



Canadian Investor Relations Institute
Institut canadien des relations avec les investisseurs

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British Columbia Securities Commission
Manitoba Securities Commission
Securities Commission of Newfoundland and Labrador
Registrar of Securities, Department of Justice, Government of Northwest Territories
Nova Scotia Securities Commission
Registrar of Securities, Legal Registries Division, Department of Justice, Government of Nunavut
Ontario Securities Commission
Office of the Attorney General, Prince Edward Island
Autorité des marchés financiers
New Brunswick Securities Commission
Saskatchewan Financial Services Commission
Registrar of Securities, Government of Yukon

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RE: Request for comment on Proposed Repeal and Replacement of National Policy 58-201 Corporate Governance Guidelines, National Instrument 58-101 Disclosure of Corporate Governance Practices, and National Instrument 52-110 Audit Committees and Companion Policy 52-110CP Audit Committees

The Canadian Investor Relations Institute ("CIRI") is pleased to respond to the request for comment on the proposed repeal and replacement of National Policy 58-201 Corporate Governance Guidelines, National Instrument 58-101 Disclosure of Corporate Governance Practices, and National Instrument 52-110 Audit Committees and Companion Policy 52-110CP Audit Committees.

CIRI is a professional, not-for-profit association of executives responsible for communication between public corporations, investors, and the financial community. CIRI is dedicated to advancing the stature and credibility of the investor relations profession and the competency of its members.

With 585 members, CIRI is the world's second largest society of investor relations professionals. Approximately 90% of CIRI's public company members are listed on the Toronto Stock Exchange,

8% on the TSX Venture Exchange, and 34% are inter-listed on a U.S. exchange. CIRI has active chapters in Ontario, Quebec, Alberta, and British Columbia.

CIRI takes a strong interest in corporate governance matters as we believe that good corporate governance is an increasingly important factor in enabling issuers to achieve positive sustainable performance and create value for their investors. The perception of good corporate governance clearly has become essential to generating and maintaining investors' confidence in all capital markets.

GENERAL COMMENTS

CIRI has the following general comments.

While we commend the CSA for recognizing the importance of periodically reviewing rules and regulations, we believe the existing policies and practices are working well and that the natural forces of the capital markets have caused increasing numbers of issuers to adopt corporate governance best practices. It is CIRI's impression that Canada's current corporate governance practices and related regulatory oversight compare favourably with any in the world.

CIRI is concerned that the proposed changes significantly alter the currently effective policies and practices and may result in unforeseen consequences.

First, CIRI supports a statement that explains the principles upon which the Canadian corporate governance and reporting requirements are based. However, we believe that this Principles-Based Regulation ("PBR") approach may have the unintended consequence of weakening the current corporate governance policies and practices by leaving the application or adoption of many of the requirements open to wide interpretation. In turn, this could result in a wide divergence in governance practices and reporting at a time when investors would like to see more consistency.

CIRI agrees with the reservations reported in an April 6, 2009 newspaper article expressed by several of Canada's most prominent corporate governance experts, including Peter Dey, Carol Hansell, and Stephen Griggs. These experts have concluded that substantial changes are not required to the current policies and practices.

Second, CIRI is concerned that the proposed changes could result in an additional burden on issuers at a time when many are focused on managing their businesses in a profound global economic recession and implementing the complex and costly transition to international financial reporting standards (IFRS).

COMMENTS ON PROPOSED GOVERNANCE POLICY/PRACTICES

With regard to the specific Principles outlined, we agree that the first five principles are at the core of good governance practices. However, they could be more prescriptive in nature. For example, Principle 1 could state "Responsibilities of the Board include, but are not limited to, the following" as opposed to referring to the "usual responsibilities of the board". Similarly, we believe that Nominating Committees should be composed wholly or at least by a majority of independent directors and should be chaired by an independent director. With regard to Principle 5, we believe all companies should have a Code of Business Conduct and Ethics.

Principle 6 could be considered redundant if Principle 5 is applied appropriately; recognizing and managing conflicts of interest is an issue of integrity.

Principle 7 could be considered part of Principle 1 and 2. All companies must be aware of the risks to their businesses and address those risks as a regular part of the board oversight. Where appropriate, risk management should be part of the board structure through the establishment of a Risk Committee.

Given the widespread legitimate concerns about management compensation, CIRI believes that Principle 8 should clearly state that a Board should have a separate Compensation Committee wholly comprising independent directors and, where economically feasible, access to third-party consultants capable of providing objective relevant benchmarks to determine appropriate compensation for management and directors.

The CSA has asked whether venture issuers should be subject to the same disclosure requirements concerning their corporate governance practices as non-venture issuers. As a response, we ask, “Are investors in venture issuers entitled to less disclosure and less transparency than investors in non-venture issuers?”. While venture issuers generally are recognized as higher-risk investments, we believe that all investors across Canada deserve a consistent level of disclosure and transparency and adherence to corporate governance practices from all venture and non-venture issuers. However, it may be practical to give these issuers a reasonable time frame, perhaps three years post-listing, to comply with the rules.

COMMENTS ON PROPOSED AUDIT COMMITTEE MATERIALS

With respect to the *Meaning of Independence (Part 2 Interpretation)* for Audit Committee, we share the Alberta Securities Commission’s concern that the concept of “reasonably perceived as” could mean that a reasonable but less informed and less experienced person’s perception will become the determining factor. We believe that the Board is in the best position to determine if someone can act independently.

While we believe that a relationship with a control person or significant shareholder could compromise independence, that relationship should not preclude a director from sitting on the Audit Committee. However, it should be disclosed if there are members of the Audit Committee who represent a controlling shareholder and these members must be in the minority.

CIRI appreciates the opportunity to make this submission and we would be pleased to answer any questions you may have.

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