POLICY STATEMENT 58-201 RESPECTING CORPORATE GOVERNANCE PRINCIPLES

PART 1 INTRODUCTION AND APPLICATION

1.1. What is corporate governance?

Corporate governance is the set of rules, relationships, systems and processes that directs and controls the actions of issuers. It covers relationships between an issuer's executive officers, its board of directors (the board), its shareholders and other stakeholders, and the mechanisms for holding issuers and the board and executive officers accountable.

Corporate governance influences how an issuer establishes and achieves its objectives, monitors and assesses risk, and optimizes its performance. However, corporate governance on its own cannot prevent issuers from making poor decisions or from business failure.

1.2. Purpose of this Policy Statement

This Policy Statement sets out high level corporate governance principles and provides guidance to issuers on their corporate governance structures and practices. We recognize that there is no single model of good corporate governance and that the structures and practices that are most appropriate will vary among issuers. We have taken a flexible, principles-based approach that is designed to:

(a) provide protection to investors and foster fair and efficient capital markets and confidence in those markets;

(b) reflect the realities of the large number of small issuers and controlled issuers in the Canadian market; and

(c) take into account corporate governance developments around the world.

1.3. Structure of this Policy Statement

This Policy Statement articulates nine core principles to address corporate governance subjects not comprehensively covered in other requirements or guidelines. Each principle is accompanied by commentary that provides relevant background and explanation, along with examples of practices that could achieve its objectives.

The commentary and examples of practices are designed to assist issuers in crafting their own corporate governance regime that is appropriate in the circumstances. They are not meant to create obligatory practices or minimum requirements. The corporate governance practices of issuers may differ from the examples of practices identified but be equally good practices provided they achieve the objectives of the principles.

While we encourage issuers to consider the commentary and examples when developing their own corporate governance practices, we recognize that:

(a) other corporate governance practices could achieve the same objectives;

(b) corporate governance evolves as an issuer's circumstances change; and

(c) each issuer should have the flexibility to determine the appropriate corporate governance practices for its circumstances.

1.4. Application to non-corporate entities

Regulation 58-101 respecting Disclosure of Corporate Governance Practices (Regulation 58-101) applies to both corporate and non-corporate entities. Reference to a particular corporate characteristic, such as a board or shareholders, includes any equivalent characteristic of a non-corporate entity.

Income trust issuers should, in applying this Policy Statement, recognize that certain functions of a corporate issuer, its board and its management may be performed by any or all of the trustees, the board or management of a subsidiary entity of the trust, or the board, management or employees of a management company. For this purpose, references to "the issuer" refer to both the trust and any underlying entities, including the operating entity.

1.5. Related disclosure requirements

Under Regulation 58-101 issuers are required to disclose and explain their corporate governance practices in relation to each principle to help investors understand those practices.

1.6. Other requirements and guidelines regarding corporate governance

Corporate governance covers a broad range of subjects, some of which are addressed in various other instruments including:

(a) *Regulation 51-102 respecting Continuous Disclosure Obligations*;

(b) *National Policy 51-201 Disclosure Standards*;

(c) *Regulation 52-109 respecting Certification of Disclosure in Issuers' Annual and Interim Filings*; and

(d) *Regulation 52-110 respecting Audit Committees* (Regulation 52-110).

PART 2 INTERPRETATION

2.1. Meaning of independence

For the purposes of this Policy Statement, a director is independent if he or she is independent under section 1.4 of Regulation 52-110.

2.2. Meaning of subsidiary entity

For the purposes of this Policy Statement, "subsidiary entity" has the same meaning as in Part 1 of Regulation 52-110.

2.3. Definitions

Terms defined in Regulation 58-101 have the same meaning if used in this Policy Statement, unless otherwise defined.

PART 3 PRINCIPLES

Principle 1 – Create a framework for oversight and accountability

An issuer should establish the respective roles and responsibilities of the board and executive officers.

Commentary

The responsibilities of the board and executive officers should be clearly defined to, among other matters, promote accountability to the issuer and its shareholders and an appropriate allocation of authority.

In general, the board is responsible for setting the overall vision and long-term direction of the issuer, including risk and return expectations and non-financial goals. The primary role of executive officers is to develop and implement an appropriate strategy that meets the board's vision and direction.

The division of responsibilities between the board and executive officers will depend on the size, complexity and ownership structure of the issuer. It may also be influenced by the competencies and other attributes of directors and executive officers. The division of responsibilities may differ from issuer to issuer and may change as the issuer's business evolves.

