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Ministry of the Attorney General
Briefing Note
Legal Services Division
Legal Services Branch – ENERGY, MEDEI and MRI

A. Issue

Whether any conflict of interest issues arise with respect the appointment of the following individuals to the Expert Investment Advisory Committee (the “Committee”): Ed Clark, David Leith, Thomas Rahilly, Sharon Ranson, and Alan Hibben.

B. Analysis

The conflict of interest analyses below are based on limited information provided to us on these individuals’ background. We have not received Conflict of Interest Disclosure forms.

Ed Clark

Ed Clark is currently the Premier’s Business Advisor, and was also previously the Chair of the Premier’s Advisory Council on Government Assets. He is the outgoing Group President and Chief Executive Officer of TD Bank Group (“TD”). Before joining TD, he was President and Chief Executive Officer of Canada Trust Financial Services. Prior to this, Mr. Clark held positions with Merrill Lynch and Morgan Financial Corporation.

Mr. Clark was the 2010 Cabinet Chair for United Way Toronto, and is currently a member of the Chair's Advisory Council for Habitat for Humanity Toronto. Mr. Clark is also chair of the Advisory Board for the School of Public Policy and Governance. He is also a member of the Steering Committee of the Bilderberg Group which organizes an annual conference designed to foster dialogue between Europe and North America on megatrends and major issues facing the world.

It does not appear that Mr. Clark’s involvement with any of these entities and organizations would create an actual or potential conflict of interest if he were to be appointed to Investment Advisory Committee. If TD becomes involved in some way in the sale or purchase of Hydro One, there is the potential for a conflict of interest, especially if Mr. Clark has any other interests in TD, which we are not aware of. Circumstances of an actual or apparent conflict involving TD could likely be mitigated by Mr. Clark’s awareness of and compliance with the applicable conflict of interest policies and Mr. Clark recusing himself from any decisions of the Committee that TD may have an interest in. This risk could also be mitigated by Mr. Clark ensuring that he does not disclose any confidential information of one entity to the other.

David Leith

David Leith serves as the Chair of the Board of Directors of Manitoba Telecom Services Inc. /MTS Allstream Inc., and is a Director of the Hudson's Bay Company and of Yellow Media Limited. He was also previously a director of TransGlobe Apartment REIT and from 2009 until 2011 he served as Special Advisor to the federal Minister of Natural Resources on the restructuring of Atomic Energy of Canada Limited (AECL).

Mr. Leith spent over 25 years with CIBC World Markets, based in both Toronto and London, England and has extensive experience in debt and equity markets, government finance and mergers and acquisitions. Until February 2009, he was Deputy Chairman and Managing Director and head of CIBC World Markets' Investment, Corporate and Merchant Banking activities.

Additionally, Mr. Leith was also previously an Independent Trustee of TransGlobe Apartment Real Estate Investment Trust. Mr. Leith is active in a number of charitable endeavours and is the Vice Chair of Bridgepoint Health Foundation.

It does not appear that Mr. Leith's involvement with any of these entities and organizations would create an actual or potential conflict of interest if he were to be appointed to Investment Advisory Committee. If CIBC World Markets becomes involved in some way in the sale/purchase of Hydro One, there is the potential for a conflict of interest to arise, especially if Mr. Leith has any other interests in CIBC World Markets that we are not aware of. Circumstances of an actual or apparent conflict involving CIBC World Markets could be mitigated by Mr. Leith's awareness and compliance with the applicable conflict of interest policies and Mr. Leith recusing himself from any decisions of the Committee that CIBC World Markets would have an interest in. This risk could also be mitigated by Mr. Leith ensuring that he does not disclose any confidential information of one entity to the other.

Mr. Leith is currently a director, appointed by the LGIC, on the board of the Ontario Infrastructure and Lands Corporation ("IO"). As such, Mr. Leith, is a "public servant" pursuant to paragraph 5 of subsection 2(2) of the *Public Service of Ontario Act, 2006* ("PSOA"). Pursuant to section 58 of the PSOA, he is thereby subject to the conflict of interest rules under O. Reg. 381/07.

O. Reg. 381/07 limits certain activities for current public servants. For instance, a public servant cannot disclose confidential information obtained in the course of his/her employment by the Crown and cannot use it in a business or undertaking outside of his/her work for the Crown. A public servant also cannot give preferential treatment to a third party. A public servant cannot engage in business or an undertaking that could conflict with his/her duty to the Crown or interfere with his/her ability to perform his/her duties. A public servant cannot participate in decision-making by the Crown with respect to a matter that would benefit him/her.

It does not appear that Mr. Leith's appointment to the Committee would create a potential conflict with the conflict of interest rules under O.Reg. 381/07 that apply in relation to his current role as director of IO. If IO becomes involved in the sale/purchase of Hydro One or in the activities of the Committee, then a potential conflict of interest could arise. If such a conflict arises, then Mr. Leith should take the necessary steps to address the conflict in accordance with the PSOA and O.Reg. 381/07.

Tom Rahilly

Tom Rahilly has worked as an investment banker for over 30 years. Mr. Rahilly is involved in many large corporate issues and mergers and acquisitions. He has been a Director of George Weston Limited since 2007. Mr. Rahilly, also previously served as the Chairman of the Board of Trustees at Trinity College, University of Toronto. In the past five years, he also served as a director of Wittington Investments, Limited, Great Lakes Group, Triam Automotive Inc. and Pembina Pipeline Income Fund.

