provide additional opportunity for engagement and communication with identified shareholders not only during proxy season via the information circular but continually throughout the year.

In terms of issuer engagement with PAFs, only one-third of respondents to a recent CIRI poll of issuer members indicated that they have had discussions with one or more PAFs when those firms were developing their corporate governance policies/practices. Of the one-third of issuers who had such discussions all were large capitalization issuers (market capitalization of \$5 billion or more) and engagement was inconsistent and infrequent. Engagement with issuers at lower capitalization levels was essentially non-existent.

Detailed Issues Including Responses to CSA Questions

CIRI continues to believe that the influence of PAFs in the proxy voting process is significant, that too many factual errors are being found in PAF research reports, that there is insufficient engagement between issuers and PAFs and that the conflicts of interest at PAFs continue to be a concern. It is from this perspective that CIRI is providing comments on the Proposed Policy and on the questions posed by the CSA.

1. Policy-based Approach

In a 2014 survey of CIRI issuer members, 86% of respondents said that the Proposed Policy and its policy-based approach:

- will not address the concerns issuers have with PAFs;
- does little to address the undue influence of PAFs on shareholders;
- does not improve the accuracy of the research reports; and
- does not effectively address the issue of conflict of interest.

Respondents felt that the Proposed Policy as presented is not sufficiently forceful to effect meaningful change with regard to PAF activities and disclosure and that a regulatory approach would be more effective over the long term.

2. Material Concerns

According to the 2014 survey, 65% of respondents feel the Proposed Policy does not address a number of material concerns. A primary concern of issuers is that PAF reports frequently contain factual errors, which could be remedied by providing issuers with a draft of the research report and recommendations with sufficient time to review and respond before a final report is issued to the institutional investors.

Issuers continue to be concerned that the Proposed Policy does not adequately address conflicts of interest whereby PAFs will continue to be able to recommend votes “against” specific issues and then turn around and sell their services to issuers who may wish to ensure compliance with the policies of the PAF. To address such conflicts, issuers suggest that PAFs or institutional investors should be required to disclose the use of PAF services.

3. Transparent, Accurate and Meaningful Disclosure

Approximately two-thirds of respondents felt that the Proposed Policy will NOT promote meaningful disclosure to market participants.

Draft Research Reports

In our 2014 survey, CIRI members strongly reiterated the recommendation from our 2012 submission that PAFs should be required to provide to all issuers draft research reports and voting recommendations for review for factual accuracy allowing 48 to 72 business hours for issuers to respond prior to the report being distributed to the PAF's clients.

Comments from Issuers

In addition, CIRI members have expressed the view that in some instances it may be appropriate and valuable for the final PAF research report to contain a section for any commentary that issuers may wish to provide as a result of their review of the draft research report, in order to provide a more balanced view of potentially contentious issues.

Engagement with Issuers During Proxy Season

Issuers clearly, consistently and unanimously have requested that the Proposed Policy include a specific requirement, not a guideline, that PAFs give issuers an opportunity to engage with them when preparing their vote recommendations, particularly in instances where a PAF recommendation is for an “against” or “withhold” vote on a specific issue. CIRI emphasizes that such reviews should be fact-based and are recommended solely to improve the accuracy and completeness of the research. Issuers should have an opportunity to explain aspects of their disclosures that PAF researchers may have misunderstood or overlooked. PAFs should be open to engagement and dialogue in the same manner as any significant shareholder.

4. Conflicts of Interest – Ownership

In 2012, CIRI recommended that PAFs prominently identify in the research reports and voting recommendations provided to their institutional investor clients any specific potential conflicts of interest with regard to the issuer and analyst/reviewer ownership interests. CIRI and its members continue in 2014 to stand by this specific recommendation. Companies and their directors are rightly required to disclose any and all conflicts in the interest of fairness and transparency among market participants. There is no reason that PAFs, given their acknowledged significant impact on the capital markets, should not be subject to the same requirements for disclosure of potential conflicts.

5. Investor Confirmation of Proxy Voting Guidelines

In the 2014 survey, 79% of respondents indicated that PAFs should obtain confirmation that their clients have reviewed and agree with the PAF's proxy voting guidelines leading to vote recommendations. Given the dynamic nature of PAF voting guidelines, which are routinely reviewed and revised annually, obtaining such confirmation annually and following any

amendments to the PAF's proxy voting guidelines is appropriate.

6. Guideline Adoption and Compliance

If the Proposed Policy is adopted by the CSA, applying a guidance-based approach rather than a regulation-based approach, CIRI and its members strongly encourage the CSA to closely monitor not only market developments in the proxy advisory industry, but specifically the adoption of the guidelines by the PAFs.

The majority of survey respondents felt that the CSA should conduct a comprehensive review of the guideline adoption by PAFs one year after promulgation of final guidelines to determine if the objectives of improved transparency, accuracy and engagement have been achieved. This CSA review process should include consultation with all stakeholders, including issuers. If sufficient improvement has not been achieved, survey respondents unanimously felt the adoption of a regulation-based approach would be appropriate.

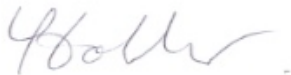
7. PAF Analyst Standards

One concern frequently raised by issuers, but not addressed in the Proposed Policy, is that it is not clear if the analysts generating research reports and recommendations at the PAFs are required to meet minimum standards of training, education, certification or experience. It is widely accepted that the reports and recommendations of PAFs do have a significant impact on capital market participants and should therefore be promulgated under standards consistent with other such research generated by research analysts, such as those in brokerage and institutional investment firms.

We reiterate our disappointment that the CSA opted for a guidance-based approach rather than regulations.

CIRI would like to thank the CSA for the opportunity to comment on this important topic and would be pleased to answer any questions or enter into dialogue on any of the above.

Sincerely,



Yvette Lokker
President & CEO

APPENDIX 1

The Canadian Investor Relations Institute

The Canadian Investor Relations Institute (CIRI) is a professional, not-for-profit association of executives responsible for communication between public corporations, investors and the financial community. CIRI contributes to the transparency and integrity of the Canadian capital market by advancing the practice of investor relations, the professional competency of its members and the stature of the profession.

Investor Relations Defined

Investor relations is the strategic management responsibility that integrates the disciplines of finance, communications and marketing to achieve an effective two-way flow of information between a public company and the investment community, in order to enable fair and efficient capital markets.

The practice of investor relations involves identifying, as accurately and completely as possible, current shareholders as well as potential investors and key stakeholders and providing them with publicly available information that facilitates knowledgeable investment decisions. The foundation of effective investor relations is built on the highest degree of transparency in order to enable reporting issuers to achieve prices in the marketplace that accurately and fully reflect the fundamental value of their securities.

CIRI is led by an elected Board of Directors of senior IR practitioners, supported by a staff of experienced professionals. The senior staff person, the President and CEO, serves as a continuing member of the Board. Committees reporting directly to the Board include Nominating; Audit; Membership; Issues; Editorial Board; Resource and Education; and Certification.

CIRI Chapters are located across Canada in Ontario, Quebec, Alberta and British Columbia. Membership is approximately 500 professionals serving as corporate investor relations officers in approximately 300 reporting issuer companies, consultants to issuers or service providers to the investor relations profession.

CIRI is a founding member of the Global Investor Relations Network (GIRN), which provides an international perspective on the issues and concerns of investors and shareholders in capital markets outside of North America. The President and CEO of CIRI also sits as a member of the Continuous Disclosure Advisory Committee (CDAC) of the Ontario Securities Commission. In addition, several members, including the President and CEO of CIRI, are members of the National Investor Relations Institute (NIRI), the corresponding professional organization in the United States.