Usual responsibilities of the board

The board is usually responsible for:

(a) developing the issuer's approach to corporate governance, including a set of corporate governance practices that are specific to the issuer;

(b) recruiting and appointing the CEO and evaluating his or her performance based on clear objectives;

(c) satisfying itself that the executive officers have integrity;

(d) empowering the CEO, and other executive officers to create a culture of integrity throughout the organization and satisfying itself they have done so;

(e) adopting a strategic planning process and approving, at least annually, a strategic plan, including any amendments, that takes into account the opportunities and risks of the business, among other things;

(f) identifying the principal risks of the issuer's business and ensuring that appropriate systems are in place to manage these risks;

(g) ensuring that a system for succession planning is in place, including appointing, training and monitoring executive officers;

(h) adopting a communications policy for the issuer; and

(i) adopting measures for receiving feedback from stakeholders.

Examples of practices

The objective of this principle can be achieved in a number of ways, including by:

(a) adopting a written mandate or formal board charter that details the board's roles and responsibilities and the roles and responsibilities of each standing committee of the board, if any;

(b) having the board develop clear position descriptions for the chair of the board and the chair of each board committee;

(c) having the board together with the CEO, develop a clear position description for the CEO, which may include delineating management's responsibilities; and

(d) providing directors with the terms and conditions of their appointment.

Principle 2 – Structure the board to add value

The board should be comprised of directors that will contribute to its effectiveness.

Commentary

The board's role is to provide strategic leadership to the issuer and to supervise the performance of executive officers.

An effective board is structured in a way that allows directors to:

(a) fully and effectively carry out their fiduciary duties; and

(b) add value to the issuer with a view to its best interests.

The composition and size of the board may change as the circumstances of the issuer and its directors change.

Board composition

Each director should have skills that will contribute to the effective functioning of the board.

Competencies

Directors should have competencies appropriate to the issuer's business and circumstances.

Integrity

Directors should demonstrate integrity and high ethical standards.

Independent judgment

Directors should exercise independent judgment when making decisions and carrying out their other duties. This includes reviewing and challenging how executive officers discharge their duties and achieve their goals, where appropriate. The board's composition, structure and practices should facilitate the exercise of independent judgment.

Commitment

Directors should be able to provide sufficient time and commitment to their role.

Board interaction

The directors collectively should be able to interact and communicate in a manner that facilitates effective decision-making. No individual or small group should dominate the board's decision-making.

Board size

The size of a board should be appropriate for the issuer's business.

Examples of practices

The objective of this principle can be achieved in a number of ways, including by:

General practices

(a) having the board or a committee of the board regularly review its size and composition, and the commitment of its directors; and

(b) encouraging directors to limit other commitments, including to other corporate or non-profit boards, so as not to affect their ability to fulfil their duties on the board.

Practices related to composition of the board

(a) having a majority of independent directors on the board;

(b) having an independent director chair the board or act as a lead director;

(c) having an appropriate number of independent directors who are unrelated to any control person or significant shareholder;

(d) separating the roles of chair and CEO;

(e) creating committees with an appropriate number of independent directors for specific purposes;

(f) giving independent directors an opportunity, both at the board and committee level, to hold regularly scheduled meetings at which other directors and executive officers are not present; and

(g) giving the board the authority to engage and compensate any internal and external advisor that it determines necessary to carry out its duties, including advice from outside advisors at the expense of the issuer in appropriate circumstances.

Principle 3 – Attract and retain effective directors

A board should have processes to examine its membership to ensure that directors, individually and collectively, have the necessary competencies and other attributes.

Commentary

While the shareholders elect directors, the board plays an important role in selecting candidates for shareholder consideration.

The board should be satisfied that appropriate procedures are in place for selecting candidates so that it can maintain a balance of competencies and other attributes. Transparency of these procedures is a key aspect in promoting investor understanding and confidence.

A board nomination committee could facilitate procedures for selecting and appointing directors. The responsibility for these practices, however, rests with the full board. Smaller boards might not need a formal committee to accomplish the same objectives.

The board should consider each director's tenure as part of its succession planning.

Examples of practices

General practices

The objective of this principle can be achieved in a number of ways, including by:

(a) having procedures for:

(i) evaluating the necessary and desirable competencies and other attributes of directors;

(ii) identifying any gaps that exist on the board;

(iii) nominating directors to fulfil the needs of the board; and

(vi) developing and reviewing board succession plans;

(b) keeping an up-to-date list of potential candidates so that planned or unplanned vacancies on the board can be filled with candidates who have the necessary competencies and other attributes; and

(c) establishing a nomination committee to carry out, or make recommendations with respect to, some or all of these procedures.

