

March 1, 2021

Via E-mail: comments@osc.gov.on.ca

The Secretary

Ontario Securities Commission

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Via E-mail: consultation-en-cours@lautorite.qc.ca

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Dear Sirs/Mesdames:

Re: CSA Consultation Paper 25-403 - Activist Short Selling – Comment Letter from NOVAGOLD

NOVAGOLD RESOURCES INC. ("NOVAGOLD," "we" "our" or the "Company") welcomes this opportunity to provide comments on Consultation Paper 25-403 regarding Activist Short Selling (the Consultation Paper). We believe we have a unique perspective as the target of a recent short-and-distort attack by a non-Canadian entity that has had long-term negative impacts on the Company as a TSX and NYSE American issuer. Our current market capitalization is approximately \$3.75 billion, and our primary asset is the development-stage Donlin Gold project that we own 50/50 with Barrick Gold Corp.

We commend the Canadian Securities Administrators (CSA) for addressing the issue of how to better regulate activist short sellers in the Canadian marketplace and for their diligence in undertaking the extensive research and analysis presented in the Consultation Paper. We strongly support appropriate regulatory action to address activist short selling that has a devastating impact on a company's reputation, valuation, and shareholder assets.

NOVAGOLD'S Experience with an Activist Short Seller

As the recent target of an activist short seller, NOVAGOLD is extremely concerned about activist short selling and the lack of regulatory oversight of this particular market participant group. We experienced a short-and-distort attack by an activist short seller that began in May 2020 and has had lasting effects on NOVAGOLD's market valuation and some shareholder relationships. The immediate impact was a 30% reduction in our share price; our market capitalization dropped by more than \$1 billion in a very short time following the publication of the short report. As a result, the Company had to divert resources and capital that should have been devoted to investment in the business, first to correct the misinformation in the short report and salvage the Company's reputation, and secondly, to pursue defamation and trade libel claims in court against the short seller. The short seller prepared its report in secret over a period of at least eight months, which we later learned from our investor relations call notes as one of the short seller employees contacted us under false pretense and a different company name. Upon publication of the short report, our shareholders voiced

concerns and expected an immediate, detailed response from the Company to correct the short sellers' misstatements and provide the facts. NOVAGOLD's response was issued to the public seven trading days following the publication of the short report and required an incredible amount of resources and time from the Company's board, management team, and legal counsel to analyze, prepare, and distribute.

That an activist short seller can take months to secretly prepare and publish a report containing false or misleading market-moving information with no obligation to contact the company as sell side and buy side financial analysts usually do, nor cite author qualifications or the names or qualifications of subject matter experts cited in their report, and not provide any technical or financial qualifications in its report, is in blatant contrast to the rigorous regulatory disclosure regime required of issuers and other investors and market participants. Activist short sellers are currently permitted to act entirely without oversight. The ease of publishing research reports online and distributing via links in social media without quality control of any type exacerbates the potential for damage and puts issuers at a disadvantage to respond as in most all cases they are blindsided by the report publication. Of course, by the time the issuer reads such a report, so has the rest of the market; the damage is done. In NOVAGOLD's case, the activist short seller sent the report directly to fund managers and the largest shareholders of the Company as well as posted it to Twitter tagging dozens of other activist short sellers and followers of those activist short sellers.

Twitter was a secondary medium of attack on the Company in the months following the initial attack. NOVAGOLD is pursuing legal action to resolve the matter, but in the meantime the activist short seller continues to launch attacks against other issuers. The author of the NOVAGOLD report continues to make errors and inaccurate assumptions about other companies, unchecked. It was pointed out on Twitter by a comment linking to ASX disclosures that the author of the NOVAGOLD report had made errors and inaccurate assumptions in accusing executives of an Australian company of dumping their equity in the company in a February 2021 report. This bears significant similarity to false accusations contained in the NOVAGOLD May 2020 report. Almost a year after the fact, many shareholders and potential investors will ask about the short-and-distort campaign in meetings with the Company. The impact of attacks lasts long after the attackers have left the story behind and moved on to other targets.

