

The Ontario Securities Commission

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The Ontario Securities Commission carries out the powers, duties and functions given to it pursuant to the *Securities Commission Act, 2021* (S.O. 2021, c. 8, Sched. 9).

The Ontario Securities Commission exercises its regulatory oversight function through the administration and enforcement of Ontario's *Securities Act* (R.S.O. 1990, c. S.5) and *Commodity Futures Act* (R.S.O. 1990, c. C.20), and administration of certain provisions of the *Business Corporations Act* (R.S.O. 1990, c. B.16).

The Ontario Securities Commission

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Table of Contents

A.	Capital Markets Tribunal.....	3099	B.11.4	Trade Repositories	(nil)
A.1	Notices of Hearing.....	3099	B.12	Other Information	(nil)
A.1.1	Kenton Roy Rustulka – ss. 127(1), 127(10)....	3099			
A.2	Other Notices.....	3103	Index		3411
A.2.1	Mughal Asset Management Corporation et al.	3103			
A.2.2	Xiao Hua (Edward) Gong	3103			
A.2.3	Kenton Roy Rustulka.....	3104			
A.3	Orders.....	3105			
A.3.1	Xiao Hua (Edward) Gong	3105			
A.4	Reasons and Decisions	(nil)			
B.	Ontario Securities Commission	3107			
B.1	Notices	(nil)			
B.2	Orders.....	3107			
B.2.1	Cornerstone Capital Resources Inc.....	3107			
B.2.2	Aralez Pharmaceuticals Canada Inc.	3108			
B.3	Reasons and Decisions	3111			
B.3.1	Waterloo Brewing Ltd.	3111			
B.3.2	The Saskatchewan Pension Plan.....	3112			
B.3.3	3iQ Corp. et al.	3121			
B.4	Cease Trading Orders	3123			
B.4.1	Temporary, Permanent & Rescinding Issuer Cease Trading Orders	3123			
B.4.2	Temporary, Permanent & Rescinding Management Cease Trading Orders	3123			
B.4.3	Outstanding Management & Insider Cease Trading Orders	3124			
B.5	Rules and Policies.....	(nil)			
B.6	Request for Comments	3125			
B.6.1	CSA Notice and Request for Comment – Proposed Amendments to Form 58-101F1 Corporate Governance Disclosure of National Instrument 58-101 Disclosure of Corporate Governance Practices and Proposed Changes to National Policy 58-201 Corporate Governance Guidelines	3125			
B.7	Insider Reporting.....	3187			
B.8	Legislation	(nil)			
B.9	IPOs, New Issues and Secondary Financings	3401			
B.10	Registrations	3407			
B.10.1	Registrants	3407			
B.11	SRO, Marketplaces, Clearing Agencies and Trade Repositories.....	3409			
B.11.1	SRO	3409			
B.11.1.1	New Self-Regulatory Organization of Canada (New SRO) – Amendments to Permit Reduced Margin for Swap Position Partial Offsets Held in Inventory – Notice of Commission Approval	3409			
B.11.2	Marketplaces.....	(nil)			
B.11.3	Clearing Agencies.....	3410			
B.11.3.1	CDS Clearing and Depository Services Inc. (CDS) – Proposed Amendments to CDS Fee Schedule – Central Counterparty (CCP) Services Failure to Receive – OSC Staff Notice of Request for Comment.....	3410			

A. Capital Markets Tribunal

A.1 Notices of Hearing

A.1.1 Kenton Roy Rustulka – ss. 127(1), 127(10)

FILE NO.: 2023-9

IN THE MATTER OF
KENTON ROY RUSTULKA

NOTICE OF HEARING

Subsections 127(1) and 127(10) of the *Securities Act*, RSO 1990, c S.5

PROCEEDING TYPE: Inter-jurisdictional Enforcement Proceeding

HEARING DATE AND TIME: In writing

PURPOSE

The purpose of this proceeding is to consider whether it is in the public interest for the Capital Markets Tribunal to make the orders requested in the Statement of Allegations filed by Staff of the Commission on April 5, 2023.

Take notice that Staff of the Commission has elected to proceed by way of the expedited procedure for a written hearing provided for by Rule 11(3) of the *Capital Markets Tribunal Rules of Procedure and Forms*.

Staff must serve on you this Notice of Hearing, the Statement of Allegations, Staff's hearing brief containing all documents Staff relies on, and Staff's written submissions.

You have **21 days** from the date Staff serves these documents on you to file a request for an oral hearing, if you do not want to follow the expedited procedure for a written hearing.

Otherwise, you have **28 days** from the date Staff served these documents on you to file your hearing brief and written submissions.

REPRESENTATION

Any party to the proceeding may be represented by a representative at the hearing.

FAILURE TO PARTICIPATE

IF A PARTY DOES NOT PARTICIPATE, THE HEARING MAY PROCEED IN THE PARTY'S ABSENCE AND THE PARTY WILL NOT BE ENTITLED TO ANY FURTHER NOTICE IN THE PROCEEDING.

FRENCH HEARING

This Notice of Hearing is also available in French on request of a party. Participation may be in either French or English. Participants must notify the Tribunal in writing as soon as possible if the participant is requesting a proceeding be conducted wholly or partly in French.

AVIS EN FRANÇAIS

L'avis d'audience est disponible en français sur demande d'une partie, que la participation à l'audience peut se faire en français ou en anglais et que les participants doivent aviser le Tribunal par écrit dès que possible si le participant demande qu'une instance soit tenue entièrement ou partiellement en français.

Dated at Toronto this 6th day of April, 2023

Registrar, Governance & Tribunal Secretariat
Ontario Securities Commission

For more information

Please visit capitalmarketstribunal.ca or contact the Registrar at registrar@osc.gov.on.ca.

IN THE MATTER OF
KENTON ROY RUSTULKA

STATEMENT OF ALLEGATIONS
(Subsections 127(1) and 127(10) of the *Securities Act*, RSO 1990 c S.5)

A. OVERVIEW

1. An inter-jurisdictional enforcement order using the expedited procedure for inter-jurisdictional proceedings as set out in Rule 11(3) of the Capital Markets Tribunal's (the **Tribunal**) *Rules of Procedure* is sought based on a finding by the Alberta Securities Commission (**ASC**) that Kenton Roy Rustulka (**Rustulka** or the **Respondent**) failed to comply with certain registrant obligations, made material misrepresentations and misled his investor clients in order to sell \$6.5 million worth of exempt market securities.

B. FACTS

2. On February 5, 2021, the ASC issued its sanctions decision (the **Sanctions Decision**) and an order (the **ASC Order**) that imposed sanctions on Rustulka, including permanent prohibitions on trading or purchasing securities or derivatives, and removals of exemptions under Alberta securities laws. In addition, Rustulka was permanently prohibited from acting in various capacities, including advising in securities, engaging in investor relations activities and as a director or officer of any issuer or as a registrant. Rustulka was also ordered to pay an administrative penalty of \$100,000, disgorgement of \$99,242.37 and costs of \$55,000.
3. In its decision on the merits (the **Merits Decision**) dated June 17, 2020, a panel of the ASC (the **ASC Panel**) held that Rustulka breached sections 13.2 and 13.3 of NI 31-103 which governs registrant standards of conduct; and breached section 92(4.1) of the Alberta *Securities Act* by making misrepresentations to his investor clients that Rustulka knew or reasonably ought to have known were untrue and would reasonably be expected to significantly effect his clients' willingness to invest in exempt market securities.
4. The Merits Decision¹ followed a hearing on the merits (the **Merits Hearing**) of the allegations brought by the ASC. The Merits Decision includes the following findings:
 - (a) Rustulka sold over \$6.5 million in exempt market securities to the public by recording inaccurate information on his clients' *Know Your Client (KYC)* forms and their Suitability Assessment Forms for the purpose of selling inherently risky exempt market securities, and misrepresented his clients' risk tolerance, investment time horizon and the level of risk involved in exempt market securities.
 - (b) During their testimony at the Merits Hearing, the investor witnesses were consistent in their evidence that:
 - i. despite the risk warnings clearly displayed in the investment documentation, including the RAFs they signed, Rustulka variously described the investments they were making and the exempt market in general as "safe" and "secure", with either no risk or a "very, very low risk"² of losing any money;
 - ii. Rustulka assured them that the companies they were investing in were unlikely to "go under" because they were "stable" and "solid", had "longevity, great track records, accountability, and much more" – yet would pay high returns in short time frames;³
 - iii. Rustulka downplayed, glossed over, and dismissed the risk warnings on the investment documentation as a mere regulatory formality, or as "red tape" they simply had to through to complete the transaction. He spent little time reviewing the warnings with them and did not explain the actual risks of the products or strategies he recommended; and⁴
 - iv. these assurances had a significant influence on their investment decisions and their willingness to follow Rustulka's recommendations.⁵
 - (c) During the period of January 1, 2013, through June 3, 2016 (the **Material Time**) Rustulka earned approximately \$460,000 in commissions on sales of exempt market securities in part because his clients were induced to invest

¹ *Re Rustulka*, 2020 ABASC 93 [Merits Decision].

² *Merits Decision*, *supra* at paras 66, 127 & 247; *Re Rustulka*, 2021 ABASC 15 [Sanctions Decision] at para 18.

³ *Sanctions Decision*, *supra* at para 18.

⁴ *Sanctions Decision*, *supra* at para 18.

⁵ *Sanctions Decision*, *supra* at para 18.

based on his misrepresentations and their belief that Rustulka could be trusted based on his previous employment as an Edmonton police officer and as a senior pastor.⁶

- (d) Despite accumulating \$460,000 in commissions, the ASC Panel ordered disgorgement in the amount of \$99,242.37. This figure represented the commissions Rustulka received on the sales to the eight investor witnesses (and their spouses in some cases) who testified at the Merits Hearing.⁷

C. JURISDICTION

5. Pursuant to paragraph 4 of subsection 127(10) of the *Securities Act*, RSO 1990, c S.5 (the **Act**), the ASC Order, being an order made by a securities regulatory authority that imposes sanctions, conditions, restrictions or requirements on a person or company, may form the basis for an order in the public interest made under subsection 127(1) of the Act.
6. It is in the public interest to make an order against the Respondent.

D. ORDER SOUGHT

7. It is requested that the Tribunal make the following inter-jurisdictional enforcement order, pursuant to paragraph 4 of subsection 127(10) of the Act:
- (a) Against Rustulka that:
- i. pursuant to paragraphs 2 and 2.1 of subsection 127(1) of the Act, trading in or the acquisition of any securities or derivatives by Rustulka cease permanently;
 - ii. pursuant to paragraph 3 of subsection 127(1) of the Act, any exemptions contained in Ontario securities law do not apply to Rustulka permanently;
 - iii. pursuant to paragraphs 7, 8.1 and 8.3 of subsection 127(1) of the Act, Rustulka resign any positions he holds as a director or officer of an issuer, or registrant, including an investment fund manager;
 - iv. pursuant to paragraphs 8, 8.2 and 8.4 of subsection 127(1) of the Act, Rustulka is prohibited permanently from becoming or acting as a director or officer of any issuer, or registrant, including an investment fund manager;
 - v. pursuant to paragraph 8.5 of subsection 127(1), Rustulka is prohibited permanently from becoming or acting as a registrant, including as an investment fund manager or promoter; and
- (b) such other order or orders as the Tribunal considers appropriate.
8. These allegations may be amended and further and other allegations may be added as the Tribunal may permit.

DATED at Toronto this 5th day of April, 2023.

ONTARIO SECURITIES COMMISSION
20 Queen Street West, 22nd Floor
Toronto, ON M5H 3S8

Vincent Amartey
Email: vamartey@osc.gov.on.ca
Tel: (416) 593-8174

⁶ *Merits Decision*, *supra* at paras 54, 105, 114, 122, 227.

⁷ *Sanctions Decision*, *supra* at para 78.

A.2 Other Notices

A.2.1 Mughal Asset Management Corporation et al.

FOR IMMEDIATE RELEASE
April 6, 2023

**MUGHAL ASSET MANAGEMENT CORPORATION,
LENDLE CORPORATION AND
USMAN ASIF,
File No. 2022-15**

TORONTO – Take notice the merits hearing dates of April 27 and May 5, 2023 in the above-named matter will not proceed as scheduled. The merits hearing will proceed as scheduled on April 24, 25 and 26 and May 1, 2 and 4, 2023 at 10:00 a.m. on each day.

Registrar, Governance & Tribunal Secretariat
Ontario Securities Commission

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media_inquiries@osc.gov.on.ca

For General Inquiries:

1-877-785-1555 (Toll Free)
inquiries@osc.gov.on.ca

A.2.2 Xiao Hua (Edward) Gong

FOR IMMEDIATE RELEASE
April 6, 2023

**XIAO HUA (EDWARD) GONG,
File No. 2022-14**

TORONTO – The Tribunal issued an Order in the above named matter.

A copy of the Order dated April 6, 2023 is available at capitalmarketstribunal.ca.

Registrar, Governance & Tribunal Secretariat
Ontario Securities Commission

For Media Inquiries:

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inquiries@osc.gov.on.ca

A.2.3 Kenton Roy Rustulka

FOR IMMEDIATE RELEASE
April 6, 2023

KENTON ROY RUSTULKA,
File No. 2023-9

TORONTO – The Tribunal issued a Notice of Hearing pursuant to Subsections 127(1) and 127(10) of the *Securities Act* in the above-named matter.

A copy of the Notice of Hearing dated April 6, 2023 and Statement of Allegations dated April 5, 2023 are available at capitalmarketstribunal.ca.

Registrar, Governance & Tribunal Secretariat
Ontario Securities Commission

For Media Inquiries:

media_inquiries@osc.gov.on.ca

For General Inquiries:

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inquiries@osc.gov.on.ca

A.3 Orders

A.3.1 Xiao Hua (Edward) Gong

IN THE MATTER OF XIAO HUA (EDWARD) GONG

File No. 2022-14

Adjudicators: Russell Juriansz (chair of the panel)
Tim Moseley
Sandra Blake

April 6, 2023

ORDER

WHEREAS on April 6, 2023, the Capital Markets Tribunal held a hearing by videoconference;

ON READING the materials filed by the parties and on hearing the submissions of the representatives of the respondent and of Staff of the Ontario Securities Commission;

IT IS ORDERED THAT:

1. by 4:30 p.m. on April 10, 2023, the parties shall provide mutually available dates to the Registrar for the purpose of scheduling a one hour confidential conference and shall file written submissions regarding whether Xiao Hua (Edward) Gong should be permitted to attend the confidential conference;
2. by 4:30 p.m. on May 1, 2023, the respondent shall, with respect to the merits hearing in this proceeding, serve and file a witness list and serve a summary of each witness's anticipated evidence on Staff, and indicate any intention to call an expert witness, including the expert's name and the issues on which the expert will give evidence;
3. by 4:30 p.m. on May 15, 2023, the respondent shall serve and file a redacted version of his motion record regarding his motion for a stay of the proceeding, which was filed on March 27, 2023;
4. the hearing of Staff's motion to dismiss the respondent's motion for a stay of the proceeding (**Motion to Dismiss**) is scheduled for May 29 and 30, 2023 at 10:00 a.m., at the Capital Markets Tribunal located at 20 Queen Street West, 17th Floor, Toronto, Ontario, or on such other date or time as may be agreed to by the parties and set by the Governance & Tribunal Secretariat; and

5. the parties shall adhere to the following timeline for the delivery of materials for the Motion to Dismiss:

- a. by 4:30 p.m. on April 20, 2023, Staff shall serve and file its motion and motion record;
- b. by 4:30 p.m. on May 3, 2023, the respondent shall serve and file his responding motion record;
- c. by 4:30 p.m. on May 10, 2023, Staff shall serve and file its written submissions;
- d. by 4:30 p.m. on May 18, 2023, the respondent shall serve and file his responding written submissions; and
- e. by 4:30 p.m. on May 24, 2023, Staff shall serve and file its reply written submissions, if any.