Practices related to nomination committee

Where an issuer has established a nomination committee, design that committee to:

(a) have a majority of independent directors;

(b) have directors with the necessary competencies and other attributes to fulfil the committee's mandate;

(c) be chaired by an independent director;

(d) adopt a charter that sets out its roles and responsibilities, composition, structure and membership requirements; and

(e) have the authority to engage and compensate any internal and external advisor that it determines to be necessary to permit it to carry out its duties.

Principle 4 – Continuously strive to improve the board's performance

A board should have processes to improve its performance and that of its committees, if any, and individual directors.

Commentary

A board's performance is dependent upon directors having the requisite knowledge, information and abilities to fulfil their obligations.

Orientation and continuing education

The board should provide its new directors with a comprehensive orientation. In addition, the board should provide continuing education opportunities for all directors.

Comprehensive orientation and continuing education should include areas such as:

(a) the issuer and its business, including its financial condition, strategy, operations and risk management practices, the industry within which the issuer operates and its competitive position; and

(b) the roles and responsibilities of the board, any board committees, individual directors and executive officers.

Access to information

To effectively make decisions and carry out their duties, directors need access to sufficient and relevant information in a timely manner.

Assessments

A board can improve its performance by addressing areas for potential improvement identified through regular assessments of the board, its committees (if any) and individual directors.

Examples of practices

The objective of this principle can be achieved in a number of ways, including by:

(a) having appropriate orientation procedures in place for new directors;

(b) ensuring that all directors are provided with continuing education opportunities relevant to their duties on the board;

(c) having procedures in place regarding the timely provision of relevant information to the board by executive officers;

(d) allowing directors to request additional information or independent advice at the issuer’s expense, if the directors consider it necessary to fulfill their duties;

(e) creating opportunities for directors to interact with executive officers; and

(f) assessing the board, any board committees and each individual director on a regular basis regarding his, her or its contribution against established criteria and acting upon the results.

Principle 5 – Promote integrity

An issuer should actively promote ethical and responsible behaviour and decision-making.

Commentary

The board has a responsibility to set the ethical standards applicable to the issuer's directors, executive officers and employees. Investor confidence can be enhanced if the board clearly articulates ethical practices which are acceptable to the issuer.

The board should consider and assess the ethical standards that are appropriate in the issuer’s circumstances. Executive officers have a responsibility to implement and enforce those standards for behaviour and decision-making.

Examples of practices

General practices

The objective of this principle can be achieved in a number of ways, including by:

(a) outlining the standards of ethical behaviour required of directors, executive officers and all employees;

(b) supporting the issuer’s standards of ethical behaviour with appropriate training, monitoring, reporting, investigating and addressing unethical behaviour;

(c) adopting a code of conduct; and

(d) if the issuer has adopted standards of ethical behaviour or a code of conduct, assessing whether a departure from the standards or code would be a material change.

Practices related to code of conduct

A code of conduct usually addresses the following:

(a) conflicts of interest, including transactions and agreements where a director or executive officer has a significant interest;

(b) protection and proper use of corporate assets and opportunities;

(c) confidentiality of corporate information;

(d) the issuer's responsibilities to security holders, employees, those with whom it has a contractual relationship and the broader community;

(e) compliance with laws, rules and regulations;

(f) reporting of any illegal or unethical behaviour; and

(g) monitoring and ensuring compliance with the code.

Principle 6 – Recognize and manage conflicts of interest

An issuer should establish a sound system of oversight and management of actual and potential conflicts of interest.

Commentary

Conflicts of interest may arise in various situations, for example, when:

(a) there is a significant divergence of interests among shareholders or their interests are not completely aligned;

(b) one or more directors cannot be considered impartial in connection with a proposed decision to be made by the board;

(c) a contract, arrangement or transaction is entered into between an issuer and a control person or significant shareholder; or

(d) an issuer makes a decision or enters into a contract, arrangement or transaction that will benefit one or more of its officers or directors.

An issuer should have practices in place to identify, assess and resolve actual and potential significant conflicts of interest. Those practices should allow issuers to assess all the circumstances necessary to determine if directors, officers and employees have acted honestly and in good faith, and in the best interests of the issuer.

Examples of practices

General practices

The objective of this principle can be achieved in a number of ways, including by:

(a) having practices for:

(i) identifying situations, decisions, contracts, arrangements or transactions where an actual or potential significant conflict of interest could arise;

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(ii) reviewing and assessing situations, decisions, contracts, arrangements or transactions that could put directors or executive officers in an actual or potential conflict of interest;

(iii) submitting to the board the prior declaration by directors of their interest in any situations, decisions, contracts, arrangements or transactions;

(iv) keeping records of any situations, decisions, contracts, arrangements or transactions where an actual or potential conflict of interest arises; and

(b) establishing an ad hoc or standing board committee to carry-out these practices, such committee to consist of directors that are not directly or indirectly interested in the matters being discussed or considered; and

(c) obtaining independent advice on the situation, decision, contract, arrangement or transaction.