A more recent illustration of how social media combined with short selling can have a deleterious impact on capital markets is the recent targeting by members of the Reddit thread wallstreetbets/ on a number of U.S. issuers that were already burdened by high levels of short interest in early 2021. While the wallstreetbets/ investors would be better defined as activist long sellers, the effects of the use of social media, the lack of accuracy or logic behind the investment thesis, manipulative intent to distort prices, and the noticeable and documented disruption in the market and on market participants are similar. As the CSA has stated, "Material and accurate information about issuers, whether it is positive or negative, assists in ensuring market prices reflect the fundamental value of the issuer's securities." The result of the attacks was massive, inefficient volatility for the targeted companies at no benefit to the issuer nor long-term investors or the marketplace. This activity is not conducive to a healthy capital market.

The current regulatory environment is biased and provides an activist short seller an advantage over other market participants who are subject to oversight, reporting, and regulatory obligations. This imbalance leads to behavior that creates an inefficient market, encourages distortion and inaccuracies that are difficult to correct, and leaves issuers and investors vulnerable and unprotected. Ultimately, all market participants benefit from knowing who the activist short seller is and whether they have a short position against the company. This

provides the market with more information with which to make investment decisions and minimizes the current skewed distribution of information.

RESPONSES TO CONSULTATION QUESTIONS

1. *What is your perception about activist short sellers? Please describe the basis of that perception.*

Issuers generally have a negative perception of activist short sellers because there is significant potential for unwarranted decreased valuations. Our experience has been that activist short sellers have a short-term, “me first” focus that can greatly and negatively impact issuers, shareholders, and stakeholders more broadly. Further, our experience is that the ultimate objective of activist short sellers is personal financial gain with little regard for any negative impact on the capital markets, such as loss of shareholder value, reduced market efficiency and transparency, or lack of price discovery.

The results of an activist short selling campaign can also have negative impacts beyond valuation. Activist strategies and tactics, which often include disclosing false and/or misleading information to the public, can represent an attack on an issuer’s brand, its corporate reputation and the reputation of executives and directors, with concomitant negative implications for other aspects of the business including sales, marketing, operations and human resource recruitment.

A major concern for issuers is that activist short selling activity is conducted behind a wall of secrecy whereby the source of the trading activity, as well as the identities of participants in the lending/borrowing of shares that is integral to short selling, is hidden from the targeted issuer and the investing public. In addition, there is no disclosure of the activist’s short position at any point during their campaign. This is in stark contrast to the extensive and forthright requirement for complete and non-selective disclosure faced by reporting issuers in Canadian capital markets.

NOVAGOLD recognizes that there is a role for some short selling activity in achieving efficient capital markets, particularly by hedge funds as part of their trading strategy. This in no way legitimizes activist short selling such as short-and-distort campaigns, manipulative falsehoods, and anonymous commentary.

2. *Can you give examples of conduct in activist short selling Campaigns that you view as problematic?*

Activist short sellers make no effort, nor are they required, to meet with management of the target issuer to discuss concerns or gain further insight into what they may consider contentious issues. Their research is generally conducted in secret and is ethically questionable, including NOVAGOLD’s experience of the activist short seller surreptitiously seeking information through the investor relations function under a false identity. Activist short sellers prefer to go undetected prior to broadly issuing their surprise attack report and this creates asymmetrical information and potentially greater profit for the activist short seller.

Communication from the activist short seller to the market (investors, potential shareholders, analysts, portfolio managers, etc.) is done without any notice to the target issuer and these research reports are not shared with management in advance of release, thus denying the issuer an opportunity to identify and potentially correct factual errors. Such reports frequently contain false or misleading information that can have an immediate, often significant, impact on the issuer’s share price, business, reputation, and resources needed to respond and mitigate any fallout.

A major frustration for issuers is the lack of transparency surrounding the identity and financial stake of activist short sellers. The identity of the activist short seller is not known until after the damaging report has been issued. The short seller's equity position is nebulous given the existing reporting requirements – too little, too fuzzy, and much too late. Unlike with long investors, aggregated data reports on short positions provide no insight into who is shorting and what opening or closing positions they have. Under an activist campaign, a significant amount of damage can be inflicted upon an issuer's valuation by an insignificant short position and amplification through a misinformation campaign.