"Russell Juriansz"

"Tim Moseley"

"Sandra Blake"

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B. Ontario Securities Commission

B.2 Orders

B.2.1 Cornerstone Capital Resources Inc.

Headnote

National Policy 11-206 Process for Cease to be a Reporting Issuer Applications – The issuer ceased to be a reporting issuer under securities legislation.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., s. 1(10)(a)(ii).

April 5, 2023

**IN THE MATTER OF
THE SECURITIES LEGISLATION OF
ONTARIO
(the Jurisdiction)**

AND

**IN THE MATTER OF
THE PROCESS FOR CEASE TO BE
A REPORTING ISSUER APPLICATIONS**

AND

**IN THE MATTER OF
CORNERSTONE CAPITAL RESOURCES INC.
(the Filer)**

ORDER

Background

The principal regulator in the Jurisdiction has received an application from the Filer for an order under the securities legislation of the Jurisdiction of the principal regulator (the Legislation) that the Filer has ceased to be a reporting issuer in all jurisdictions of Canada in which it is a reporting issuer (the Order Sought).

Under the Process for Cease to be a Reporting Issuer Applications (for a passport application):

- a) the Ontario Securities Commission is the principal regulator for this application; and
- b) the Filer has provided notice that subsection 4C.5(1) of Multilateral Instrument 11-102 *Passport System* (MI 11-102) is intended to be relied upon in British Columbia, Alberta, Nova Scotia and Newfoundland.

Interpretation

Terms defined in National Instrument 14-101 *Definitions* and MI 11-102 have the same meaning if used in this order, unless otherwise defined.

Representations

This order is based on the following facts represented by the Filer:

1. the Filer is not an OTC reporting issuer under Multilateral Instrument 51-105 *Issuers Quoted in the U.S. Over-the-Counter Markets*;
2. the outstanding securities of the Filer, including debt securities, are beneficially owned, directly or indirectly, by fewer than 15 securityholders in each of the jurisdictions of Canada and fewer than 51 securityholders in total worldwide;
3. no securities of the Filer, including debt securities, are traded in Canada or another country on a marketplace as defined in National Instrument 21-101 *Marketplace Operation* or any other facility for bringing together buyers and sellers of securities where trading data is publicly reported;
4. the Filer is applying for an order that the Filer has ceased to be a reporting issuer in all of the Jurisdictions of Canada in which it is a reporting issuer; and
5. the Filer is not in default of securities legislation in any jurisdiction.

Order

The principal regulator is satisfied that the order meets the test set out in the Legislation for the principal regulator to make the order.

The decision of the principal regulator under the Legislation is that the Order Sought is granted.

"Marie-France Bourret"
Manager, Corporate Finance
Ontario Securities Commission

OSC File #: 2023/0127

B.2.2 Aralez Pharmaceuticals Canada Inc.

Headnote

National Policy 11-206 Process for Cease to be a Reporting Issuer Applications – Application to cease to be a reporting issuer under applicable securities laws – The issuer is not an OTC reporting issuer; the securities of the issuer are beneficially owned by fewer than 15 securityholders in each of the jurisdictions of Canada and fewer than 51 securityholders worldwide; no securities of the issuer are traded on a market in Canada or another country; the issuer is not in default of securities legislation except it has not filed certain continuous disclosure documents.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., s. 1(10)(a)(ii).

April 11, 2023

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
ONTARIO
(the Jurisdiction)

AND

IN THE MATTER OF
THE PROCESS FOR CEASE TO BE
A REPORTING ISSUER APPLICATIONS

AND

IN THE MATTER OF
ARALEZ PHARMACEUTICALS CANADA INC.
(the Filer)

ORDER

Background

The securities regulator in the Jurisdiction has received an application from the Filer for an order under the securities legislation of the Jurisdiction (the **Legislation**) that the Filer has ceased to be a reporting issuer in all jurisdictions of Canada in which it is a reporting issuer (the **Order Sought**).

Under the Process for Cease to be a Reporting Issuer Applications (for a passport application):

- (a) the Ontario Securities Commission is the principal regulator for this application; and
- (b) the Filer has provided notice that subsection 4C.5(1) of Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) is intended to be relied upon in British Columbia, Alberta, Saskatchewan, Manitoba, Québec, New Brunswick, Nova Scotia, Prince Edward Island and Newfoundland and Labrador.

Interpretation

Terms defined in National Instrument 14-101 *Definitions* and MI 11-102 have the same meaning if used in this order, unless otherwise defined.

Representations

This order is based on the following facts represented by the Filer:

1. The Filer is a corporation governed by the *Business Corporations Act* (Ontario) (the **OBCA**). The head office of the Filer is located in the Province of Ontario.
2. The Filer is a reporting issuer under the securities legislation in each of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Québec, New Brunswick, Nova Scotia, Prince Edward Island and Newfoundland and Labrador.
3. On December 22, 2022, the Filer entered into an arrangement agreement with Searchlight Pharma Inc. (**Searchlight**) in respect of a statutory plan of arrangement (the **Arrangement**) under section 182 of the OBCA pursuant to which Searchlight agreed to acquire all of the issued and outstanding common shares of the Filer (the **Common Shares**).
4. On March 7, 2023, the Arrangement was approved by the Filer's shareholders at a special meeting.
5. On March 10, 2023, a final order was obtained from the Ontario Superior Court of Justice (Commercial List) in respect of the Arrangement.
6. The Arrangement was completed on March 14, 2023, after which the Filer became a wholly-owned subsidiary of Searchlight. Following completion of the Arrangement, on March 15, 2023 the Filer changed its name from "Nuvo Pharmaceuticals Inc." to "Aralez Pharmaceuticals Canada Inc."
7. The Filer does not have any securities issued or outstanding other than the Common Shares.
8. The Common Shares of the Filer were delisted from the Toronto Stock Exchange at the close of trading on March 16, 2023.
9. The Filer does not currently intend to seek financing by way of a public or private offering of its securities in Canada or elsewhere.
10. The Filer submitted an application under the "simplified procedure" in National Policy 11-206 *Process for Cease to be a Reporting Issuer Applications* (**NP 11-206**) for an order under the Legislation that the Filer has ceased to be a reporting issuer on March 23, 2023 (the **Initial Application**).

11. Following the completion of the Arrangement and the submission of the Initial Application, the Filer did not file: (a) audited annual financial statements for the year ended December 31, 2022; (b) management's discussion and analysis relating to the audited annual financial statements for the year ended December 31, 2022; (c) certification of the foregoing filings as required by National Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings*; and (d) annual information form for the year ended December 31, 2022 (collectively, the **Filings**).
12. The Filer is not in default of any requirements of the applicable securities legislation of any jurisdiction in Canada or the rules and regulations made pursuant thereto, other than its obligation to file the Filings, which were due to be filed after the completion of the Arrangement and the submission of the Initial Application.
13. But for the fact that the Filer has not filed the Filings, the Filer would be eligible to use the "simplified procedure" under NP 11-206.
14. The Filer is not an OTC reporting issuer under Multilateral Instrument 51-105 *Issuers Quoted in the U.S. Over-the-Counter Markets*.
15. The outstanding securities of the Filer, including debt securities, are beneficially owned, directly or indirectly, by fewer than 15 securityholders in each of the jurisdictions of Canada and fewer than 51 securityholders in total worldwide.
16. No securities of the Filer, including debt securities, are traded in Canada or another country on a marketplace as defined in National Instrument 21-101 *Marketplace Operation* or any other facility for bringing together buyers and sellers of securities where trading data is publicly reported.

Order

The principal regulator is satisfied that the decision meets the test set out in the Legislation for the principal regulator to make the decision.

The decision of the principal regulator under the Legislation is that the Order Sought is granted.

"Marie-France Bourret"
Manager
Ontario Securities Commission

OSC File #: 2023/0134

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B.3

Reasons and Decisions

B.3.1 Waterloo Brewing Ltd.

Headnote

National Policy 11-206 Process for Cease to be a Reporting Issuer Applications – The issuer ceased to be a reporting issuer under securities legislation.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., s. 1(10)(a)(ii).

April 4, 2023

**IN THE MATTER OF
THE SECURITIES LEGISLATION OF
ONTARIO**

AND

**IN THE MATTER OF
WATERLOO BREWING LTD.
(the Applicant)**

DECISION

Waterloo Brewing Ltd.
c/o Carlsberg Canada Inc.
1425 North Service Road East, Suite 102
Oakville, Ontario
L6H 1A7

Dear Sirs/Mesdames:

**Re: Waterloo Brewing Ltd. (the Applicant) -
application for an order under subclause
1(10)(a)(ii) of the *Securities Act* (Ontario) (the
Act) that the Applicant is not a reporting issuer**

The Applicant has applied to the Ontario Securities Commission for an order under subclause 1(10)(a)(ii) of the Act that the Applicant is not a reporting issuer.

In this order, “securityholder” means, for a security, the beneficial owner of the security.

The Applicant has represented to the Commission that:

1. the Filer is not an OTC reporting issuer under Multilateral Instrument 51-105 *Issuers Quoted in the US. Over-the-Counter Markets*;

2. the outstanding securities of the Filer, including debt securities are beneficially owned, directly or indirectly, by fewer than 15 securityholders in each of the jurisdictions of Canada and fewer than 51 securityholders in total worldwide;
3. no securities of the Filer, including debt securities are traded in Canada or another country on a marketplace as defined in National Instrument 21-101 *Marketplace Operation* or any other facility for bringing together buyers and sellers of securities where trading data is publicly reported;
4. the Filer is applying for an order that the Filer has ceased to be a reporting issuer in all of the jurisdictions of Canada in which it is a reporting issuer; and
5. the Filer is not in default of securities legislation in any jurisdiction.

The Director is satisfied that it would not be prejudicial to the public interest to grant the requested relief and orders that the Applicant is not a reporting issuer.

“Michael Balter”
Manager, Corporate Finance
Ontario Securities Commission

OSC File #: 2023/0114

B.3.2 The Saskatchewan Pension Plan

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Application by the Saskatchewan Pension Plan (SPP) for to revoke and vary prior order granting relief from the registration and prospectus requirements of the Securities Act (Ontario) in connection with the distributions of units of the SPP Fund to SPP Members – SPP created and governed by The Saskatchewan Pension Plan Act and The Saskatchewan Pension Plan Regulations – SPP intended to be a low-cost provider of pension plans to provide supplementary income to individuals with little or no access to employer-sponsored plans – SPP receives moneys from, or on behalf of, SPP Members and from earnings accruing from the investment of moneys (collectively, the SPP Fund) – Moneys paid by, or on behalf of SPP Members into the SPP Fund and related accrued earnings are invested in a balanced fund or a short-term fund (the diversified income fund) (together, the Funds) – SPP administered by a Board of Trustees appointed by the Lieutenant Governor in Council for Saskatchewan – The Board administers the SPP Fund and acts as the trustee of the SPP Fund – Funds are managed by registered portfolio managers that follow the statement of investment policy and goals as adopted by the Board SPP does not have a conventional sales force and no commission is paid to brokers, SPP staff, or any other person – SPP does not solicit members or employers outside of Saskatchewan, and does not actively advertise outside Saskatchewan – While the majority of SPP Members who reside outside Saskatchewan joined the SPP while they were resident in Saskatchewan, a small number of them may not have been resident in Saskatchewan when they joined the SPP – Relief granted subject to terms and conditions.

Applicable Legislative Provisions

The Securities Act, 1988 (Saskatchewan), SS 1988-98, c. S.42.2, s. 83.

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions, ss. 3.1(c), 5.2(2).

Multilateral Instrument 11-102 Passport System, s. 4.7.

Securities Act (Ontario), R.S.O. 1990, c. S.5, as am., ss. 25(1), 53(1), 74(1) and 144(1).

National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations, s. 8.28.

National Instrument 45-102 Resale of Securities.

March 31, 2023

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
SASKATCHEWAN
AND
ONTARIO
(the Jurisdictions)

AND

IN THE MATTER OF
THE PROCESS FOR EXEMPTIVE RELIEF APPLICATIONS
IN MULTIPLE JURISDICTIONS

AND

IN THE MATTER OF
THE SASKATCHEWAN PENSION PLAN
(SPP or the Filer)

DECISION

Background

The securities regulatory authority or regulator in each of the Jurisdictions (the **Decision Makers**) has received an application from the Filer:

- (a) for a decision under the securities legislation of the Jurisdictions (the **Legislation**), pursuant to clause 83(1)(a) of *The Securities Act, 1988* (Saskatchewan) (the **Saskatchewan Act**) and section 74 of the *Securities Act* (Ontario) (the **Ontario Act**), granting the Filer an exemption from:

- (i) the dealer registration requirement (clause 27(2)(a) of the Saskatchewan Act and subsections 25(1) and 25(2) of the Ontario Act) with respect to its trades in SPP securities, and
 - (ii) the prospectus requirement (section 58 of the Saskatchewan Act and section 53 of the Ontario Act);
- (collectively, the **Dealer and Prospectus Request**); and
- (b) for a decision by the Decision Maker of Saskatchewan pursuant to section 158(4) of the Saskatchewan Act and by the Decision Maker of Ontario pursuant to section 144 of the Ontario Act revoking the Order dated December 24, 2021 entitled *In the Matter of the Saskatchewan Pension Plan* (the **Prior Order**)
- (the **Revocation Request**).

The Dealer and Prospectus Request and the Revocation Request are collectively referred to as the **Exemption Sought**.

Under the Process for Exemptive Relief Applications in Multiple Jurisdictions (for a dual application):

- (a) the Financial and Consumer Affairs Authority of Saskatchewan is the principal regulator for this application;
- (b) the Filer has provided notice that subsection 4.7(1) of Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) is intended to be relied upon in each of British Columbia, Alberta, Manitoba, Quebec, New Brunswick, Nova Scotia, Prince Edward Island, Newfoundland and Labrador, the Yukon Territory, the Northwest Territories and Nunavut; and
- (c) the decision is the decision of the principal regulator and evidences the decision of the securities regulatory authority or regulator in Ontario.

Interpretation

Terms defined in the Saskatchewan Act and accompanying Regulations, the Ontario Act and accompanying Regulations, MI 11-102, National Instrument 14-101 *Definitions*, National Instrument 45-106 *Prospectus Exemptions*, National Instrument 81-101 *Mutual Fund Prospectus Disclosure* and National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* have the same meaning if used in this decision, unless otherwise defined.

