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Via Electronic Mail

British Columbia Securities Commission
Alberta Securities Commission
Saskatchewan Financial Services Commission
Manitoba Securities Commission
Ontario Securities Commission
Autorite des marches financiers
New Brunswick Securities Commission
Registrar of Securities, Prince Edward Island
Nova Scotia Securities Commission
Superintendent of Securities, Newfoundland and Labrador
Superintendent of Securities, Northwest Territories
Superintendent of Securities, Yukon
Superintendent of Securities, Nunavut

Re: Canadian Securities Administrators Consultation Papers 25-401

Dear Sirs/Madams:

I am writing on behalf of Teachers Insurance and Annuity Association of America (“TIAA”) and College Retirement Equities Fund (“CREF”) (collectively, “TIAA-CREF”). TIAA-CREF is a national financial services organization and the leading provider of retirement services in the academic, research, medical and cultural fields, with \$481 billion in combined assets under management as of June 30, 2012. CREF, one of the largest institutional investors, holds shares in over 9,000 publicly traded companies. Thus, we have a significant investment in Canadian companies as well, approximately \$3.3 billion in combined assets under management as of June 30, 2012. As a financial services provider charged with maximizing the collective value of over 3.7 million participants’ retirement savings, we have been a leading advocate for more than 30 years on behalf of shareholder rights and good corporate governance.

We commend the Canadian Securities Administrators (“CSA”) for providing, through the publication of Consultation Paper 25-401, *Potential Regulation of Proxy Advisors* (“Consultation Paper”), a forum for discussion of certain concerns related to the services provided by proxy advisory firms and their potential impact on Canadian capital markets.¹

Although the Consultation Paper covers multiple subjects related to the proxy advisors, we have focused our comments on some of our general observations of proxy advisors and a discussion on how TIAA-CREF uses proxy advisors and their research.

¹ CSA Consultation Paper 25-401, Notice 1.1.4, (June 21, 2012).

The Importance of Proxy Voting at TIAA-CREF

TIAA-CREF believes that well-functioning capital markets require a transparent flow of information from public companies, including information necessary to investors' informed voting of corporate proxies. Proxy voting is one of the primary methods for exercising our shareholder rights and constructively influencing the governance - and therefore, we believe, the performance - of our portfolio companies. TIAA-CREF commits substantial resources to make informed voting decisions in furtherance of our core mission of maximizing the value of assets managed. Our detailed voting policies are implemented on a case-by-case (and company-by-company) basis. In implementing these policies, we rely on our professional judgment informed by proprietary research, research reports from multiple third-party providers (including proxy advisors) and portfolio staff responsible for investment decisions regarding individual company stocks.

In addition to our role as an active and engaged shareholder, TIAA-CREF also sponsors a family of mutual funds which, along with CREF, are registered with the United States Securities and Exchange Commission under the Investment Company Act of 1940. From our perspective as an issuer, we believe that regulatory agencies, as well as companies, broker-dealers and bank intermediaries can do more to promote more meaningful disclosure in proxy statements. All participants in the proxy process have an important stake in its transparent and efficient operation, and should be willing to expend the resources necessary to remove any existing barriers to informed proxy voting.

How TIAA-CREF Uses Proxy Advisors

Generally. We note at the outset that we, like most institutional investors,² do not have any material complaints about proxy advisory services. While there is always room for improvement, we are generally satisfied with the information that proxy advisors provide us. However, we acknowledge from numerous conversations with issuers that many issuers have a deep frustration with proxy advisors. In our experience, some of the frustrations are simply disagreements with the advisors' recommendations; frustrations that regulatory action will not remedy. While other frustrations concern the process and analysis leading up to the recommendations.³ That said, we do believe that some of the complaints may be overstated.

Additional Analysis Tool. TIAA-CREF subscribes to the corporate governance research publications of several firms, and utilizes the electronic voting services offered by one of these firms. In addition, we prepare and follow our own internal proxy voting guidelines, using proxy advisory firm research solely as an informational tool to supplement our internally produced research. Moreover, we formulate our own voting decisions in-house, and use the third-party electronic voting platform only as a convenient and cost-effective instrumentality for transmitting our voting instructions to Broadridge, the agent for our primary custodial bank. In sum, these services inform and facilitate, but do not substitute for TIAA-CREF's exercise of independent judgment in arriving at our own decisions on how to direct the voting of portfolio company shares in the best interest of our beneficiaries.

² The Consultation Paper noted the lack of complaints from institutional investors, "To date, we have not received any complaints from institutional investors who subscribe for services provided by proxy advisory firms." See Consultation Paper at section 2.5.

³ For example, one of the stated frustrations is the limited opportunity afforded to issuers in most cases to review and discuss proxy advisory reports and recommendations prior to dissemination.

Extent of Reliance . We believe that there are many misconceptions regarding the way TIAA-CREF and other large institutional investors utilize the research reports prepared by the various proxy advisors. In addition, we agree, as noted in the Consultation Paper, that proxy advisory firms provide supplemental information, analysis, and research, which may improve the overall quality of votes.⁴ While the proxy advisors offer a standard voting policy, they also give their clients the option to view specialized policies such as those geared towards social investors or develop a custom policy based on an institution’s internal guidelines. In this way, the vote mechanics and record keeping are technically “outsourced”, but the institution itself retains the ability to customize the policy in furtherance of what the institution believes as a fiduciary to be in the best interests of their clients. In short, the institutional shareholder – not the proxy advisory firm – is making the ultimate voting decision.

Efficient User Interface. Though we dedicate a significant amount of resources to corporate governance research and the voting of proxies, we still would have challenges processing the 80,000 plus unique agenda items voted by our staff annually without utilizing this research. Particularly for routine meetings, the underlying information contained in these reports is organized in such a way as to allow our staff to more efficiently apply our internal policies. In our view, this is the most efficient way for us to be able to leverage the research without necessarily following the recommendation of the proxy advisors.

Accuracy. In our experience as an institutional investor proxy advisors have generally been accurate, however mistakes have been made on some occasion. Overall though, these errors are correctable, and usually remedied in a timely manner. We also note that many issuers will call us to discuss “inaccuracy” by proxy advisors and by the end of the discussion it is clear that there was no inaccuracy per se, but the issue is simply a disagreement in the judgment or outcome reached by the proxy advisor.

Summary and Conclusion

The CSA’s challenge is determining if a revision to the securities regulatory framework is warranted or whether these issues can be solved by market-based solutions. Overall, we believe that the CSA’s considerations concerning proxy advisors also must focus on whether or not institutional investors are using these services properly given their fiduciary duties in ensuring that they are voting in best interests of their clients. Ultimately, we believe that institutional investors have a responsibility to use proper judgment and ensure they use proxy advisors in a way that is consistent with being a responsible investor.

In closing, we thank the CSA for providing the public with an opportunity to respond to the questions outlined in the Consultation Paper. If you would like to discuss any of the issues raised in our letter, please do not hesitate to contact me at 212.916.4344, or my colleague, Stephen L. Brown at 212.916.6930.

Sincerely,

Jonathan Feigelson

⁴ See Consultation Paper, *Id.* at 1.4.