3. *Given the focus of the available data is on prominent activist short sellers, what is your view regarding less prominent activist short sellers or pseudonymous activist short sellers targeting Canadian issuers? How can they be identified? Is there any evidence that they are engaging in short-and-distort campaigns?*

From NOVAGOLD's experience, the geographic location of the issuer has little to no bearing on who short sellers select as a target. Ample liquidity definitely plays a role as activist short sellers have previously targeted international issuers and may now be increasingly looking to target Canadian issuers. Reasons for this shift in focus are unclear although, as noted in the Consultation Paper, the less restrictive regulatory regime toward short selling in Canada may play a role. Another factor may be the increased use of social media that allows information to be disseminated to audiences around the world simultaneously while also proactively sending reports to the target's shareholders directly via email.

The short-and-distort campaign initiated against NOVAGOLD was orchestrated by an Asian-based short seller who had previously attacked almost exclusively Chinese issuers listed on U.S. or Australian Exchanges before opportunistically shifting focus to the mining and resource sector in Canada. The methodologies of this attacker included questionable tactics such as generating a research report that misrepresented or ignored facts and maligned individuals on the issuer's management team. The activist short seller's report was published online and sent directly to the email inboxes of a targeted group of the Company's major shareholders. In addition, the report was distributed directly to other activist short sellers through various social media channels, including Twitter. Such strategies bear the hallmarks of a classic short-and-distort campaign: easy to initiate; rapid report distribution of false or misleading information; and an undisclosed individual short position taken prior to the issuance of the report.

As for identifying these activist short sellers, reporting requirements must be more extensive as outlined in our responses to questions 10 and 11.

4. *What empirical data sources related to Campaigns should we consider?*

Initially, it may be instructive to examine the claims in activist short reports relative to the issuer's disclosure record to determine if there is a history of misrepresentation or misinformation. If so, the short seller's communication to shareholders and the broader market should be closely examined to determine the impact on the issuer so that appropriate action can be taken, assuming regulators are given the authority to take action.

5. In 2019, there was a large drop in the number of Canadian issuers targeted by prominent activist short sellers compared to the year before. Are there market conditions or other circumstances that in your view could lead to an increase? Please explain.

Clearly there are circumstances and market conditions that may be conducive to increased short selling activity. For example, when a sector is overvalued, or has increased quickly against the general market, it is more likely to be targeted by short sellers, some of which may be activist short selling.

Additionally, in each sector one issuer may be perceived to be more highly valued compared to its peers. If there is no significant or rational reason for its outlier status, then that issuer may be seen as a potential candidate for increased activist short selling activity.

Industries and sectors impacted by significant extenuating circumstances, such as the global COVID-19 pandemic, may well produce conditions and/or forecasts akin to a bubble that, as history documents, will at some point burst and facilitate wealth generation through a short selling strategy.

6. Is there any specific evidence that would suggest that Canadian markets are more vulnerable to activist short selling, including potentially problematic activist short selling (e.g., size and type of issuers, industries/sectors represented or other market conditions)? Please provide specific examples of these vulnerabilities, and how they differ from other jurisdictions.

Canadian markets have features that could make some issuers more attractive as short selling targets. Both the oil & gas and mining sectors constitute a considerable portion of Canadian capital markets and set Canada apart from many other markets worldwide. Both sectors are characterized by high volatility, and capital-intensive businesses heavily reliant upon market conditions for raising funds through the issuance of shares, both which can potentially provide substantial opportunities for short selling. While many of the issuers in these sectors are smaller players with perhaps less liquidity than short sellers prefer, there are enough medium to large issuers to satisfy the needs of those seeking to profit from selling short.

Within the Canadian context, markets have recently become more attuned to environmental, social, and governance (ESG) issues. As investors continue to place increasing importance on such issues and their relationship to valuation, there will naturally be the kind of price fluctuations that investors, holding both long and short positions, will attempt to exploit. It will also present additional opportunities for activist short sellers to 'tell a story' that presents perhaps a perspective on an issuer's ESG performance and, therefore, valuation.