Representations

This decision is based on the following facts represented by the Filer:

1. SPP was created and is governed by *The Saskatchewan Pension Plan Act* (the **SPP Act**) and *The Saskatchewan Pension Plan Regulations* (the **SPP Regulations**).
2. SPP is not subject to the provisions of *The Pension Benefits Act, 1992* (Saskatchewan), the *Pension Benefits Act* (Ontario), the *Employment Pension Plans Act* (Alberta), the *Pension Benefits Standards Act* (British Columbia), the *Pension Benefits Act* (Manitoba), the *Pension Benefits Act* (Newfoundland and Labrador), the *Pension Benefits Act* (Nova Scotia), the *Pension Benefits Act* (New Brunswick), the *Act respecting the Québec Pension Plan* (Quebec), the *Supplemental Pension Plans Act* (Quebec), the *Pension Benefits Standards Act* (Canada) (applicable in Nunavut, the Northwest Territories and the Yukon), or the regulations under any of them. There is no similar legislation in force at this time in Prince Edward Island.
3. SPP is intended to be a low-cost provider of pension plans to provide supplementary income to individuals with little or no access to employer-sponsored plans.
4. SPP receives moneys from, or on behalf of participants (**SPP Members**) and from earnings accruing from the investment of moneys (collectively, the **SPP Fund**).
5. Moneys paid by, or on behalf of SPP Members into the SPP Fund and related accrued earnings are invested in a balanced fund or a diversified income fund (together, the **Funds**). Notwithstanding paragraph 2 above, the SPP Act requires such investments be in such securities as those authorized pursuant to *The Pension Benefits Act, 1992* (Saskatchewan). Section 44 of *The Pension Benefits Act, 1992* requires such investments comply with *The Pension Benefits Regulations, 1993* (Saskatchewan). Section 38 of those regulations requires investments be made in accordance with the *Pension Benefits Standards Act, 1985* (Canada).
6. SPP is administered by a Board of Trustees (the **Board**) appointed by the Lieutenant Governor in Council for Saskatchewan.

7. The Board administers the SPP Fund and acts as the trustee of the SPP Fund.
8. The Board oversees the functions of SPP including the employees of SPP.
9. Questions that arise regarding SPP, the SPP Fund and the Funds are determined by the Board and its decision is final.
10. The Board has adopted a governance manual which includes a code of conduct and conflict of interest rules and has also adopted a statement of investment policy and goals.
11. The Board is subject to the Government of Saskatchewan's financial administration manual which includes a dual signature requirement for the control of and access to SPP bank accounts.
12. SPP employees are bonded under the policy of the Government of Saskatchewan. The coverage for each position is a maximum of \$1,000,000 with a \$100,000 deductible.
13. SPP annually has its internal controls tested by an independent auditor. This includes a review of SPP financial statements, SPP accounts, the SPP Fund, the Funds and the report of the Board on its business. These are also reviewed by the Provincial Auditor of Saskatchewan.
14. SPP is required to have audited financial statements, a report of the Board on its business and an annual report which must all be submitted annually to the Minister responsible for SPP and then presented to the Legislative Assembly of Saskatchewan.
15. The Funds are managed by registered portfolio managers that follow the statement of investment policy and goals as adopted by the Board.
16. All SPP Fund assets are held by a custodian who is appointed by, and reports directly to the Board.
17. SPP is self-funded which means its operating expenses and costs of administration are paid from the SPP Fund and are allocated on a monthly basis to SPP Members.
18. SPP does not have a conventional sales force and no commission is paid to brokers, SPP staff, or any other person.
19. SPP does speak with employers within Saskatchewan, advertises within Saskatchewan and maintains a website.
20. SPP does not solicit members or employers outside of Saskatchewan, and does not actively advertise outside Saskatchewan.
21. The SPP Act does not limit membership in SPP to Saskatchewan residents. Under the SPP Act, membership is open to all individuals regardless of residency who are between the ages of 18 and 71.
22. SPP maintains records, called participant's accounts (**SPP Member Account**), of the amount standing to the credit of a SPP Member in the SPP Fund.
23. As of December 31, 2021, there are over 24,022 active SPP Members (and, including retired annuity SPP Members, the total is over 32,409 SPP Members). The majority of SPP Members reside in Saskatchewan.
24. As of December 31, 2021, the total value of the SPP Fund for active SPP Member Accounts was approximately \$528.8 million and the average SPP Member Account size was \$24,378. In 2021, the average SPP Member contribution was \$2,551.
25. SPP Member contributions to SPP are voluntary and a SPP Member's employer can contribute on behalf of a SPP Member, at the employer's option. Regardless of the origin of the contribution, SPP Members own their SPP Member account and receive tax deductible receipts in accordance with the *Income Tax Act* (Canada) (the **ITA**) for all contributions. An employer who voluntarily contributes to SPP on behalf of a SPP Member cannot acquire any rights or interest in that SPP Member's account: the contribution is simply a monetary contribution made on behalf of that SPP Member.
26. The maximum allowable annual contribution to a SPP Member account (comprising a combination of a SPP Member's contribution and their employer's optional contribution on their behalf, if applicable) was \$6,000 in 2018 and has been automatically increasing, starting in 2019, by the rate of growth of the Year's Maximum Pensionable Earnings as defined in the *Canada Pension Plan*, rounded to the nearest \$100. The limit as of January 1, 2022 is \$7,000 (the **Contribution Limit**). This is subject to a SPP Member's available Registered Retirement Savings Plan (**RRSP**) contribution room pursuant to the ITA.
27. The maximum allowable RRSP transfer into a SPP Member account per calendar year is \$10,000 (the **Transfer Limit**).

28. By way of Order in Council dated February 8, 2023, the Lieutenant Governor in Council of Saskatchewan amended the SPP Regulations to remove the Contribution Limit and the Transfer Limit.
29. SPP Members are offered a choice between the Funds. Currently, the default is the balanced fund; however, SPP Members can allocate their contributions between the Funds.
30. SPP does not provide any investment or retirement planning advice.
31. SPP Members sign a SPP Membership Application Form and as part of the form SPP Members also sign an investment instruction declaration that states SPP Members are responsible for their investment choices.
32. Under the SPP Act, as recently amended, a SPP Member may elect to withdraw from SPP within sixty (60) days from the later of the date the SPP Member's application is made or the date on which a SPP Member makes their first contribution, and the SPP Member will receive a refund of the amount standing to the SPP Member's credit together with interest.
33. SPP Members receive documentation including:
 - (a) a welcome letter upon enrolment;
 - (b) account statements, provided annually as of December 31 and available continually on-line; and
 - (c) tax receipts for their contributions and confirmation for inter-Funds transfers or transfers from a RRSP into a SPP Member account if applicable.
34. SPP Members can transfer existing contributions between the Funds on a monthly basis. SPP provides for two (2) free inter-Funds transfers per calendar year. All other inter-Funds transfers are subject to a fee.
35. The SPP Member accounts are locked-in until age 55 at SPP and are governed by the SPP Act and the SPP Regulations and cannot be withdrawn from SPP except to provide a pension benefit at retirement.
36. Section 19(1) of the SPP Act generally prohibits a SPP Member's interest from being transferred or assigned (subject to narrow exceptions relating to division of family property and maintenance orders).
37. SPP provides retirement options for SPP Members between ages 55 and 71. A SPP Member has the option of accessing the balance in their participant account by selecting a SPP annuity option or by transferring their participant account to a Locked-In Registered Retirement Account (**LIRA**), prescribed Registered Retirement Income Fund (**RRIF**), outside life annuity or combination of these options. The ITA dictates it is mandatory that by age 71 a SPP Member must decide on their retirement option(s).
38. In Saskatchewan only, SPP offers SPP Members between ages 55 and 71 a variable pension benefit (**VB**) retirement option (**VB Option**). The VB Option is a retirement income option with no maximum withdrawal restriction and the option to withdraw part or all of the balance at any time.
39. SPP Members who choose the VB Option will be offered the choice to invest in the balanced fund, the diversified income fund, or a combination of both.
40. The VB Option is currently restricted to Saskatchewan Residents. The Filer wishes to remove that restriction and to offer the VB Option both inside and outside Saskatchewan.
41. SPP Members with the VB Option will not be able to make any further contributions to their SPP Member account. However, they may transfer any amounts from their RRSP, unlocked registered pension plan, or RRIF into their SPP Member account.
42. SPP Member accounts for those with the VB Option will continue to grow on a tax-sheltered basis. All payments to a SPP Member with the VB Option from a SPP Member account will be taxable at source.
43. SPP Members anticipating retirement will receive the SPP Retirement Guide, the SPP VB Guide, the SPP Investment Choice Guide, a SPP Retirement Application Form and a SPP VB Application Form.
44. In order to be eligible for retirement, the SPP Member will be required to submit a SPP Retirement Application Form, a SPP VB Application Form, the SPP Member's TD1 Personal Tax Credit Return, a spousal waiver (if applicable), a void cheque, and an initial payment schedule. Once all documentation is returned to SPP, the SPP Member's application is processed for the VB Option.

45. In addition to the documentation provided to all SPP Members, SPP Members with the VB Option will receive, on an annual basis, an account statement, T4A Statement of Pension, Retirement, Annuity, and Other Income, and a letter to elect whether to change withdrawal rates for the following year.
46. At any time after retirement, a SPP Member with the VB Option may transfer to a SPP annuity, a LIRA (if under the age of 72), a prescribed RRIF, or an outside life annuity. The transfer is permanent. There is no charge for a SPP Member with the VB Option to transfer to a SPP annuity.
47. Upon death of a SPP Member with the VB Option:
 - (a) if the SPP Member's beneficiary is not the SPP Member's spouse, upon receipt of all required documentation, payment is made in a single lump sum (less withholding tax);
 - (b) if the SPP Member's beneficiary is the SPP Member's spouse, the spouse will have the option of transferring the death benefit to the spouse's SPP Member account, maintain VB benefit payments (if not a SPP Member but a specified beneficiary), transferring to another RRSP or RRIF, or receiving a single lump sum payment (less withholding tax).
48. Once the SPP Member account of a SPP Member with the VB Option is depleted, the SPP Member account will be closed and SPP sends the SPP Member with the VB Option a closing statement.
49. SPP has information available for SPP Members on its website and in print including: the SPP Membership Guide, SPP annual reports (including previous reports for up to a 10-year period), statement of investment policy and goals, information on the rate of return on the Funds for previous years, a SPP Retirement Guide, a SPP Business Guide, and SPP newsletters.
50. SPP's website includes the SPP VB Guide and SPP Investment Choice Guide, and to send a SPP Retirement Application Form or a SPP VB Application Form to SPP Members (as applicable).
51. SPP has a system that addresses SPP Members' complaints which includes a complaint log and documented escalation procedures.
52. The Exemption Sought, and the representations of the Filer upon which this application is made, are substantially the same as the Prior Order in both form and substance, save and except for the fact that since the Prior Order, (a) the Lieutenant Governor in Council of Saskatchewan has amended the SPP Regulations to remove the Contribution Limit and the Transfer Limit, and (b) SPP wishes to remove the restriction on offering the VB Option in Saskatchewan only and to be permitted to offer it both inside and outside Saskatchewan.

Decision

Each of the Decision Makers is satisfied that the decision meets the test set out in the Legislation for the Decision Maker to make the decision. That is, the decision to grant the Exemption Sought would not be prejudicial to the public interest.

The decision of the Decision Makers under the Legislation is that the Dealer and Prospectus Request is granted provided that:

- (a) SPP provides the Executive Director with an undertaking to provide any information or produce specified records upon the Executive Director's request;
- (b) SPP annually delivers to the Executive Director its audited financial statements, report of the Board on its business and annual report at the same time as submitting such documents to the minister responsible for the SPP Act;
- (c) SPP does not solicit members or employers outside of Saskatchewan, and does not actively advertise outside Saskatchewan;
- (d) SPP staff answering SPP Member inquiries on the specifics of the Funds, the VB Option, or presenting on the specifics of the Funds or VB Option have passed at least one of the following: the Canadian Investment Funds Course, the Canadian Securities Course or the Investment Funds In Canada Course or such other course approved by the Executive Director;
- (e) SPP staff do not provide any investment or retirement planning advice;
- (f) The SPP Membership Application Form, the SPP Transfer and Investment Instruction Form, and the SPP VB Application Form include an investment instruction declaration containing information substantially the same as that set out in Schedule A to this decision;

- (g) SPP Members sign and date the applicable investment instruction declaration included in the SPP Membership Application Form, the SPP Transfer and Investment Instruction Form, or the SPP VB Application Form;
- (h) SPP:
 - (i) includes in the SPP Membership Guide, the SPP Business Guide, the SPP Retirement Guide and the SPP VB Guide:
 - (A) the specific differences between SPP and RRSPs,
 - (B) the specific differences between the VB Option, a RRSP and a RRIF, and
 - (C) the SPP complaint process,
 - (ii) prepares a fund facts document using Form 81-101F3 *Contents of Fund Facts Document* (as amended from time to time) excepting Part I subsections 1(c.1), 1(e), 2(0.1), 2(5), 2(6), 3(2), and clause 4(2)(d); Part II subsections 1.1, 1.2(1), 1.2(2), 1.3(4), 1.3(5), 1.3(6), 1.3(7), 3(1), 3(3); and Part II Item 2 for each of the Funds,
 - (iii) for each of the Funds that invests in a pooled fund, prepares a pooled funds table that includes:
 - (A) a title which is the name of that Fund, and
 - (B) for each pooled fund the:
 - (I) pooled fund name,
 - (II) investment fund manager name,
 - (III) investment objectives, and
 - (IV) investment approach;
- (i) At the time of providing the SPP Membership Application Form, SPP provides the following disclosure:
 - (i) the SPP Membership Guide,
 - (ii) the fund facts document for each of the Funds, and
 - (iii) the pooled funds table for the Funds, if applicable;
- (j) At the time of providing the SPP Retirement Application Form, the SPP VB Application Form, SPP provides the following disclosure:
 - (i) the SPP Retirement Guide,
 - (ii) the SPP VB Guide,
 - (iii) the fund facts document for each of the Funds, and
 - (iv) pooled funds table for the Funds, if applicable;
- (k) At the time of providing the SPP Transfer and Investment Instruction Form, SPP provides the following disclosure:
 - (i) the fund facts document for each of the Funds, and
 - (ii) the pooled funds table for the Funds, if applicable;
- (l) SPP maintains on its website the current:
 - (i) SPP Membership Guide,
 - (ii) SPP Membership Application Form,
 - (iii) SPP Retirement Guide,

- (iv) SPP VB Guide,
 - (v) SPP Investment Choice Guide,
 - (vi) fund facts document for each of the Funds,
 - (vii) pooled funds table for the Funds, if applicable, and
 - (viii) notice informing SPP Members and potential members that the fund facts document or pooled funds table for the Funds have been amended, in the case of an amendment;
- (m) SPP maintains on its website:
 - (i) the SPP statement of investment policy and goals,
 - (ii) information on the rate of return on the Funds for previous years, and
 - (iii) SPP annual reports (including previous reports for up to a 10-year period); and
- (n) SPP informs its members of the Funds that members will be able to invest in.
- (o) SPP establishes a policy, and provides members with a copy of the policy and any amendments to it, describing what happens if a member does not make an investment decision.
- (p) In addition to any other information that the SPP believes is reasonably necessary for a member to make an investment decision within the SPP, and unless that information has previously been provided, the SPP provides the member with the following information about each Fund the member may invest in:
 - (i) the name of the Fund,
 - (ii) the name of the manager of the Fund,
 - (iii) the fundamental investment objective of the Fund,
 - (iv) the investment strategies of the Fund or the types of investments the Fund may hold,
 - (v) a description of the risks associated with investing in the Fund,
 - (vi) upon request by a member, more information about each Fund's portfolio holdings,
 - (vii) where a member can obtain more information generally about each Fund, and
 - (viii) whether the Fund is considered foreign property for income tax purposes, and if so, a summary of the implications of that status for a member who invested in that Fund,
- (q) SPP provides members with a description and amount of any fees, expenses and penalties relating to the SPP that are borne by the members, including:
 - (i) any costs that must be paid when the Fund is bought or sold,
 - (ii) costs associated with accessing or using any of the investment information, decision-making tools or investment advice provided by the SPP,
 - (iii) Fund management fees,
 - (iv) Fund operating expenses,
 - (v) record keeping fees,
 - (vi) any costs for transferring among investment options, including penalties, book and market value adjustments and tax consequences,
 - (vii) account fees, and
 - (viii) fees for services provided by service providers,

provided that the SPP may disclose the fees, penalties and expenses on an aggregate basis, if the SPP discloses the nature of the fees, expenses and penalties, and the aggregated fees do not include fees that arise because of a choice that is specific to a particular member.