Practices related to ad hoc or standing board committee

Where an issuer has established an *ad hoc* or standing board committee, design that committee to:

(a) be composed of directors who are not interested in any matter being discussed or considered;

(b) have terms of reference that clearly sets out its roles and responsibilities; and

(c) have the authority to engage and compensate any internal and external advisor that it determines to be necessary to permit it to carry out its duties.

Principle 7 – Recognize and manage risk

An issuer should establish a sound framework of risk oversight and management.

Commentary

Risk oversight and management include the culture, processes and structures that are directed towards taking advantage of potential opportunities while managing potential adverse effects. It usually is designed to identify, assess, monitor and manage risk, and identify significant changes to an issuer's risk profile.

Risk oversight and management is most effective if it is embedded into the issuer's practices and business processes rather than if it is viewed or practiced as a separate activity.

Risk oversight and management should focus on identifying the most significant areas of uncertainty or exposure that could have an adverse impact on the achievement of the issuer's goals and objectives (principal risks).

As stated in Principle 1, the board is usually responsible for identifying the principal risks of the issuer's business and ensuring that appropriate systems are in place to manage these risks. A board committee could facilitate meeting this responsibility. The responsibility for risk oversight and management, however, rests with the full board.

Examples of practices

The objective of this principle can be achieved in a number of ways, including by:

(a) developing, approving and implementing policies and procedures for the oversight and management of principal risks that:

(i) reflect the issuer's risk profile;

(ii) clearly describe significant elements of its risk management;

(iii) take into account its legal obligations; and

(iv) clearly describe the roles and accountabilities of the board, audit committee, or other appropriate board committee, management and any internal audit function.

(b) regularly reviewing and evaluating the effectiveness of these policies and procedures; and

(c) requiring the CEO and other executive officers to regularly report to the board on the effectiveness of the issuer's policies for the oversight and management of principal risks.

Principle 8 – Compensate appropriately

An issuer should ensure that compensation policies align with the best interests of the issuer.

Commentary

The board should be satisfied that appropriate compensation policies and practices are in place for executive officers and directors. Compensation should be set and structured to attract and retain executive officers and directors and motivate them to act in the best interests of the issuer. This includes a balanced pursuit of the issuer's short-term and long-term objectives.

A board compensation committee could develop and recommend appropriate compensation policies and practices. The responsibility for these policies and practices, however, rests with the full board. Smaller boards might not need a formal committee to achieve the same objectives.

Transparency of compensation can promote investor understanding and confidence in the process.

Examples of practices

General practices

The objective of this principle can be achieved in a number of ways, including by:

(a) having procedures for:

(i) establishing and maintaining goals related to executive officers' compensation;

(ii) regularly evaluating executive officers' performance in light of those goals;

(iii) determining the compensation of executive officers;

(iv) determining the compensation of directors; and

(v) having the board review executive compensation disclosure before the issuer publicly discloses it; and

(b) establishing a compensation committee to carry out, or make recommendations with respect to, some or all of these procedures.

Practices related to compensation committee

Where an issuer has established a compensation committee, design that committee to:

(a) have all independent directors;

(b) have directors with the requisite competencies and other attributes to fulfil the mandate of the committee;

(c) have a charter that clearly sets out its roles and responsibilities, composition, structure and membership requirements;

(d) have the authority to engage and compensate any internal and external advisor that it determines to be necessary to permit it to carry out its duties; and

(e) have procedures to ensure that no individual is directly involved in deciding his or her own compensation.

Principle 9 – Engage effectively with shareholders

The board should endeavour to stay informed of shareholders' views through the shareholder meeting process as well as through ongoing dialogue.

Commentary

An issuer's relationship with its shareholders is an important aspect of corporate governance. One of the most significant ways that shareholders can express their approval or disapproval of matters relating to the issuer is through exercising their right to vote at shareholder meetings, including the election of board members. Within the parameters of applicable corporate and securities law, the board should promote a voting process that:

(a) is understandable, transparent and robust; and

(b) facilitates the board obtaining meaningful information on shareholder views.

Examples of practices

The objective of this principle can be achieved in a number of ways, including by:

(a) posting on the issuer's website a clear description of the voting process for registered and beneficial shareholders;

(b) giving shareholders the option of voting electronically, for example, through telephone or internet voting; and

(c) giving shareholders or proxy holders the option of attending meetings through electronic means.