Canadian markets are also characterized by a short selling reporting regime that is less vigorous and transparent than other jurisdictions. The depth of reporting is inadequate since reporting is limited to aggregate data with no inclusion of the short seller's identity, specific transaction volumes, the aggregated position of the individual short seller, nor the sellers opening and closing positions. The Canadian system also currently suffers from a lack of timeliness compared to other jurisdictions. Reporting of aggregated data in Canada is done only twice monthly to IIROC who then posts it on their website. Whereas, in other key jurisdictions, such as the U.S., European Union, and Australia, daily reporting of at least some short selling data is the norm. It should be noted that in some cases, particularly the U.S., individual transactions are disclosed less frequently, but they are disclosed. Both

the EU and Australia are committed to more timely disclosure, a disclosure regime that NOVAGOLD strongly supports.

7. Do issuers have practical limitations in terms of their ability to respond to allegations made in a Campaign? If so, what are these limitations, and do you have any recommendations on how to alleviate them?

Issuers are significantly limited in their ability to respond effectively to allegations made by an activist short seller during a Campaign. Once an allegation of any type has been published to the market, the targeted issuer must marshal and redirect appropriate resources within the organization; analyze the threat to its reputation by thoroughly reviewing each assertion in the short seller's report; determine the best course of action; construct and write a rebuttal; and ensure it is vetted and supported by appropriate experts and legal resources, all of which takes time. Unfortunately, given the speed of today's communication technologies and the significant impact that social media can have, much of the damage to the issuer's reputation and valuation has been done before the issuer even gets a copy of the damaging report, making it far more difficult to respond promptly and effectively. Issuers are not even able to identify the presence of an activist short seller based on current aggregated short position reporting, despite monitoring said reports.

Further, as there is likely no pre-existing relationship between an issuer and an activist short seller, we recommend that before a report is issued to the investing public, an issuer should have the opportunity to review the report, identify factual errors and perhaps have a means to provide their own rebuttal commentary that would be issued concurrently or be included within the activist short seller's report. The Canadian Investor Relations Institute (CIRI) has long advocated that such a mechanism be applied to voting recommendation reports issued by proxy advisory firms (PAFs). It should be noted that the recently released final report of the Capital Markets Modernization Taskforce has included a recommendation calling for the introduction of a securities regulatory framework for PAFs by September 1, 2022 to ensure that PAFs' institutional clients are provided with the issuer's perspective concurrent with the PAF's recommendation report. Thus, there is precedent for this type of pre-review of research reports that significantly impact reporting issuers. CIRI believes this should also apply to reports issued by activist short sellers and cannot understand why these reports can be issued with no checks or balances given the material impact they can have on an issuer's stock.

The overriding recommendation for alleviating the concern with activist short sellers is to examine the legitimacy of these firms and then adopt a regulatory stance that will govern them appropriately. One of the hallmarks of good corporate governance is to establish policies and practices that support open and transparent engagement with shareholders, analysts, and other capital market stakeholders such that the markets can establish a fair and accurate valuation based on full and open disclosure, and that all participants, whether long or short, are treated similarly. It seems reasonable to establish regulations that hold activist short sellers to a similar standard.

8. Are issuers reluctant to approach regulators when they believe that they are being unfairly targeted by an activist short seller? If so, why? If not, why not?

Given the lack of regulatory oversight and consequences for such sellers, and the lack of precedent, issuers believe that regulators do not have the authority or resources to initiate enforcement action so

there is no point in engaging them. If the regulators did have authority and exercised it appropriately, issuers would not be reluctant to approach them.

9. *Is the existing regulatory framework adequate to address the risks associated with problematic activist short selling? Please explain why or why not and provide specific examples of concerns and areas where, in your view, the regulatory framework may not be adequate.*

NOVAGOLD believes the existing regulatory framework is not adequate to address the problems that issuers face because of activist short selling. There is currently inadequate disclosure of short seller positions in terms of opening, changes in, and closing of positions; the identity of the short sellers; and the frequency of reporting short positions. Including this level of detail and with increased frequency (*i.e.*, daily) would bring Canadian regulators more closely in line with other major jurisdictions such as the EU and Australia.