- (r) SPP has within the past year, provided the members with performance information about each Fund the members may invest in, including,
 - (i) the name of the Fund for which the performance is being reported,
 - (ii) the performance of the Fund, including historical performance for one, five and 10 years, if available,
 - (iii) a performance calculation that is net of investment management fees and Fund expenses,
 - (iv) upon request by a member, the method used to calculate the Fund's performance return calculation, and information about where a member could obtain a more detailed explanation of that method,
 - (v) the name and description of a broad-based securities market index for the Fund and corresponding performance information for that index, and
 - (vi) a statement that past performance of the Fund is not necessarily an indication of future performance.
- (s) SPP has, within the past year, informed members if there were any changes in the choice of Funds that members could invest in and where there was a change, provided information about what members needed to do to change their investment decision, or make a new investment.
- (t) SPP provides members with investment decision-making tools that the SPP reasonably believes are sufficient to assist them in making an investment decision within the SPP.
- (u) SPP must provide the information required by paragraphs (o), (p), (q) and (t) prior to the member making an investment decision in SPP.
- (v) The first trade of SPP securities issued in reliance on the Requested Relief will be subject to section 2.6 of National Instrument 45-102 *Resale of Securities*.
- (w) SPP does not permit SPP Members to contribute an amount to their SPP Member Account which exceeds the amount permitted under the individual's available RRSP contribution room, which is limited by the ITA, and in the case of an over-contribution, SPP refunds the amount by which a SPP Member's contribution exceeds that SPP Member's RRSP contribution room.
- (x) SPP does not permit SPP Members to transfer locked-in registered funds into their SPP Member Accounts.
- (y) SPP immediately advises the Executive Director of any material changes to its operations and this exemption terminates 30 days following any material change to SPP operations unless the Executive Director indicates otherwise.

The decision of the Decision Makers under the Legislation is that the Revocation Request is granted as the Prior Order is hereby replaced by this decision.

"Dean Murrison"
Executive Director, Securities Division
Financial and Consumer Affairs
Authority of Saskatchewan

Schedule A

1. SPP does not provide any investment or retirement planning advice.
2. SPP does not take responsibility as to the suitability of a SPP Member's Funds choice.
3. SPP does not consider a SPP Members' financial situation, investment knowledge, investment objectives or risk tolerance.
4. A SPP Member may elect to withdraw from SPP within sixty (60) days from the later of the date the SPP Member's application is made or the date on which a SPP Member makes their first contribution, and the SPP Member will receive a refund of the amount standing to the SPP Member's credit together with interest.
5. SPP Member accounts are locked-in until age 55 at SPP, governed by the SPP Act and the SPP Regulations and cannot be withdrawn from SPP except to provide a pension benefit at retirement.
6. Between ages 55 and 71, a SPP Member has the option of accessing the balance in their participant account by selecting a SPP annuity option, the VB Option, or by transferring their participant account to a LIRA, RRIF, outside life annuity or combination of these options.
7. The ITA dictates it is mandatory that by age 71 a SPP Member must decide on their retirement option(s).
8. SPP Members acknowledge that:
 - (a) they are responsible for:
 - (i) their choice of Funds,
 - (ii) their choice of options (SPP annuity option or VB Option), and
 - (iii) obtaining their own financial advice for making investment decisions;
 - (b) they understand the:
 - (i) differences between SPP and RRSPs,
 - (ii) differences between the VB Option, a RRSP and a RRIF, and
 - (iii) the SPP complaint process; and
 - (c) they have received the:
 - (i) SPP Membership Guide, the SPP Business Guide, the SPP Retirement Guide and the SPP VB Guide (as applicable),
 - (ii) fund facts document for each of the Funds,
 - (iii) pooled funds table for the Funds, if applicable, and
 - (iv) if applicable, a notice informing SPP Members and potential members that the fund facts document or pooled funds table for the Funds have been amended, in the case of an amendment.

B.3.3 3iQ Corp. et al.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Relief granted for extension of lapse date of prospectus – Filer inadvertently failed to file a pro forma prospectus not less than thirty days prior to the lapse date as required by the legislation – Lapse date extended by 30 days – No conditions.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., s. 62(5).

March 27, 2023

**IN THE MATTER OF
THE SECURITIES LEGISLATION OF
ONTARIO
(the Jurisdiction)**

AND

**IN THE MATTER OF
THE PROCESS FOR EXEMPTIVE
RELIEF APPLICATIONS
IN MULTIPLE JURISDICTIONS**

AND

**IN THE MATTER OF
3iQ CORP.
(the Filer)**

AND

**IN THE MATTER OF
3iQ COINSHARES BITCOIN ETF**

**3iQ COINSHARES ETHER ETF
(collectively, the ETFs)**

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer, on behalf of the ETFs, for a decision under the securities legislation of the Jurisdiction of the principal regulator (the **Legislation**) that the time limits for the renewal of the prospectus of the ETFs dated March 31, 2022 be extended to those time limits that would apply if the lapse date of the prospectus of the ETFs was April 30, 2023 (the **Requested Relief**).

Under the Process for Exemptive Relief Applications in Multiple Jurisdictions (for a passport application):

- (a) the Ontario Securities Commission is the principal regulator for this application; and

- (b) the Filer has provided notice that subsection 4.7(1) of Multilateral Instrument 11-102 *Passport System (MI 11-102)* is intended to be relied upon in each of the other provinces and territories of Canada (together with Ontario, the **Jurisdictions**).

Interpretation

Terms defined in National Instrument 14-101 *Definitions* and MI 11-102 have the same meaning if used in this decision, unless otherwise defined.

Representations

This decision is based on the following facts represented by the Filer:

1. The Filer is a corporation incorporated under the laws of Canada, with its registered office located Toronto, Ontario.
2. The Filer is registered as (a) a portfolio manager, investment fund manager and exempt market dealer in Alberta and Quebec, (b) a portfolio manager and exempt market dealer in British Columbia, (c) an exempt market dealer in Manitoba, New Brunswick, Nova Scotia, Prince Edward Island, and Saskatchewan, (d) an exempt market dealer and investment fund manager in Newfoundland and Labrador, and (e) a commodity trading manager, exempt market dealer, portfolio manager and investment fund manager in Ontario.
3. The Filer is the investment fund manager and trustee of the ETFs.
4. Neither the Filer nor the ETFs are in default of securities legislation in any of the Jurisdictions.
5. The ETFs are reporting issuers under the laws of the Jurisdictions and are open-ended alternative mutual fund trusts subject to National Instrument 81-102 *Investment Funds*.
6. The ETFs invest in the digital currency bitcoin and ether, as indicated by their respective names.
7. Securities of the ETFs are currently qualified for distribution in each of the Jurisdictions under a long form prospectus dated March 31, 2022 (the **Current Prospectus**).
8. The ETFs are in continuous distribution and the securities of each of the ETFs are listed on the Toronto Stock Exchange.
9. The lapse date for the Current Prospectus under the Legislation is March 31, 2023 (the **Current Lapse Date**).
10. Accordingly, under the Legislation, the distribution of securities of the ETFs would have to cease on

the Current Lapse Date unless: (i) the ETFs file a pro forma prospectus at least 30 days prior to the Current Lapse Date; (ii) the final prospectus of the ETFs is filed no later than 10 days after the Current Lapse Date; and (iii) a receipt for the final prospectus of the ETFs is obtained within 20 days after the Current Lapse Date.

“Darren McKall”
Manager, Investment Funds and Structured Products
Ontario Securities Commission

Application File #: 2023/0123

11. As a result of recent organizational changes, including changes in the Filer's outside law firm and Chief Compliance Officer, along with other changes since the date of the Current Prospectus, the Filer has inadvertently filed its pro forma prospectus after the 30-day period prior to the Current Lapse Date.
12. The Filer desires to extend the Current Lapse Date of the Current Prospectus in order to allow it to comply with the Legislation.
13. If the Requested Relief is not granted, the potential effect on the capital markets is likely to be disproportionately prejudicial, given recent events in the broader digital asset marketplace. In addition, investors and securityholders of the ETFs would not be prejudiced by the Requested Relief.
14. There have been no material changes in the affairs of the ETFs since the date of the Current Prospectus, except for the amendment to the Current Prospectus dated October 21, 2022, which was duly filed. Accordingly, the Current Prospectus and current ETF facts document of each ETF represent current information regarding such ETFs.
15. Given the disclosure obligations of the Filer and the ETFs, should any material change occur, the Current Prospectus and current ETF facts will be amended as required under the Legislation.
16. New investors of the ETFs will receive delivery of the most recently filed ETF facts. The Current Prospectus will remain available to investors upon request.
17. The Requested Relief will not affect the accuracy of the information contained in the Current Prospectus or the respective ETF facts and therefore will not be prejudicial to the public interest.

Decision

The principal regulator is satisfied that the decision meets the test set out in the Legislation for the principal regulator to make the decision.

The decision of the principal regulator under the Legislation is that the Requested Relief is granted.

B.4 Cease Trading Orders

B.4.1 Temporary, Permanent & Rescinding Issuer Cease Trading Orders

Company Name	Date of Temporary Order	Date of Hearing	Date of Permanent Order	Date of Lapse/Revoke

Failure to File Cease Trade Orders

Company Name	Date of Order	Date of Revocation
Nebu Resources Inc.	April 5, 2023	
Isracann Bioscience Inc.	April 5, 2023	
Rockshield Acquisition Corp.	April 5, 2023	
Rockshield Opportunities Corp.	April 5, 2023	
TrackX Holdings Inc.	April 5, 2023	
Transcanna Holding Inc.	April 5, 2023	
Wellbeing Digital Sciences Inc.	April 5, 2023	
Silo Wellness Inc.	March 6, 2023	April 6, 2023
Fortune Minerals Limited	April 6, 2023	
CRAFT 1861 Global Holdings Inc.	April 6, 2023	
Acerus Pharmaceuticals Corporation	April 6, 2023	
Amcomri Entertainment Inc.	April 6, 2023	
Pure Gold Mining Inc.	April 6, 2023	
The Very Good Food Company Inc.	April 6, 2023	

B.4.2 Temporary, Permanent & Rescinding Management Cease Trading Orders

Company Name	Date of Order	Date of Lapse
Alkaline Fuel Cell Power Corp.	April 4, 2023	
mCloud Technologies Corp.	April 5, 2023	
Greenbrook TMS Inc.	April 5, 2023	
Anaergia Inc	April 6, 2023	

B.4: Cease Trading Orders**B.4.3 Outstanding Management & Insider Cease Trading Orders**

Company Name	Date of Order or Temporary Order	Date of Hearing	Date of Permanent Order	Date of Lapse/Expire	Date of Issuer Temporary Order
Performance Sports Group Ltd.	19 October 2016	31 October 2016	31 October 2016		

Company Name	Date of Order	Date of Lapse
Agrios Global Holdings Ltd.	September 17, 2020	
Gatos Silver, Inc.	April 1, 2022	
Gatos Silver, Inc.	April 12, 2022	
Sproutly Canada, Inc.	June 30, 2022	
Gatos Silver, Inc.	July 7, 2022	
iMining Technologies Inc.	September 30, 2022	
Molecule Holdings Inc.	March 1, 2023	
SOL Global Investments Corp.	March 31, 2023	
Titan Medical Inc.	April 3, 2023	
Halo Collective Inc.	April 3, 2023	
Alkaline Fuel Cell Power Corp.	April 4, 2023	
mCloud Technologies Corp.	April 5, 2023	
Greenbrook TMS Inc.	April 5, 2023	
Anaergia Inc	April 6, 2023	

B.6

Request for Comments

B.6.1 CSA Notice and Request for Comment – Proposed Amendments to Form 58-101F1 Corporate Governance Disclosure of National Instrument 58-101 Disclosure of Corporate Governance Practices and Proposed Changes to National Policy 58-201 Corporate Governance Guidelines



Canadian Securities
Administrators

Autorités canadiennes
en valeurs mobilières

CSA NOTICE AND REQUEST FOR COMMENT

PROPOSED AMENDMENTS TO FORM 58-101F1 *CORPORATE GOVERNANCE DISCLOSURE OF* NATIONAL INSTRUMENT 58-101 *DISCLOSURE OF CORPORATE GOVERNANCE PRACTICES* AND PROPOSED CHANGES TO NATIONAL POLICY 58-201 *CORPORATE GOVERNANCE GUIDELINES*

April 13, 2023

Introduction

The Canadian Securities Administrators (**CSA** or **we**) are publishing for a 90-day comment period:

- proposed amendments to Form 58-101F1 *Corporate Governance Disclosure* (**Form 58-101F1**) of National Instrument 58-101 *Disclosure of Corporate Governance Practices* (**NI 58-101**) pertaining to board nominations, board renewal and diversity, as well as ancillary amendments to section 1.1 Definitions of NI 58-101 (the **Proposed Amendments**); and
- proposed changes to National Policy 58-201 *Corporate Governance Guidelines* (**NP 58-201**) pertaining to board nominations, board renewal and diversity (the **Proposed Changes**),

(collectively, the **Proposed Amendments and Changes**).

The CSA is seeking comment on two approaches to build upon the existing disclosure requirements in Form 58-101F1 regarding the representation of women on boards and in executive officer positions and board renewal adopted by most CSA jurisdictions in 2014¹ (the **2014 Requirements**). While each approach is premised on different concepts discussed further below, both approaches are intended to provide enhanced, decision-useful information to investors to assist with their investment and voting decisions.

We are issuing this notice to solicit your comments on the Proposed Amendments and Changes, and in particular to seek feedback on which approach best meets the needs of stakeholders. The public comment period will end on July 12, 2023.

Although British Columbia and Prince Edward Island have not adopted the 2014 Requirements, all jurisdictions are consulting on the Proposed Amendments and Changes with a view to adopting them.

The text of the Proposed Amendments and Changes is included in Annexes C through G of this notice and will also be available on the websites of the following CSA jurisdictions:

www.albertasecurities.com
www.bcsc.bc.ca
www.fcaa.gov.sk.ca
www.fcnb.ca

www.lautorite.qc.ca
www.mbsecurities.ca
nssc.novascotia.ca
www.osc.ca

¹ Not adopted in British Columbia and Prince Edward Island. Adopted in Alberta in 2016.

Substance and Purpose

The Proposed Amendments and Changes set out amendments to the corporate governance disclosure requirements in Form 58-101F1 and changes to the corporate governance guidelines in NP 58-201 pertaining to board nominations, board renewal and diversity.