Mr. Rahilly was previously Vice Chairman at RBC Capital Markets. He served as a Vice Chairman at RBC Dominion Securities Inc. and RBC Capital Markets from 1996 to retirement in 2006.

Generally Mr. Rahilly's involvement in and connections with RBC Capital Markets could give rise to the possibility that, in his work with the Committee, perceived or actual conflicts of interest may arise. RBC Capital Markets is one of the Hydro One IPO book-runners. Alternatively, as a Committee member, Mr. Rahilly would be providing advice to the Minister of Energy with respect to governance and investment matters related to Hydro One following the IPO. A potential conflict could arise if Mr. Rahilly continues to have ties with RBC Capital Markets, and where the interests of RBC Capital Markets do not align with the interests of the Province/Minister of Energy as shareholder of Hydro One. However, the risk of any such conflict of interest is likely minimal and could be mitigated by Mr. Rahilly's awareness of and compliance with the applicable conflict of interest policies. It could also be mitigated by Mr. Rahilly ensuring that he does not disclose any confidential information of one entity to the other entity and by having Mr. Rahilly recuse himself from decisions where the interests of RBC Capital Markets/Hydro One and the Province were not aligned.

Sharon Ranson

Sharon Ranson is President of The Ranson Group Inc., a company that offers Executive Coaching and Consulting services. She is also a Corporate Director, serving on both corporate and non-profit boards. The Corporate Boards on which Ms. Ranson is a board member of include Sprott Inc., which describes itself as a leading alternative investment manager with a history of delivering long-term performance to their clients through a diverse range of innovative products and investment strategies, Continental Bank of Canada, and Borowell Inc. Her current non-profit board memberships include the Advisory Board for the School of Business at Queen's University and The Children's Book Bank. She also previously served on the boards of The National Ballet School and Integra (Children's Mental Health Centre).

Ms. Ranson spent over 20 years in the Financial Services industry in executive positions where she worked at RBC Capital Markets, BMO Nesbitt Burns, Raymond

James Ltd. and TAL Investment Counsel (CIBC).

Although we did not identify any specific conflicts of interest, generally Ms. Ranson's involvement in and connections with the broader investment and banking industry could give rise to the possibility that, in her work with the Committee, perceived or actual conflicts of interest may arise. This risk can be mitigated by Ms. Ranson's awareness of and compliance with the applicable conflict of interest policies. It can also be mitigated by Ms. Ranson ensuring that she does not disclose any confidential information of the Province/Hydro One in the course of her other activities within the banking and investment sector and recusing herself from any decisions that may give rise to a conflict of interest.

Alan Hibben

Mr. Hibben is currently a member on the Premier's Advisory Council on Government Assets. According his online resume, Mr. Hibben, previously served as the Managing Director of Mergers & Acquisitions at RBC Capital Markets from 1996-2000 and then again from March 2011 to December 2014. His online resume also indicates that he was CEO of RBC Capital Partners (Private equity and Venture Capital Division) from 2000 to 2009, and Head of Strategy and Development at RBC Financial Group from January 2005 – June 2007.[1]

He also previously served as a Principal of Shakerhill Partners Ltd. from July 2007 to January 2009 and provided consulting and private investment services through this company. Since December 2014, he is once again currently serving as Principal of Shakerhill Partners Ltd. Mr. Hibben also currently serves as a Member of Advisory Board of Walsingham Growth Partners. He has also been Director of HudBay Minerals Inc. since March 2009.

Mr. Hibben also previously served as the Chief Executive Officer of Rbcp Energy Fund Investments, LP. He has extensive years of experience in the Financial Services Industry in Canada and the United Kingdom including in the areas of Corporate Development, Mergers and Acquisition Advisory Services, Private Equity and Venture Capital. Some of his notable positions include the following:

- previously served as an Equity Analyst of BB&T Capital Markets, Research Division
- previously a Partner in Blair Franklin Capital Partners from 2009 to 2011
- previously an Equity Analyst, Vice President and Director of M&A at Richardson Greenshields of Canada Limited
- Previously served as President of North American Trust, Inc. from 1992-1993
- Previously served as President of First City Trust Company from 1990-1992

[1] https://ca.linkedin.com/in/alanhibben

Mr. Hibben also previously served as a director and/or chairman on various boards including the board of Governors at Havergal College, the board of Discovery Air Inc., the board of Pinetree Capital Ltd., the board of Peace Arch Entertainment Group Inc., the board of Algorithmics, Inc. He also currently serves as Director of the Mount Sinai Hospital Foundation.

Although we did not identify any specific conflicts of interest, generally Mr. Hibben's involvement in and connections with the broader investment and banking industry could give rise to the possibility that, in his work with the Committee, perceived or actual conflicts of interest may arise. Additionally, any continuing ties Mr. Hibben has with RBC Capital Markets could create a potential conflict of interest given that RBC Capital Markets is acting as the book-runner for the Hydro One IPO. These risks can be mitigated by Mr. Hibben's awareness of and compliance with applicable conflict of interest policies. It can also be mitigated by Mr. Hibben ensuring that he does not disclose any confidential information of the Province/Hydro One in the course of his other activities within the banking and investment sector and recusing himself from any decisions that may give rise to a conflict of interest.

We are not aware of any other activities or positions at this time that would create a potential conflict of interest for these individuals.

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