The lack of regulatory-driven disclosure around a short seller's position has the effect of increasing the risks faced by issuers and by the market overall. All participants in the broader market should be able to determine if someone publishing a short report has a large short position in the target issuer. Knowledge of a short seller's position better allows market participants to make an informed decision as to the validity of the claims being made by the activist short seller and an informed market is a more efficient and transparent market. The activist short seller that attacked NOVAGOLD had a Terms of Service statement on the report that they "may benefit from short positions a client has in all stocks (and/or options, swaps, and other derivatives related to the stock) and bonds covered herein, and therefore stands to realize significant gains in the event that the price of either declines". Mandatory disclosure by short sellers of their precise short position at the top of the short seller report on the target company would ensure full disclosure to all who read the report.

Furthermore, there is a lack of regulatory mechanisms to investigate whether the allegations made by an activist short seller regarding a target issuer are legitimate. If regulators are given authority over activist short sellers, consideration needs to be given to issuers with dual listed shares. There should be coordination between regulators (*i.e.*, CSA and SEC) or clear accountabilities as to which jurisdiction has the lead, to ensure appropriate action is taken in a timely manner.

10. *Have there been market developments or new information since 2012, when UMIR amendments regarding short selling and failed trades were implemented, that would warrant revisiting the existing regulatory framework for short selling? If so, please describe these new developments or information and indicate, providing evidence to support your views:*

a. whether, in your view, there is a connection between failed trades and activist short selling;

b. what changes should be considered and why, and specifically with respect to potentially problematic activist short selling activities; and

c. whether there are relevant regulatory requirements in other jurisdictions that should be considered and why.

Activist short selling has become more prominent in Canada since 2012 as evidenced in Figure 2 of the Consultation Paper, particularly in the years since 2015. In the intervening years, the role of social media in the market has expanded exponentially. The ability to immediately disseminate news and

opinions, both positive and negative, has mushroomed over the past decade. It is now easier than ever for malicious claims against an issuer to be disseminated widely over several markets in an instant. Add to that, the online audience is now larger than it has ever been. All of this makes it nearly impossible for a targeted issuer to respond to allegations made by activist short sellers before the damage is done.

Given that a primary reason for failed trades is the inability of a short seller to obtain borrowed shares prior to settlement of the short sale, it makes sense to conclude there is a strong connection between failed trades and activist short selling. It is difficult to determine the true nature of the relationship since detailed information and hard data related to the lending/borrowing of shares is not readily obtained. Lending activity is generally conducted through a brokerage and there is little or no regulatory requirement for disclosure of such activity. It would benefit the market if share lending arrangements were disclosed publicly and in a timely manner, including the identity of the borrower and the size of the transaction.

Implementing a reporting regime for this activity in line with the EU would provide much more transparency, not only to the issuer but, to the market. This enhanced disclosure with respect to the opening, change in, and closing of positions as well as identity could limit predatory activist short selling.

11. Is the existing disclosure regime for short selling activities adequate? Please explain why or why not, indicating:

a. what disclosure requirements would address risks associated with potentially problematic activist short selling and how would such requirements improve deterrence;

b. what should be the trigger and the timing of any additional disclosure;

c. how can additional disclosure be meaningful without negatively impacting market liquidity; and

d. do you foresee any issues with imposing a duty to update once there has been a voluntary disclosure of a short position?

a. & b. NOVAGOLD believes that the existing disclosure regime for short selling activities is not adequate and would be improved if there were increased disclosure around short selling, with a trigger and timing similar to how long selling is currently tracked by market participants, particularly on a short seller's identity as well as the opening, changes in, and closing positions of the seller's holdings in the issuers stock and that this information should be available daily. Reporting issuers are required to operate under strict conditions of selective disclosure, therefore activist short sellers with market moving news, should also be held to the same strict standard. Activist short seller reports should be reviewed by IROC for compliance with accepted research report parameters of accuracy, accreditation of the report writer, and citations from professional sources if such opinion is provided prior to a report's release. Professional opinions must be attributed to named and properly accredited

professionals. There should be a National Instrument of Standards of Disclosure for Activist Short Sellers that applies to any party issuing a report about a Canadian issuer.

