10 August 2026

Canadian Securities Administrators

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, Department of Justice and Public Safety, Prince Edward Island
Nova Scotia Securities Commission
Office of the Superintendent of Securities, Service NL
Northwest Territories Office of the Superintendent of Securities
Office of the Yukon Superintendent of Securities
Nunavut Securities Office

Submitted electronically through the CSA consultation portal

Re: Proposed Selective Repurchase Exemption — NI 62-104

I am writing in my personal capacity as a consumer-protection advocate in response to the CSA's *Proposed Amendments and Changes to the Issuer Bid, Take-Over Bid and Beneficial Ownership Reporting Regimes*. My comments are limited to the proposed selective repurchase exemption in National Instrument 62-104 *Take-Over Bids and Issuer Bids*.

I have no objection to the exemption as a matter of principle. A negotiated repurchase can allow an issuer to acquire a large block at a discount, reduce a potential market overhang and provide liquidity that may be difficult to obtain through an ordinary market sale.

The proposed safeguards are substantial. The exemption would be limited to 5% of a class over 12 months, with no more than 5 sellers and 5 transactions, and would be available only where the securities have a liquid market and the purchase price is below the closing market price. The board would also have to make specified determinations concerning market liquidity and price impact, and neither party could possess undisclosed material information.

My concern is with disclosure.

Question 4 — Additional disclosure

Question 4 in the CSA Notice's **Request for Comments** asks whether the news release required after a selective repurchase should include additional information. My answer is yes.

Under the proposal, the issuer would disclose the seller, the number of securities purchased, the purchase price, the market price and any prior use of the exemption. Those are the facts of the transaction. They tell shareholders what happened; they do not tell them why it happened, or why it happened with that shareholder.

A selective repurchase involves more than a decision to buy back shares. The issuer is choosing a particular shareholder and providing that shareholder with private block liquidity using corporate capital. There may be sound reasons for the choice; the remaining shareholders are entitled to know what they are.

I recommend that the required news release also disclose:

- the business rationale for the transaction;
- the basis on which the selling shareholder was selected; and
- the board's conclusion that the transaction is in the issuer's best interests.

A short, plain-language explanation would do. It costs the issuer a paragraph and gives shareholders the one thing the current proposal leaves out.

Questions 10 and 11 — Potential misuse and greenmail

Questions 10 and 11 in the same **Request for Comments** section address potential misuse of the exemption, including greenmail.

Where a repurchase involves an activist shareholder, a board challenge or another material relationship, the news release should briefly explain how the board addressed it — including any review by independent directors or a special committee. Such transactions are often entirely proper; saying so costs nothing.

These additions require no shareholder approval, no issuer-bid circular and no case-by-case exemptive relief. The exemption is meant to simplify selective repurchases, and it should — but simplifying process is not the same as withholding reasons. A selective repurchase asks shareholders to accept both a use of their capital and a choice of counterparty. They should be told the reasons for each.

Yours truly,

[redacted]

Harvey Naglie