In particular, the Proposed Amendments would require disclosure on aspects of diversity beyond the representation of women, while retaining the current disclosure requirements with respect to women included in the 2014 Requirements. The CSA recognizes the importance of providing investors with transparency on issuers' practices with respect to board and executive-level diversity. The Proposed Amendments are intended to elicit meaningful disclosure about how non-venture issuers identify and evaluate new candidates for nomination to the board, how they address board renewal, and how diversity is incorporated into those considerations. This is intended to reflect that the board's consideration of diversity is an integral component of the board's nomination and renewal processes.

The Proposed Changes would provide enhanced guidelines related to board nominations and would introduce guidelines on board renewal and board diversity in NP 58-201. This ensures that the guidelines in NP 58-201 adequately complement the disclosure requirements in Form 58-101F1, as amended by the Proposed Amendments.

The Proposed Amendments and Changes reflect the CSA's commitment to ensuring investors have the information they need to make informed investment and voting decisions. The main objectives of these proposals are to:

- increase transparency about diversity, including diversity beyond women, on boards and in executive officer positions;
- provide investors with decision-useful information that enables them to better understand how diversity ties into an issuer's strategic decisions; and
- provide guidance to issuers on corporate governance practices related to board nominations, board renewal and diversity.

The CSA is committed to engaging with Indigenous Peoples and organizations. We will continue to broaden our engagement as we advance our understanding of how to best approach this work. Input collected through such engagement conducted by individual CSA members will be shared within the CSA so that all members can benefit from the views obtained.

Background

The 2014 Requirements require non-venture issuers to provide disclosure on an annual basis in the following areas:

- director term limits and other mechanisms of board renewal;
- policies regarding the representation of women on the board;
- consideration of the representation of women in the director identification and selection process;
- consideration given to the representation of women in executive officer appointments;
- issuer's targets regarding the representation of women on the board and in executive officer positions; and
- number of women on the board and in executive officer positions.

The objective of the 2014 Requirements was to increase transparency for investors regarding the representation of women on boards and in executive officer positions, and the approach that issuers take in respect of such representation, to inform investment and voting decisions.

In recent years there have been several developments that have heightened the importance of considering diversity on boards and in executive officer positions, beyond women, including:

- As of January 1, 2020, distributing corporations governed by the *Canada Business Corporations Act (CBCA)* are required to provide prescribed diversity disclosure with respect to women, Indigenous peoples (First Nation, Inuit and Métis), persons with disabilities and members of visible minorities in connection with their annual meeting of shareholders held on or after such date.
- In February 2020, the Ontario Government established the Capital Markets Modernization Taskforce to review and modernize the Ontario capital markets. The Taskforce published a final report in January 2021, which includes recommendations pertaining to corporate board diversity.

- On October 1, 2020, institutional investors managing more than \$2.3 trillion in assets signed the Canadian Investor Statement on Diversity & Inclusion, an initiative to combat systemic inequities and advancing diversity and inclusion efforts.

In light of this heightened focus, CSA Staff undertook the following consultations, research and reviews related to diversity:

- **Consultations** – In May 2021, we announced consultations with a variety of stakeholders to better understand their needs and perspectives with respect to diversity, including diversity beyond women. The consultations were held through a variety of forums, including consultation papers, roundtables, meetings and other communications with stakeholders.

A high-level overview of the feedback from these consultations is as follows:

- Diversity is an important consideration in investment and voting decisions.
 - There is strong investor support in expanding the existing disclosure regime to consider diversity beyond women, while maintaining specific disclosure requirements regarding women.
 - Diversity on boards and in executive officer positions is a critical component of good corporate governance.
 - Many stakeholders support guidelines related to diversity that provide issuers with flexibility to adapt them to their circumstances.
 - Institutional investors and proxy advisory firms are developing diversity-related policies which have resulted in disparate diversity disclosure practices among issuers.
 - Some stakeholders expressed support for a consistent, standardized framework for diversity disclosure.
 - Other stakeholders stressed that a flexible approach would be better suited to Canada's diverse capital markets and expressed concern with the disclosure of personal characteristics.
- **Research** – The CSA also revisited and updated research on the approach to diversity by certain securities regulators outside of Canada. Annex B provides a summary of these approaches, which highlight an increasing focus on diversity generally, including diversity beyond women. The CSA continues to follow domestic and international developments related to diversity.
 - **Annual Reviews** – We have considered issuer disclosure practices and key trends arising from eight annual reviews of public disclosure regarding women on boards and in executive officer positions conducted by several CSA jurisdictions since the adoption of the 2014 Requirements. Most recently, CSA Multilateral Staff Notice 58-314 *Review of Disclosure Regarding Women on Boards and in Executive Officer Positions* reports that the proportion of board seats held by women has increased from 11% to 24% during the eight-year period since the 2014 Requirements came into effect.

The Proposed Amendments and Changes were informed by these consultations, research and reviews.

Summary of the Proposed Amendments and Changes

Proposed Amendments

Two versions of Form 58-101F1 are presented for comment (**Form A** and **Form B**). Form A and Form B are generally aligned with respect to disclosure requirements related to board nominations and board renewal but reflect different approaches respecting diversity-related disclosure issuers must provide.

In this consultation, we are seeking feedback on both proposals. While all participating jurisdictions are consulting on both Form A and Form B, certain jurisdictions have expressed their preference for one proposal over the other. Specifically, the British Columbia Securities Commission, the Alberta Securities Commission, the Financial and Consumer Affairs Authority of Saskatchewan and the Office of the Superintendent of Securities Northwest Territories support Form A and the Ontario Securities Commission supports Form B. The Autorité des marchés financiers, the Financial and Consumer Services Commission of New Brunswick, the Manitoba Securities Commission, the Nova Scotia Securities Commission, the Office of the Superintendent of Securities Newfoundland and Labrador, the Office of the Superintendent of Securities Nunavut, the Office of the Yukon Superintendent of Securities and the Superintendent of Securities Department of Justice and Public Safety Prince Edward Island have not expressed a preference at this time.

Both Form A and Form B are designed to increase transparency about diversity, including diversity beyond women, on boards and in executive officer positions, and provide investors with decision-useful information that enables them to better understand how diversity is addressed by an issuer. At a high level, the key components of each approach, represented in the design of the applicable form, are described below.

Form A would require an issuer to disclose its approach to diversity in respect of the board and executive officers, but would not mandate disclosure in respect of any specific groups, other than women. An issuer would be required to describe its chosen diversity objectives and how it would measure progress, and explain what mechanisms it has determined are appropriate for the issuer to achieve its diversity objectives. If an issuer chooses to collect data with respect to specific groups it identifies as being relevant for the issuer's approach to diversity, this data must be disclosed in a manner determined by the issuer. We acknowledge there may be a desire, by some investors, for comparability of such disclosure. However, the approach taken in Form A is intended to provide each issuer with flexibility to design practices and policies respecting how it will address diversity in its specific circumstances, and not requiring it to report data on any specific group. This approach also removes securities regulators from defining to whom an issuer's approach to diversity must apply, other than women.

Similar to the approach adopted under the CBCA (although differing to some degree on the identified categories utilized), Form B contemplates mandatory reporting on the representation of five designated groups, being women, Indigenous peoples, racialized persons, persons with disabilities and LGBTQ2SI+ persons, on boards and in executive officer positions. An issuer may also choose to voluntarily provide disclosure in respect of other groups beyond the designated groups. All such data would be required to be reported in standardized tabular format to promote consistency and comparability of such disclosure. The information reported must be based on voluntary self-disclosure by directors and executive officers. In addition, Form B would require disclosure regarding any written strategy, written policies and measurable objectives relating to diversity on an issuer's board.

The key difference between Form A and Form B is that the latter mandates disclosure on historically underrepresented groups. In doing so, it conforms to the approach taken in the CBCA and is intended to provide statistical data that is comparable amongst issuers in connection with these groups. Form A's approach is based on a view that securities regulators should not select categories of diversity, other than women, preferring to leave that to the issuer's determination as to what aspects of diversity are most beneficial to that issuer in advancing its business and strategy. In other words, a less prescriptive approach. It may also avoid limitations on the completeness of disclosure arising from the use of information resulting from voluntary self-identification in relation to the specified categories, although this issue may also arise from these or other categories chosen for use by issuers under Form A.

A more detailed comparison between the two forms, and in relation to the current disclosure requirements, can be found in Annex A. The text of the Proposed Amendments can be found in Annex C and Annex D (with Annex E providing proposed amendments to section 1.1 Definitions of NI 58-101 that would apply to Form B only).

Existing disclosure requirements with respect to women

Form A and Form B substantially maintain the existing disclosure requirements with respect to women on boards and in executive officer positions under the 2014 Requirements. Under both forms, the current "comply or explain" disclosure model would continue to apply with respect to policies for women on boards and targets for women on boards and in executive officer positions. Both Form A and Form B also contemplate maintaining existing disclosures of data for women on boards and in executive officer positions. We consider it important that new disclosure requirements pertaining to diversity do not affect the substance of the 2014 Requirements that have been in use for over nine years and have provided valuable information to stakeholders. Notwithstanding the proposed expansion of the concept of diversity, we have heard that information on the representation of women on boards and in executive officer position continues to be important for many stakeholders.

Non-venture issuers

Both Form A and Form B would be applicable only to non-venture issuers, as is currently the case with the 2014 Requirements. The CSA is not currently proposing amendments to Form 58-101F2 *Corporate Governance Disclosure (Venture Issuers)*. We are consulting as to whether we should consider adapting the Proposed Amendments for application to venture issuers in a second phase of this project.

Proposed Changes to NP 58-201

The Proposed Changes would provide enhanced guidelines for all issuers related to board nominations and would introduce guidelines on board renewal and board diversity in NP 58-201 to complement the disclosure requirements contained in Form 58-101F1, as amended by the Proposed Amendments.

Although these guidelines are not intended to be prescriptive, we would encourage issuers to consider them in developing their own corporate governance practices and to apply and adapt these guidelines based on their individual circumstances as they evolve. These corporate governance guidelines have been formulated to achieve a balance between providing protection to investors and fostering fair and efficient capital markets, while recognizing that corporate governance is evolving.

The proposed guidelines would address the following:

- the responsibilities of the nominating committee;
- the written policy respecting the director nomination process;
- the use of a composition matrix;
- effective succession planning and the mechanisms of board renewal, including term limits;
- the written diversity policy; and
- targets for achieving diversity on the board and in executive officer positions.

Two versions of NP 58-201 are presented for comment (**Policy A** and **Policy B**). The guidelines pertaining to board nominations and board renewal are harmonized in both Policy A and Policy B; however, the guidelines pertaining to board diversity are different as to be compatible with the disclosure requirements provided in Form A and Form B, respectively.

The text of these guidelines can be found in Annex F and Annex G.

Impact on Investors

The Proposed Amendments are expected to be beneficial to investors. The Proposed Amendments are expected to enhance the quality of the information disclosed. This is expected to result in disclosure that is more meaningful and which provides information investors need to make informed investment and voting decisions.

Anticipated Costs and Benefits of the Proposed Amendments

We believe the Proposed Amendments will enhance the quality of the disclosure to be provided to investors, which would enable investors to make better informed investment and voting decisions. We expect the Proposed Amendments will make disclosure easier for non-venture issuers by clarifying and streamlining disclosure requirements pertaining to board nominations, board renewal and diversity. As a result, we expect that the Proposed Amendments will not significantly increase regulatory burden. Accordingly, the Proposed Amendments will not compromise investor protection or the efficiency of the capital markets. A more detailed discussion of the costs and benefits of the Proposed Amendments is included in the Ontario Securities Commission's Annex L – Local Matters.

Local Matters

Where applicable, Annex L provides additional information required by local securities legislation.

Request for Comments

In addition to your comments on all aspects of the Proposed Amendments and Changes, we are seeking specific feedback on the following questions:

Board nominations

1. The Proposed Amendments would require the disclosure of the skills, knowledge, experience, competencies and attributes of candidates that are considered and evaluated. Does this requirement raise concerns for issuers regarding disclosure of confidential or competitively sensitive information? Please explain. *(Please refer to the table entitled "Board Nominations" in Annex A for a description of this proposed requirement)*

Approach to diversity

2. We are consulting on two alternatives with respect to the requirement to provide disclosure on the approach to diversity (Form A and Form B). Which approach best meets the needs of investors for making investing and voting decisions? Which Form best meets the needs of issuers in describing their approach to diversity at the board and executive officer level? Do either of the approaches raise concerns for issuers? Are there certain requirements in either form that you find preferable to the equivalent requirement in the other form? Please explain.
3. Is information on the diversity approach and objectives of issuers with respect to executive officer positions useful for investors? Does this requirement raise concerns for issuers? Please explain. *(Please refer to the table entitled "Approach to Diversity – Executive Officer Positions" in Annex A for a description of this proposed requirement)*
4. Should issuers be required to disclose data about specified designated groups, consistent with the approach in Form B? Or should issuers be required to disclose data about women only and the identified groups for which they collect data,

B.6: Request for Comments

consistent with the approach in Form A? Please explain. (*Please refer to the table entitled “Concept of Diversity” in Annex A for a description of “designated groups” and “identified group”*)

5. Would it be beneficial to require reported data to be disclosed in a common tabular format? Does this requirement raise concerns for issuers? Please explain.
6. For CBCA-incorporated issuers, are there issues or challenges in providing both CBCA disclosures and the disclosure proposed under either Form A or Form B? Please explain.

Application to venture issuers

7. Should we consider developing similar disclosure requirements for venture issuers in a second phase of this project? If so, should any changes be made to the proposed disclosure requirements to reflect the different stages of development and circumstances of venture issuers? Please explain.

Please submit your comments in writing on or before **July 12, 2023**. If you are not sending your comments by email, please send us an electronic file containing the submissions (in Microsoft Word Format).

Address your submission to all of the CSA jurisdictions as follows:

Alberta Securities Commission
Autorité des marchés financiers
British Columbia Securities Commission
Financial and Consumer Affairs Authority of Saskatchewan
Financial and Consumer Services Commission, New Brunswick
Manitoba Securities Commission
Nova Scotia Securities Commission
Office of the Superintendent of Securities, Newfoundland and Labrador
Office of the Superintendent of Securities, Northwest Territories
Office of the Superintendent of Securities Nunavut
Office of the Yukon Superintendent of Securities
Ontario Securities Commission
Superintendent of Securities, Department of Justice and Public Safety, Prince Edward Island

Send your comments to the following addresses listed below. Your comments will be forwarded to the remaining jurisdictions.

The Secretary
Ontario Securities Commission
20 Queen Street West
22nd Floor, Box 55
Toronto, Ontario
M5H 3S8
Fax: 416-593-2318
Email: comment@osc.gov.on.ca

Me Philippe Lebel
Corporate Secretary and Executive Director, Legal Affairs
Autorité des marchés financiers
Place de la Cité, tour Cominar
2640, boulevard Laurier, bureau 400
Québec (Québec) G1V 5C1
Fax: 514-864-6381
Email: consultation-en-cours@lautorite.qc.ca

We cannot keep submissions confidential because securities legislation in certain provinces requires publication of the written comments received during the comment period. All comments received will be posted on the websites of each of the Autorité des marchés financiers at www.lautorite.qc.ca and the Ontario Securities Commission at www.osc.gov.on.ca. Therefore, you should not include personal information directly in comments to be published. It is important that you state on whose behalf you are making the submission.