An example of how this applies would be a review process of activist short seller reports conducted in a similar way and with applicable expertise as NI 43-101 report disclosures are made regarding material changes in information. Any activist short seller report that contains accurate, verifiable information should be required to obtain regulatory approval prior to dissemination to market participants. Those that do not comply due to, for example, a lack of accreditation or substantive evidence to back a report's claims would be rejected and those that distribute reports that have not sought review approval would face fines and marketplace bans, as is the case with other participants who contravene Canadian regulations and law. The Consultation Paper outlines a proposal for a 10-day minimum holding period that would apply to any short seller who opens a large position and disseminates market-moving information. NOVAGOLD agrees that this could provide the market with an opportunity to evaluate the quality and credibility of the information as well as allow the target issuer the opportunity to develop and distribute their own message to the market and/or to correct inaccuracies in the report of the short seller. An alternative that would not burden the regulator, or that could be used as an enhanced approach in addition to regulatory review, would be for research reports published by an activist short seller to be provided to the target issuer in advance of its release to the market, to allow the issuer an opportunity to review the report and provide corrections to factual inaccuracies. Issuers should also be provided with the final report at the same time as the first market participant.

c. Additional disclosure by activist short sellers will improve market efficiencies. At present, all other market participants are at an information disadvantage due to asymmetrical information. Activist short sellers should have the same duty and obligations as long holders. Usual short sellers are market professionals such as hedge funds that use shorting to manage risk in their portfolio. An activist short seller is not managing a portfolio and is not using shorting as a means of managing risk but of creating risk to all other parties to gain a financial advantage over all other market participants.

d. There may be no need to immediately update the market following voluntary disclosure based on a review of any disclosure report by regulators and/or the issuer in advance of its distribution. All market participants are aware that activist short sellers tend to be short-term holders. However, quarterly reporting of positions thereafter to IIROC and the issuer would provide adequate disclosure.

12. *In your view, do the existing enforcement mechanisms adequately deter problematic activist short selling? If so, why? If not, why not?*

No. If enforcement measures were in place to deter or prevent activist short selling in its current form, then its impact on issuers would not be measurable and there would be no need to solicit feedback from market participants on how best to address the bad actors. As the victim of an activist short seller, NOVAGOLD has experienced firsthand the impact on trust-based relationships with investors that have been built up over years of interaction. While we have subsequently learned the majority of shareholders that sold after the activist short seller report was issued were retail shareholders, surprisingly some of our most knowledgeable institutional investors reacted to the report by selling a portion of their holdings immediately. Some have bought back. Others either sold out or retain only a small fraction of their previous holdings. NOVAGOLD responded to the short

seller report with a detailed rebuttal that included a 40-page fact matrix that countered each statement in the report with factual support, a 17-page letter from the Chairman who also represents the Company's largest shareholder, and a number of other media releases countering the claims made by the activist short seller, but it took valuable time to prepare a detailed response. Our investor relations, management team, and board of directors spent hundreds of hours in defense of the attack and actively engaged with many shareholders through electronic and telephonic conversations. Despite this effort to counter the short seller's false claims, and the consistency of the disclosure and performance of the management team over many years, some investors remain shaken and the Company's share price has not recovered.

a. Can deterrence be improved through specific regulation of activist short sellers? If so, how?

Yes. Specifically, activist short sellers should be required to comply with comparable disclosure restrictions and regulations as other market participants. Activist short sellers typically do not maintain rigorous internal controls on the information contained in the reports they issue and have proven to be bad actors that do not apply the same professional rigor to their reports as sell side and buy side analysts do. One positive step is for IIROC to require a review of any activist short seller report prior to publication. A second step is for the issuer to be provided with an advance copy of the disclosure.

The need for the Canadian regulators to be involved is that there is currently no mechanism under Canadian securities law for issuers or investors to seek damages against activist short sellers for statements made in the context of short-and-distort campaigns. Other jurisdictions have provisions under their corporate or securities legislation that provide a private right of action for certain contraventions, including prohibitions on the making or dissemination of false or misleading information and statements by any person, which characterizes some activist short selling activity.

13. Are there additional or different regulatory or remedial provisions that could be considered to improve deterrence of problematic conduct? If so, what are these provisions?

A regulatory review of the extent and implications of naked short selling and failed trades as well as the impact of the removal of the tick test in 2012 should be undertaken given the changes in the marketplace including the mediums of communication and coordination among activist short sellers that have emerged since the last review in 2012.

Regulators may also wish to examine the effects of increased algorithmic trading, institutional investors that use quantitative analysis, and the growth of passive investment funds such as index and Exchange Traded Funds. Few of these entities actively engage with issuers. Program trading is often triggered by sudden drops in share price due to 50-, 100-, and 200-day moving averages, which may be somewhat influenced by the recent increase in passive investing, particularly given the relatively recent rapid expansion and influence of Exchange Traded Funds on the Canadian markets.

14. Can you provide examples of specific activist short selling conduct that in your view is problematic but may not fall within the scope of existing securities offences such as market manipulation and misrepresentation/misleading statements? In your view, how should this problematic conduct be addressed by securities regulators?

Activist short sellers are to be distinguished from other short sellers in the marketplace who use shorts as a means of hedging positions. These latter shorts do not create excessive counterparty risk and do not purport to influence the market to gain an advantage and profit. Particularly problematic are those activist short sellers who in the space of days take positions prior to issuing a sneak attack negative report and then leverage the effects by lobbying other activist short sellers to participate in the short attack.

Damage from a short attack is done in hours and days, which is why a regulatory reactive response ultimately will not prevent the attacks. Real time information about short positions, would be a good the first step to allow issuers to proactively engage with those growing a short position.

The most problematic conduct not currently addressed proactively by securities regulators is that there is currently no oversight regarding the reports issued by activist short sellers and no disclosure rules or professional requirements to meet prior to issuing a report.

Securities legislation prohibits activities that are manipulative and/or deceptive. IIROC monitors for potentially abusive trading activity but from NOVAGOLD's experience, the time between dissemination and an issuer's response to a surprise short report is where the damage is done. The Company was the first to inform IIROC about the issuance of the short report when it submitted a media release responding to the report. The damage from the attack was immediate. On the issuance date of the report, twice the usual volume of shares traded, and the Company's market capitalization lost 8.5%. In the five trading days after the report's issuance, NOVAGOLD's share price dropped by 16% and lost \$700 million in market capitalization.

It is understood that IIROC uses algorithms to monitor for unusual levels of short selling coupled with significant price movements and reviews alerts to determine the cause of unusual price movement and whether there is an indication of manipulative trading activities. As far as the Company is aware, despite significant disclosure countering the activist short seller claims, IIROC made no referral to the enforcement branch of the CSA to trigger an investigation.

15. Is it important that a statement have actual market impact to trigger enforcement action by securities regulators?

a. Should another standard be used? For example, in your view is the "reasonable investor" standard a preferable approach (e.g., would a reasonable investor consider that statement important when making an investment decision)? If so, why? What are the potential implications of such a change?

a. When judged by the response of our investors – institutional and retail – and comments the Company has seen on social media from investors of other issuers attacked by the same activist short seller who attacked NOVAGOLD, the issuance of an activist short report always has a

market impact and causes damage to an issuer's reputation and business. After the issuance of the activist short seller report against NOVAGOLD, investors of all sizes and qualifications asked similar questions about the validity of claims made in the report. These are reasonable investors, some with decades of experience in the precious metals' investment space. We believe that with each passing day between the issuance of a short report and the target company's response the seeds of doubt and anxiety grow in investors minds. Closing this time gap through regulation of short seller reports is imperative.

In NOVAGOLD's case, the short-and-distort report clearly had an influence on the volume of shares traded. Considering that activist short sellers are usually small market participants who make comparatively small bets on the short positions they hold; they can have an outsized effect when they attack an issuer. This is primarily because activist short sellers can connect to a network of other activist short sellers, retail investors, and smaller hedge funds who, together, can have a significant and concentrated impact on volumes of shares traded and valuations.

Enforcement may not be triggered if the aforementioned disclosure policy requiring activist short sellers were adopted requiring activist short sellers to submit reports to IIROC and or the target issuer for review prior to dissemination.

Thank you for the opportunity to submit our feedback on this issue critical to the Canadian marketplace. Should you wish to discuss this submission further, please don't hesitate to contact us.

Regards,

"Gregory A. Lang" (signed)

Gregory A. Lang
President & Chief Executive Officer
NOVAGOLD Resources Inc.

c.c. Dr. Thomas Kaplan, Chairman, Board of Directors
Sharon Dowdall, Chair, Corporate Governance and Nominations Committee and Special Committee

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

Superintendent of Securities, Northwest Territories
Superintendent of Securities, Nunavut