Content of Annexes

This notice contains the following annexes:

- Annex A: Detailed comparison of Form A and Form B with current disclosure requirements.
- Annex B: Approach to diversity by certain securities regulators outside of Canada.
- Annex C: Proposed amendments to NI 58-101 and Form 58-101F1 (Form A).
- Annex D: Proposed amendments to NI 58-101 and Form 58-101F1 (Form B).
- Annex E: Proposed amendments to section 1.1 Definitions of NI 58-101 (Applicable to Form B).

- Annex F: Proposed changes to NP 58-201 (Compatible with Form A).
- Annex G: Proposed changes to NP 58-201 (Compatible with Form B).
- Annex H: Annotated Form 58-101F1 (Form A).
- Annex I: Annotated Form 58-101F1 (Form B).
- Annex J: Annotated NP 58-201 (Compatible with Form A).
- Annex K: Annotated NP 58-201 (Compatible with Form B).
- Annex L: Local Matters.

Questions

Please refer your questions to any of the following:

British Columbia Securities Commission

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Nazma Lee
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Email: nlee@bcsc.bc.ca

Alberta Securities Commission

Jennifer Smith
Senior Legal Counsel
Office of the General Counsel
Tel: 403-355-3898
Email: jennifer.smith@asc.ca

Nicole Law
Senior Securities Analyst
Corporate Finance
Tel: 403-355-4865
Email: nicole.law@asc.ca

Financial and Consumer Affairs Authority of Saskatchewan

Heather Kuchuran
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Manitoba Securities Commission

Patrick Weeks
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Ontario Securities Commission

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ANNEX A

DETAILED COMPARISON OF FORM A AND FORM B WITH CURRENT DISCLOSURE REQUIREMENTS

The following tables provide a more detailed comparison of Form A and Form B with the current disclosure requirements.

Board Nominations

Current disclosure requirements (Item 6 of Form 58-101F1)	Proposed Amendments in Form A and Form B (Item 6 of Form 58-101F1)
Describe the process by which the board identifies new candidates for board nomination.	The Proposed Amendments would expand on the current requirements by requiring disclosure on how the board identifies and evaluates new candidates for nomination to the board.
Disclose whether or not the board has a nomination committee composed entirely of independent directors. If the board does not have a nomination committee composed entirely of independent directors, describe what steps the board takes to encourage an objective nomination process.	Comparable requirements.
Describe the responsibilities, powers and operation of the nominating committee.	A description of the responsibilities, powers and operation of the nominating committee would no longer be required.
No requirement to disclose information about a written policy respecting the nomination process.	The Proposed Amendments would require disclosure about whether the board has a written policy respecting the nomination process. If the board does not have a written policy respecting the nomination process, the issuer would have to explain how the board carries out the nomination process. Form B asks whether the written policy respecting the nomination process addresses the nomination of persons from the designated groups (as defined). The concept of “designated group” is discussed below under “Approach to Diversity”. In contrast, Form A does not refer to diversity when discussing the written policy but rather considers all diversity questions in the “Approach to Diversity” section, as described below.
Current requirements are silent on other aspects of the nomination process.	The Proposed Amendments would require the following disclosure: • How any conflicts of interest that arise or could arise during the nomination process are managed; • Whether the board has a composition matrix setting out the mix of skills, knowledge, experience, competencies and attributes that the board currently has or is looking to achieve in its membership; and • The skills, knowledge, experience, competencies and attributes of candidates that are considered when evaluating a candidate.

Board Renewal

Current disclosure requirements (Item 10 of Form 58-101F1)	Proposed Amendments in Form A and Form B (Item 6.1 of Form 58-101F1)
Disclose whether or not an issuer has adopted term limits or other mechanisms of board renewal and, if so, describe the term limits and other mechanisms.	The Proposed Amendments would require a broader description of <i>how</i> the board addresses renewal. In addition to the current requirements, they would require a description of how any such mechanisms, other than term limits, contribute to effective board renewal.
If an issuer has not adopted director term limits or other mechanisms of board renewal, it must explain why.	Comparable requirements.

Approach to Diversity

Current disclosure requirements (Items 11 to 15 of Form 58-101F1)	Proposed Amendments in Form A (Items 6.2 and 6.3 of Form 58-101F1)	Proposed Amendments in Form B (Items 6.2, 6.3 and 6.4 of Form 58-101F1)
Concept of diversity		
Current disclosure requirements focus solely on women.	Form A would introduce the concept of “identified group”, meaning a group of individuals with a shared personal characteristic, whose representation on the issuer’s board or in its executive officer positions has been identified by the issuer as being part of the issuer’s strategy respecting diversity, but does not include women. The instructions specify that for greater certainty, an “identified group” under Item 6.2 can include, without limitation, Indigenous peoples, persons with disabilities, members of visible minorities, members of the LGBTQ2SI+ community and members of linguistic minorities. The concept of “identified group” is broad and adaptable allowing issuers to include any group of individuals with a shared personal characteristic. Effectively, Form A would mandate disclosures with respect to women and any identified groups that have been identified by the issuer as being part of its strategy respecting diversity.	Form B would introduce the concept of “designated groups”, meaning persons who self-identify as one or more of the following: Indigenous peoples, LGBTQ2SI+ persons, racialized persons, persons with disabilities or women. Each of these groups (except women) would also be defined. Issuers would have to disclose information with respect to these groups. These are the same designated groups under the CBCA with the addition of LGBTQ2SI+ persons.
Approach to diversity – Board		
Disclose details of any written policy relating to the identification and nomination of women directors, and whether the level of representation of women is considered in the nomination process. If an issuer does not have a policy or does not consider the level of representation of women, it must explain why. (Items 11 and 12 of Form 58-101F1)	Form A would require the issuer to describe its approach to achieving or maintaining diversity on its board, including its objectives as they relate to women and to individuals from identified groups, mechanisms that the issuer has in place to achieve those objectives, how the issuer measures achievement, and the annual and cumulative achievement of the objectives. Any written policy or process the board has adopted as it relates to women and to individuals from identified groups would also have to be disclosed. If the issuer has not adopted such a policy or process, it would have to explain why. Form A refers to an issuer’s “approach” and “objectives” with respect to board diversity, recognizing that not all issuers may have a formal strategy on diversity	Form B would require the issuer to describe its written strategy regarding achieving or maintaining diversity on the board, including any written policy the board has adopted as it relates to the representation on the board by persons from the designated groups (as defined). If an issuer has not adopted such a policy, it would have to explain why. Form B refers to an issuer’s “written strategy”. The intention is to focus on a transparent articulation of the issuer’s approach to diversity and the desired objectives that directors and other stakeholders can look to.

Current disclosure requirements (Items 11 to 15 of Form 58-101F1)	Proposed Amendments in Form A (Items 6.2 and 6.3 of Form 58-101F1)	Proposed Amendments in Form B (Items 6.2, 6.3 and 6.4 of Form 58-101F1)
	but may still consider diversity in their board nominations.	
Approach to diversity – Executive officer positions		
Disclose whether the issuer considers the representation of women in executive officer appointments. If an issuer does not consider the level of representation of women in executive officer positions, it must explain why. (Item 13 of Form 58-101F1)	Form A would require the same information on the diversity approach and objectives with respect to executive officer positions as would be required for the board. The narrative disclosure is intended to provide greater context to the required disclosure on targets and data with respect to executive officer positions (as described below).	Form B would not require disclosure on the consideration of diversity when making executive officer appointments or an issuer's approach to talent management for executive officers as such granular disclosure may increase regulatory burden without corresponding benefit for investors.
Targets and other measurable objectives		
Disclose whether the issuer has adopted targets for women on the board and in executive officer positions, and the target and annual and cumulative progress in achieving those targets. If an issuer has not adopted such targets, it must explain why. (Item 14 of Form 58-101F1)	Form A would require disclosure about targets for women as well as individuals from identified groups on the board and in executive officer positions. For each target, the actual target number or percentage, or range of numbers or percentages the issuer has set, the timeframe for achieving the target, and the annual and cumulative achievement of the target would have to be disclosed. If an issuer has not set targets for women and for individuals from identified groups, it would have to explain why.	Form B would require substantially similar information as Form A with respect to targets, except that the disclosure would be with respect to designated groups (as defined). Additionally, Form B would require much of this disclosure to be presented in a standardized tabular format. In addition, Form B would require disclosure with respect to any measurable objectives of the issuer's written strategy, other than targets, that relate to the representation of the designated groups (as defined). This requirement is similar to the one described in the Approach to diversity – Board for Form A.
Data		
Disclose the number and proportion of women on the board and in executive officer positions. (Item 15 of Form 58-101F1)	Form A would extend the current disclosure requirements to also include disclosure of data on the representation of individuals from identified groups, but only if the issuer collects such data. This data could continue to be provided in narrative form.	Form B would require disclosure to be presented in a standardized tabular format about: - the number of board members and executive officers who identify as a member of a designated group (as defined), as a member of other diverse groups identified by the board or as a member of more than one designated group (over a three year period); and - the number of women, as well as individuals from designated groups (as defined) that filled vacant board seats during the year.

ANNEX B

APPROACH TO DIVERSITY BY CERTAIN SECURITIES REGULATORS OUTSIDE OF CANADA

The following is a summary of the approach to diversity by certain securities regulators outside of Canada.

- **Financial Conduct Authority of the United Kingdom (FCA)** – On April 20, 2022, the FCA published Policy Statement PS22/3¹ in which it sets out its final policy decision for the proposals in CP 21/24 *Diversity and inclusion on company boards and executive committees*. The disclosures will require companies to disclose whether they have met certain diversity targets or explain why they have not. Companies will also be required to provide numerical reporting on the representation of gender and ethnicity on the board and at senior levels of executive management in a prescribed tabular format.
- **U.S. Securities and Exchange Commission (SEC)** – During the SEC's 2020 remarks to the Council of Institutional Investors, SEC Commissioner Allison Lee specially noted that the SEC needs to do more in terms of a specific mandate for diversity. The SEC's Spring 2022 regulatory agenda also indicates that the Division of Corporation Finance is considering recommending that the SEC propose rule amendments to enhance registrant disclosures about the diversity of board members and nominees.

¹ Financial Conduct Authority (2022) *Diversity and Inclusion on Company Boards and Executive Management*. <https://www.fca.org.uk/publication/policy/ps22-3.pdf>

ANNEX C

PROPOSED AMENDMENTS TO
NATIONAL INSTRUMENT 58-101 *DISCLOSURE OF CORPORATE GOVERNANCE PRACTICES*
AND
FORM 58-101F1 *CORPORATE GOVERNANCE DISCLOSURE (FORM A)*

1. *National Instrument 58-101 Disclosure of Corporate Governance Practices is amended by this Instrument.*

2. *In British Columbia and Prince Edward Island, section 1.1 is amended by adding the following definition¹:*

“major subsidiary” has the same meaning as in National Instrument 55-104 *Insider Reporting Requirements and Exemptions*.

3. *Form 58-101F1 Corporate Governance Disclosure is amended by replacing Item 6 with the following:*

6. Board Nominations —

Describe how the board identifies and evaluates new candidates for nomination to the board, including, for greater certainty:

- (a) whether the board has a nominating committee, and if so, whether the nominating committee is composed entirely of independent directors;
- (b) if the board does not have a nominating committee, or if the nominating committee is not composed entirely of independent directors, what steps the board takes to encourage an objective nomination process;
- (c) any written policy respecting the nomination process;
- (d) if the board does not have a written policy respecting the nomination process, how the board carries out the nomination process;
- (e) how the board manages any conflicts of interest that arise or could arise during the nomination process;
- (f) whether the board has a composition matrix setting out the mix of skills, knowledge, experience, competencies and attributes that the board currently has and is looking to obtain in its membership;
- (g) the skills, knowledge, experience, competencies and attributes of candidates that are considered when evaluating a candidate.

6.1 Board Renewal —

Describe how the board addresses board renewal, including, for greater certainty:

- (a) any term limits for directors that the board has adopted;
- (b) any mechanisms of board renewal, other than term limits for directors, adopted by the board and how the mechanisms contribute to board renewal;
- (c) if the board has not adopted term limits for directors or other mechanisms of board renewal, why it has not done so.

6.2 Approach to Diversity —

In this Form, “identified group” means a group of individuals with a shared personal characteristic, whose representation on the issuer’s board or in its executive officer positions has been identified by the issuer as being part of the issuer’s strategy respecting diversity, but does not include women.

¹ This definition is currently effective only in Alberta, Manitoba, New Brunswick, Newfoundland and Labrador, Northwest Territories, Nova Scotia, Nunavut, Ontario, Québec, Saskatchewan and Yukon.

Describe the issuer's approach to achieving or maintaining diversity on its board and its executive officer positions, including, for greater certainty:

- (a) the issuer's objectives as they relate to women and to individuals from identified groups on the board and in executive officer positions;
- (b) the mechanisms that the issuer has in place to achieve the objectives referred to in paragraph (a);
- (c) how the issuer measures achievement of the objectives referred to in paragraph (a);
- (d) the annual and cumulative achievement of the objectives referred to in paragraph (a);
- (e) any written policy or process that the board has adopted as it relates to women and to individuals from identified groups;
- (f) if the board has not adopted a policy or process referred to in paragraph (e), why it has not done so;
- (g) whether the issuer has set a target number or percentage, or a range of numbers or percentages, regarding the representation of the following groups by a specific date:
 - (i) women on the issuer's board;
 - (ii) individuals from identified groups on the issuer's board;
 - (iii) women in executive officer positions of the issuer; and
 - (iv) individuals from identified groups in executive officer positions of the issuer;
- (h) if the issuer has set one or more targets for women and for individuals from identified groups, referred to in paragraph (g):
 - (i) the target number or percentage, or range of numbers or percentages, the issuer has set;
 - (ii) the timeframe for achieving the targets; and
 - (iii) the annual and cumulative achievement of the targets;
- (i) if the issuer has not set targets for women and for individuals from identified groups, referred to in paragraph (g), why it has not done so.

6.3 Number of Women and Individuals from Identified Groups on the Issuer's Board and in Executive Officer Positions —

- (a) Disclose the number and proportion (in percentage terms) of directors on the issuer's board who are women.
- (b) Disclose the number and proportion (in percentage terms) of executive officers of the issuer, including all major subsidiaries of the issuer, who are women.
- (c) If the issuer collects data on the number and proportion of directors on the issuer's board who are from identified groups, disclose the number and proportion (in percentage terms).
- (d) If the issuer collects data on the number and proportion of executive officers of the issuer, including all major subsidiaries of the issuer, who are from identified groups, disclose the number and proportion (in percentage terms).

4. *In Alberta, Manitoba, New Brunswick, Newfoundland and Labrador, Northwest Territories, Nova Scotia, Nunavut, Ontario, Québec, Saskatchewan and Yukon, Form 58-101F1 is amended by repealing Items 10, 11, 12, 13, 14 and 15.*

5. *In Alberta, Manitoba, New Brunswick, Newfoundland and Labrador, Northwest Territories, Nova Scotia, Nunavut, Ontario, Québec, Saskatchewan and Yukon, the Instructions of Form 58-101F1 are amended by repealing instructions 4 and 5.*

6. ***In Alberta, Manitoba, New Brunswick, Newfoundland and Labrador, Northwest Territories, Nova Scotia, Nunavut, Ontario, Québec, Saskatchewan and Yukon, the Instructions of Form 58-101F1 are amended by adding the following instruction:***
- (6) *For greater certainty an “identified group” under Item 6.2 can include, without limitation, Indigenous peoples, persons with disabilities, members of visible minorities, members of the LGBTQ2SI+ community and members of linguistic minorities.*
7. ***In British Columbia and Prince Edward Island, the Instructions of Form 58-101F1 are amended by adding the following instruction:***
- (X) *For greater certainty an “identified group” under Item 6.2 can include, without limitation, Indigenous peoples, persons with disabilities, members of visible minorities, members of the LGBTQ2SI+ community and members of linguistic minorities.*
8. (1) This Instrument comes into force on ●.
- (2) In Saskatchewan, despite subsection (1), if these regulations are filed with the Registration of Regulations after [insert date], these regulations will come into force on the day on which they are filed with the Registrar of Regulations.

ANNEX D

PROPOSED AMENDMENTS TO
NATIONAL INSTRUMENT 58-101 *DISCLOSURE OF CORPORATE GOVERNANCE PRACTICES*
AND
FORM 58-101F1 *CORPORATE GOVERNANCE DISCLOSURE (FORM B)*

1. *National Instrument 58-101 Disclosure of Corporate Governance Practices is amended by this Instrument.*

2. *Section 1.1 is amended by adding the following definitions:*

“designated group” means any of the following: Indigenous peoples, LGBTQ2SI+ persons, racialized persons, persons with disabilities or women;

“Indigenous peoples” means persons who are First Nations, Inuit or Métis of Canada;

“LGBTQ2SI+ persons” includes persons who are any of the following: lesbian, gay, bisexual, transgender, 2-spirit, intersex or queer;

“persons with disabilities” means persons who have a long-term or recurring physical, mental, sensory, psychiatric or learning impairment and who

(a) consider themselves to be disadvantaged in employment by reason of that impairment, or

(b) believe that an employer or potential employer is likely to consider them to be disadvantaged in employment by reason of that impairment

and includes persons whose functional limitations owing to their impairment have been accommodated in their current job or workplace;

“racialized persons” means persons, other than Indigenous peoples, who are non-Caucasian in race or non-white in colour;.

3. *In British Columbia and Prince Edward Island, section 1.1 is amended by adding the following definition¹:*

“major subsidiary” has the same meaning as in National Instrument 55-104 *Insider Reporting Requirements and Exemptions*.

4. *Form 58-101F1 Corporate Governance Disclosure is amended by replacing Item 6 with the following:*

6. Board Nominations —

Describe how the board identifies and evaluates new candidates for nomination to the board, including, for greater certainty:

(a) whether the board has a nominating committee, and if so, whether the nominating committee is composed entirely of independent directors;

(b) if the board does not have a nominating committee, or if the nominating committee is not composed entirely of independent directors, what steps the board takes to encourage an objective nomination process;

(c) any written policy respecting the nomination process, including, for greater certainty, the nomination of persons from the designated groups;

(d) if the board does not have a written policy respecting the nomination process, how the board carries out the nomination process;

(e) how the board manages any conflicts of interest that arise or could arise during the nomination process;

(f) whether the board has a composition matrix setting out the mix of skills, knowledge, experience, competencies and attributes that the board currently has and is looking to obtain in its membership;

¹ This definition is currently effective only in Alberta, Manitoba, New Brunswick, Newfoundland and Labrador, Northwest Territories, Nova Scotia, Nunavut, Ontario, Québec, Saskatchewan and Yukon.

- (g) the skills, knowledge, experience, competencies and attributes of candidates that are considered when evaluating a candidate.

6.1 Board Renewal—

Describe how the board addresses board renewal, including, for greater certainty:

- (a) any term limits for directors that the board has adopted;
- (b) any mechanisms of board renewal, other than term limits for directors, adopted by the board and how the mechanisms contribute to board renewal;
- (c) if the board has not adopted term limits for directors or other mechanisms of board renewal, why it has not done so.

6.2 Approach to Diversity—

Describe the issuer's written strategy regarding achieving or maintaining diversity on the board, including:

- (a) any written policy that the board has adopted as it relates to the representation on the board by persons from the designated groups; and
- (b) if the board has not adopted a policy referred to in paragraph (a), why it has not done so.

6.3 Targets and Other Measurable Objectives—

- (a) Disclose whether the issuer has set a target number or percentage, or a range of numbers or percentages, regarding the representation of the following groups to be achieved by a specific date:
- (i) women on the issuer's board;
- (ii) persons from the designated groups other than women on the issuer's board;
- (iii) women in executive officer positions of the issuer; and
- (iv) persons from the designated groups other than women in executive officer positions of the issuer.
- (b) If the issuer has not set a target for each group referred to in paragraph (a), disclose why it has not done so.
- (c) If the issuer has set a target referred to in paragraph (a), complete the following table as at the issuer's most-recently completed fiscal year end.

	Target	Timeframe for achieving the target	Annual and cumulative progress in achieving the target
Women on the issuer's board	<i>[Insert number or percentage or a range of numbers or percentages of women on the board]</i>	<i>[Insert the date for achievement of target]</i>	<i>[Insert year in which the target was achieved or if it has not been achieved insert "not applicable".</i> <i>If the target was previously achieved but the number or percentage of women on the board is below the target, provide this information.]</i> Discuss the issuer's progress in meeting and maintaining the target.

	Target	Timeframe for achieving the target	Annual and cumulative progress in achieving the target
Persons from designated groups (other than women) on the issuer's board	<i>[Insert number or percentage or a range of numbers or percentages of persons from designated groups (other than women) on the board]</i>	<i>[Insert the date for achievement of target]</i>	<i>[Insert year in which the target was achieved or if it has not been achieved insert "not applicable".</i> <i>If the target was previously achieved but the number or percentage of persons from designated groups (other than women) on the board is below the target, provide this information.]</i> Discuss the issuer's progress in meeting and maintaining the target.
Women in executive officer positions of the issuer	<i>[Insert number or percentage or a range of numbers or percentages of women in executive officer positions of the issuer]</i>	<i>[Insert the date for achievement of target]</i>	<i>[Insert year in which the target was achieved or if it has not been achieved insert "not applicable".</i> <i>If the target was previously achieved but the number or percentage of women in executive officer positions is below the target, provide this information.]</i> Discuss the issuer's progress in meeting and maintaining the target.
Persons from designated groups (other than women) in executive officer positions of the issuer	<i>[Insert number or percentage or a range of numbers or percentages of persons from designated groups (other than women) in executive officer positions of the issuer]</i>	<i>[Insert the date for achievement of target]</i>	<i>[Insert year in which the target was achieved or if it has not been achieved insert "not applicable".</i> <i>If the target was previously achieved but the number or percentage of persons from designated groups (other than women) in executive officer positions is currently below the target, provide this information.]</i> Discuss the issuer's progress in meeting and maintaining the target.

(d) Describe any measurable objectives of the issuer's written strategy, other than targets, that relate to the representation of persons from the designated groups, including:

- (i) the mechanisms that the issuer has implemented to achieve the objectives;
- (ii) how the issuer measures progress in achieving the objectives; and

(iii) the annual and cumulative progress achieved in respect of the objectives.

6.4 Number of Persons from Designated Groups on the Issuer's Board and in Executive Officer Positions—

(a) Complete the following table as at the issuer's most-recent fiscal year end date and as at the fiscal year end for each of the two preceding years.

	<i>[insert year]</i>	<i>[insert year]</i>	<i>[insert year]</i>
Number of directors on the issuer's board who self-identify as:			
Women			
Indigenous peoples			
LGBTQ2SI+ persons			
Persons with disabilities			
Racialized persons			
Number of individuals that are members of more than one designated group			
Total number of the directors on the issuer's board			

(b) Complete the following table in respect of the issuer's most recent completed fiscal year.

	<i>[insert year]</i>
Number of board seats filled during the year by directors who self-identify as:	
Women	
Persons from designated groups, other than women	
Total number of board seats filled in the year	

(c) Complete this table as at the issuer's most recent fiscal year end date and as at the fiscal year end for each of the two preceding years.

	<i>[insert year]</i>	<i>[insert year]</i>	<i>[insert year]</i>
Number of the issuer's executive officers who self-identify as:			
Women			
Indigenous			
LGBTQ2SI+			
Persons with disabilities			
Racialized persons			

Number of individuals that are members of more than one designated group			
Total number of executive officers			

5. ***In Alberta, Manitoba, New Brunswick, Newfoundland and Labrador, Northwest Territories, Nova Scotia, Nunavut, Ontario, Québec, Saskatchewan and Yukon, Form 58-101F1 is amended by repealing Items 10, 11, 12, 13, 14 and 15.***
6. ***In Alberta, Manitoba, New Brunswick, Newfoundland and Labrador, Northwest Territories, Nova Scotia, Nunavut, Ontario, Québec, Saskatchewan and Yukon, the Instructions of Form 58-101F1 are amended by repealing instructions 4 and 5.***
7. ***In Alberta, Manitoba, New Brunswick, Newfoundland and Labrador, Northwest Territories, Nova Scotia, Nunavut, Ontario, Québec, Saskatchewan and Yukon, the Instructions of Form 58-101F1 are amended by adding the following instruction:***
 - (6) *The information reported in item 6.4 must be based on voluntary disclosure (i.e. self-identification) by board members and executive officers. This information is reported in the aggregate and, as such, does not require disclosure about how any one individual self-identifies. Issuers are responsible for compliance with all applicable privacy laws.*
8. ***In British Columbia and Prince Edward Island, the Instructions of Form 58-101F1 are amended by adding the following instruction:***
 - (X) *The information reported in item 6.4 must be based on voluntary disclosure (i.e. self-identification) by board members and executive officers. This information is reported in the aggregate and, as such, does not require disclosure about how any one individual self-identifies. Issuers are responsible for compliance with all applicable privacy laws.*
9. (1) This Instrument comes into force on ●.
- (2) In Saskatchewan, despite subsection (1), if these regulations are filed with the Registration of Regulations after [insert date], these regulations will come into force on the day on which they are filed with the Registrar of Regulations.

ANNEX E

PROPOSED AMENDMENTS TO
NATIONAL INSTRUMENT 58-101 *DISCLOSURE OF CORPORATE GOVERNANCE PRACTICES*
(APPLICABLE TO FORM B)

1. *National Instrument 58-101 Disclosure of Corporate Governance Practices is amended by this Instrument.*

2. *Section 1.1 is amended by adding the following definitions:*

“designated group” means any of the following: Indigenous peoples, LGBTQ2SI+ persons, racialized persons, persons with disabilities or women;

“Indigenous peoples” means persons who are First Nations, Inuit or Métis of Canada;

“LGBTQ2SI+ persons” includes persons who are any of the following: lesbian, gay, bisexual, transgender, 2-spirit, intersex or queer;

“persons with disabilities” means persons who have a long-term or recurring physical, mental, sensory, psychiatric or learning impairment and who

(a) consider themselves to be disadvantaged in employment by reason of that impairment, or

(b) believe that an employer or potential employer is likely to consider them to be disadvantaged in employment by reason of that impairment,

and includes persons whose functional limitations owing to their impairment have been accommodated in their current job or workplace;

“racialized persons” means persons, other than Indigenous peoples, who are non-Caucasian in race or non-white in colour;.

Effective Date

3. This Instrument comes into force on [●].

ANNEX F

**PROPOSED CHANGES TO
NATIONAL POLICY 58-201 CORPORATE GOVERNANCE GUIDELINES
(COMPATIBLE WITH FORM A)**

1. ***National Policy 58-201 Corporate Governance Guidelines is changed by this Document.***
2. ***Section 1.1 is changed by***
 - (a) ***replacing*** “The guidelines in this Policy are not intended to be prescriptive. We encourage issuers to consider the guidelines in developing their own corporate governance practices” ***with the following***

“The guidelines in this Policy are not intended to be prescriptive. We recognize that there is a wide range of issuers in the Canadian market that may be at different stages in their development generally. For example, many venture issuers may not have developed sophisticated corporate governance practices, while many smaller non-venture issuers may be in the earlier stages of developing corporate governance policies. Specifically, we acknowledge issuers may find it challenging to incorporate certain of the guidelines below that address diversity. We therefore encourage issuers to consider the guidelines in developing their own corporate governance practice and to apply these guidelines based on their individual circumstances as they evolve.”,
and
 - (b) ***deleting*** “We do, however, understand that some parties have concerns about how this Policy and National Instrument 58-101 *Disclosure of Corporate Governance Practices* affect controlled companies. Accordingly, we intend, over the next year, to carefully consider these concerns in the context of a study to examine the governance of controlled companies. We will consult market participants in conducting the study. After completing the study, we will consider whether to change how this Policy and National Instrument 58-101 treat controlled companies.”.
3. ***Section 2.1 is changed by replacing “he or she” with “the director”.***
4. ***This Document is changed by adding the following sections:***
 - 3.11.1 The nominating committee should be responsible for reviewing and making recommendations to the board in relation to:
 - (a) the appropriate size of the board, with a view to effective decision-making;
 - (b) board succession planning;
 - (c) orientation and continuing education for directors;
 - (d) the development and implementation of a process for assessing the effectiveness of the board, its committees and directors; and
 - (e) the process for director recruitment.
 - 3.11.2 A board should have a composition matrix setting out the mix of skills, knowledge, experience, competencies, attributes and independence that the board currently has or is looking to achieve in its membership. In order for the board to effectively fulfill its mandate and address existing and emerging business and governance issues relevant to the issuer, the board should regularly review the composition matrix and use this review process to recruit new directors or provide continuing education opportunities to existing directors.
 - 3.11.3 The board should adopt a written policy respecting the director nomination process that sets out the process used in relation to director appointments and the board’s approach to succession planning.
 - 3.11.4 Recommendations for appointments to the board should be based on objective criteria. In making its recommendations, the nominating committee should consider the skills, knowledge, experience, competencies, attributes and level of independence that:
 - (a) are necessary for the board, as a whole, to function effectively; and
 - (b) are held by each existing director and each new nominee.

The nominating committee should also consider whether or not each new nominee can devote sufficient time and resources to their duties as a board member.

Board Renewal

- 3.11.5 The board should maintain an effective succession plan for directors, which:
- (a) provides a transparent process and timeline for replacing board members so as to ensure that necessary skills, knowledge, experience, competencies and attributes are maintained;
 - (b) maintains a mix of longer-serving directors with a deep understanding of the issuer and its business and newer directors with fresh ideas and perspectives; and
 - (c) maintains the board's independence from management.
- 3.11.6 The board should adopt mechanisms of board renewal that are appropriate to its circumstances. These mechanisms may include:
- (a) establishing director term limits;
 - (b) assessing the effectiveness of an individual director when proposing the director as a candidate for re-election to the board; and
 - (c) using a composition matrix to identify gaps in the board's collective skills, knowledge, experience, competencies, attributes and independence.
- 3.11.7 If an issuer establishes term limits, factors that may be considered include:
- (a) the board's current size and composition, and the board's composition matrix;
 - (b) the board's independence from management and the issuer's ownership structure;
 - (c) characteristics of the issuer, including its industry, size and stage of development; and
 - (d) the existence of other mechanisms, such as regular assessments, to ensure the effectiveness of board members.

Diversity and Targets

- 3.11.8 A board should consider adopting a written diversity policy or process to ensure that recruitment of directors is appropriately structured to promote a broad range of perspectives and experiences on the board.
- 3.11.9 A board should set objectives for achieving diversity in the composition of its board and officer positions. Mechanisms to achieve these objectives may include setting targets, establishing a diversity council, implementing training and leadership programs, and expanding strategic outreach directed at developing a diverse pipeline of candidates for director and executive officer positions.
- 3.11.10 For purposes of this Policy, a "target" has the same meaning as in Form 58-101F1 under National Instrument 58-101 *Disclosure of Corporate Governance Practices*. If a board sets targets for the representation of any of the groups referenced in paragraph 6.2 (g) of Form 58-101F1, the board should review and assess the appropriateness of the targets on an annual basis. When considering an appropriate target, a board should consider various factors, including:
- (a) the board's current size and composition, and the board's composition matrix; and
 - (b) characteristics of the issuer, including its industry, size and stage of development, investors, stakeholders and location of its operations.

5. **Sections 3.12, 3.13 and 3.14 are deleted.**

6. **Section 3.18 is changed by**

- (a) **replacing** "his, her" **with** "their",
- (b) **in paragraph (a) adding** "composition and how effectively directors work together to achieve the objectives of the issuer;" **after** "in the case of the board or a board committee, its mandate or charter," **and**
- (c) **in paragraph (b) by replacing** "composition and skills" **with** "skills, knowledge, experience, competencies and attributes".

7. These changes become effective on [●].

ANNEX G

PROPOSED CHANGES TO
NATIONAL POLICY 58-201 CORPORATE GOVERNANCE GUIDELINES
(COMPATIBLE WITH FORM B)

1. **National Policy 58-201 Corporate Governance Guidelines is changed by this Document.**
 2. **Section 1.1 is changed:**
 - (a) **by deleting** “We do, however, understand that some parties have concerns about how this Policy and National Instrument 58-101 *Disclosure of Corporate Governance Practices* affect controlled companies. Accordingly, we intend, over the next year, to carefully consider these concerns in the context of a study to examine the governance of controlled companies. We will consult market participants in conducting the study. After completing the study, we will consider whether to change how this Policy and National Instrument 58-101 treat controlled companies.”, **and**
 - (b) **by adding** “and to apply and adapt these guidelines based on their individual circumstances as they evolve.” **immediately after** “We encourage issuers to consider the guidelines in developing their own corporate governance practices”.
 3. **Section 2.1 is changed by replacing** “he or she” **with** “the director”.
 4. **This Document is changed by adding the following sections:**
 - 3.11.1 The nominating committee should be responsible for reviewing and making recommendations to the board in relation to:
 - (a) the appropriate size of the board, with a view to effective decision-making;
 - (b) board succession planning;
 - (c) orientation and continuing education for directors;
 - (d) the development and implementation of a process for assessing the effectiveness of the board, its committees and directors; and
 - (e) the process for director recruitment.
 - 3.11.2 A board should have a composition matrix setting out the mix of skills, knowledge, experience, competencies, attributes and independence that the board currently has or is looking to achieve in its membership. In order for the board to effectively fulfill its mandate and address existing and emerging business and governance issues relevant to the issuer, the board should regularly review the composition matrix and use this review process to recruit new directors or provide continuing education opportunities to existing directors.
 - 3.11.3 The board should adopt a written policy respecting the director nomination process that sets out the process used in relation to director appointments and the board’s approach to succession planning.
 - 3.11.4 Recommendations for appointments to the board should be based on objective criteria. In making its recommendations, the nominating committee should consider the skills, knowledge, experience, competencies, attributes and level of independence that:
 - (a) are necessary for the board, as a whole, to function effectively; and
 - (b) are held by each existing director and each new nominee.

The nominating committee should also consider whether or not each new nominee can devote sufficient time and resources to their duties as a board member.
- Board Renewal**
- 3.11.5 The board should maintain an effective succession plan for directors, which:
 - (a) provides a transparent process and timeline for replacing board members so as to ensure that necessary skills, knowledge, experience, competencies and attributes are maintained;

- (b) maintains a mix of longer-serving directors with a deep understanding of the issuer and its business and newer directors with fresh ideas and perspective; and
 - (c) maintains the board's independence from management.
- 3.11.6 The board should adopt mechanisms of board renewal that are appropriate to its circumstances. These mechanisms may include:
 - (a) establishing director term limits;
 - (b) assessing the effectiveness of an individual director when proposing the director as a candidate for re-election to the board; and
 - (c) using a composition matrix to identify gaps in the board's collective skills, knowledge, experience, competencies, attributes and independence.
- 3.11.7 If an issuer establishes term limits, factors that may be considered include:
 - (a) the board's current size and composition and its composition matrix;
 - (b) the board's independence from management and the issuer's ownership structure;
 - (c) characteristics of the issuer, including its industry, size and stage of development; and
 - (d) the existence of other mechanisms, such as regular assessments, to ensure the effectiveness of board members.

Diversity and Targets

- 3.11.8 A board should adopt a written diversity policy to promote a broad range of perspectives and experiences on the board. The policy should:
 - (a) reflect a commitment to ensuring that recruitment of directors is appropriately structured so that a diverse range of candidates are considered;
 - (b) include the following as considerations for the board when identifying new candidates:
 - (i) qualifications, including skills, knowledge, experience, competencies and attributes the board identifies as necessary for the board to effectively fulfill its mandate and address existing and emerging business and governance issues relevant to the issuer;
 - (ii) characteristics that will foster a board culture that welcomes multiple perspectives and is free of conscious or unconscious bias and discrimination, and that contribute to board diversity;
 - (iii) legal and regulatory requirements, such as those relating to residency and independence;
 - (c) set out objectives regarding diversity on the board that are specific, measurable and time bound;
 - (d) discuss the ability of the board or nominating committee to engage independent advisors to assist in identifying candidates and require advisors to present a diverse slate of candidates for consideration;
 - (e) set out the responsibility of the board or nominating committee to consider any changes to the policy, the board composition and recruitment process that are necessary to achieve the objectives outlined in the policy; and
 - (f) consider the board and nominating committee's effectiveness at implementing the policy during regular assessments.
- 3.11.9 For purposes of this Policy, a "target" has the same meaning as in Form 58-101F1 under National Instrument 58-101 *Disclosure of Corporate Governance Practices*. A board should set measurable and time-bound objectives, such as targets, for achieving diversity in the composition of its board and executive officer positions. If a board sets targets for the representation of any of the groups referenced in Item 6.4 of Form 58-101F1, the board should review and assess the appropriateness of the targets on an annual basis. When considering an appropriate target, a board should consider various factors, including
 - (a) the board's current size and composition and its composition matrix;

- (b) characteristics of the issuer, including its industry, size and stage of development, location of its operations and stakeholders;
- (c) the issuer's investors and their expectations regarding diversity on the board and executive officers; and
- (d) whether the issuer has a truth and reconciliation action plan regarding its relationship with Indigenous peoples or its business operations intersect with an Indigenous right, title, or jurisdiction.

Other mechanisms for achieving diversity in the composition of its board and executive officer positions may include establishing a diversity council, implementing training and leadership programs, and expanding strategic outreach directed at developing a diverse pipeline of candidates for director and executive officer positions.

5. ***Sections 3.12, 3.13 and 3.14 are deleted.***

6. ***Section 3.18 is changed by***

- (a) ***replacing*** "his, her" ***with*** "their",
- (b) ***in paragraph (a) adding*** "composition and how effectively directors work together to achieve the objectives of the issuer;" ***after*** "in the case of the board or a board committee, its mandate or charter," ***and***
- (c) ***in paragraph (b) replacing*** "competencies and skills" ***with*** "skills, knowledge, experience, competencies and attributes".

7. These changes become effective on [●].

ANNEX H

ANNOTATED FORM 58-101F1 (FORM A)

Legend of proposed changes to Form 58-101F1 (Form A)**Underline text** → disclosure item changed or added**Strikethrough text** → disclosure item removed**Plain text** → no change to disclosure item**1. Board of Directors —**

- (a) Disclose the identity of directors who are independent.
- (b) Disclose the identity of directors who are not independent, and describe the basis for that determination.
- (c) Disclose whether or not a majority of directors are independent. If a majority of directors are not independent, describe what the board of directors (the **board**) does to facilitate its exercise of independent judgement in carrying out its responsibilities.
- (d) If a director is presently a director of any other issuer that is a reporting issuer (or the equivalent) in a jurisdiction or a foreign jurisdiction, identify both the director and the other issuer.
- (e) Disclose whether or not the independent directors hold regularly scheduled meetings at which non-independent directors and members of management are not in attendance. If the independent directors hold such meetings, disclose the number of meetings held since the beginning of the issuer's most recently completed financial year. If the independent directors do not hold such meetings, describe what the board does to facilitate open and candid discussion among its independent directors.
- (f) Disclose whether or not the chair of the board is an independent director. If the board has a chair or lead director who is an independent director, disclose the identity of the independent chair or lead director, and describe his or her role and responsibilities. If the board has neither a chair that is independent nor a lead director that is independent, describe what the board does to provide leadership for its independent directors.
- (g) Disclose the attendance record of each director for all board meetings held since the beginning of the issuer's most recently completed financial year.

2. Board Mandate —

Disclose the text of the board's written mandate. If the board does not have a written mandate, describe how the board delineates its role and responsibilities.

3. Position Descriptions —

- (a) Disclose whether or not the board has developed written position descriptions for the chair and the chair of each board committee. If the board has not developed written position descriptions for the chair and/or the chair of each board committee, briefly describe how the board delineates the role and responsibilities of each such position.
- (b) Disclose whether or not the board and CEO have developed a written position description for the CEO. If the board and CEO have not developed such a position description, briefly describe how the board delineates the role and responsibilities of the CEO.

4. Orientation and Continuing Education —

- (a) Briefly describe what measures the board takes to orient new directors regarding
 - (i) the role of the board, its committees and its directors, and
 - (ii) the nature and operation of the issuer's business.
- (b) Briefly describe what measures, if any, the board takes to provide continuing education for its directors. If the board does not provide continuing education, describe how the board ensures that its directors maintain the skill and knowledge necessary to meet their obligations as directors.

5. Ethical Business Conduct —

- (a) Disclose whether or not the board has adopted a written code for the directors, officers and employees. If the board has adopted a written code:
 - (i) disclose how a person or company may obtain a copy of the code;
 - (ii) describe how the board monitors compliance with its code, or if the board does not monitor compliance, explain whether and how the board satisfies itself regarding compliance with its code; and
 - (iii) provide a cross-reference to any material change report filed since the beginning of the issuer's most recently completed financial year that pertains to any conduct of a director or executive officer that constitutes a departure from the code.
- (b) Describe any steps the board takes to ensure directors exercise independent judgement in considering transactions and agreements in respect of which a director or executive officer has a material interest.
- (c) Describe any other steps the board takes to encourage and promote a culture of ethical business conduct.

6. ~~Nomination of Directors~~ Board Nominations —

- ~~(a) Describe the process by which how the board identifies and evaluates new candidates for board nomination: to the board, including, for greater certainty:~~
- ~~(a) Disclose whether or not the board has a nominating committee, and if so, whether the nominating committee is composed entirely of independent directors-;~~
- ~~(b) if if the board does not have a nominating committee, or if the nominating committee is not composed entirely of independent directors, describe what steps the board takes to encourage an objective nomination process-;~~
- ~~(c) If the board has a nominating committee, describe the responsibilities, powers and operation of the nominating committee.~~
- ~~(c) any written policy respecting the nomination process;~~
- ~~(d) if the board does not have a written policy respecting the nomination process, how the board carries out the nomination process;~~
- ~~(e) how the board manages any conflicts of interest that arise or could arise during the nomination process;~~
- ~~(f) whether the board has a composition matrix setting out the mix of skills, knowledge, experience, competencies and attributes that the board currently has and is looking to obtain in its membership;~~
- ~~(g) the skills, knowledge, experience, competencies and attributes of candidates that are considered when evaluating a candidate.~~

6.1 Board Renewal —

Describe how the board addresses board renewal, including, for greater certainty:

- ~~(a) any term limits for directors that the board has adopted;~~
- ~~(b) any mechanisms of board renewal, other than term limits for directors, adopted by the board and how the mechanisms contribute to board renewal;~~
- ~~(c) if the board has not adopted term limits for directors or other mechanisms of board renewal, why it has not done so.~~

6.2 Approach to Diversity —

In this Form, "identified group" means a group of individuals with a shared personal characteristic, whose representation on the issuer's board or in its executive officer positions has been identified by the issuer as being part of the issuer's strategy respecting diversity, but does not include women.

Describe the issuer's approach to achieving or maintaining diversity on its board and its executive officer positions, including, for greater certainty:

- (a) the issuer's objectives as they relate to women and to individuals from identified groups on the board and in executive officer positions;
- (b) the mechanisms that the issuer has in place to achieve the objectives referred to in paragraph (a);
- (c) how the issuer measures achievement of the objectives referred to in paragraph (a);
- (d) the annual and cumulative achievement of the objectives referred to in paragraph (a);
- (e) any written policy or process that the board has adopted as it relates to women and to individuals from identified groups;
- (f) if the board has not adopted a policy or process referred to in paragraph (e), why it has not done so;
- (g) whether the issuer has set a target number or percentage, or a range of numbers or percentages, regarding the representation of the following groups by a specific date:
 - (i) women on the issuer's board;
 - (ii) individuals from identified groups on the issuer's board;
 - (iii) women in executive officer positions of the issuer; and
 - (iv) individuals from identified groups in executive officer positions of the issuer;
- (h) if the issuer has set one or more targets for women and for individuals from identified groups, referred to in paragraph (g):
 - (i) the target number or percentage, or range of numbers or percentages, the issuer has set;
 - (ii) the timeframe for achieving the targets; and
 - (iii) the annual and cumulative achievement of the targets;
- (i) if the issuer has not set targets for women and for individuals from identified groups, referred to in paragraph (g), why it has not done so.

6.3 Number of Women and Individuals from Identified Groups on the Issuer's Board and in Executive Officer Positions —

- (a) Disclose the number and proportion (in percentage terms) of directors on the issuer's board who are women.
- (b) Disclose the number and proportion (in percentage terms) of executive officers of the issuer, including all major subsidiaries of the issuer, who are women.
- (c) If the issuer collects data on the number and proportion of directors on the issuer's board who are from identified groups, disclose the number and proportion (in percentage terms).
- (d) If the issuer collects data on the number and proportion of executive officers of the issuer, including all major subsidiaries of the issuer, who are from identified groups, disclose the number and proportion (in percentage terms).

7. Compensation —

- (a) Describe the process by which the board determines the compensation for the issuer's directors and officers.
- (b) Disclose whether or not the board has a compensation committee composed entirely of independent directors. If the board does not have a compensation committee composed entirely of independent directors, describe what steps the board takes to ensure an objective process for determining such compensation.
- (c) If the board has a compensation committee, describe the responsibilities, powers and operation of the compensation committee.
- (d) [Repealed]

8. Other Board Committees —

If the board has standing committees other than the audit, compensation and nominating committees, identify the committees and describe their function.

9. Assessments —

Disclose whether or not the board, its committees and individual directors are regularly assessed with respect to their effectiveness and contribution. If assessments are regularly conducted, describe the process used for the assessments. If assessments are not regularly conducted, describe how the board satisfies itself that the board, its committees, and its individual directors are performing effectively.

10. [Repealed]

~~Director Term Limits and Other Mechanisms of Board Renewal (Alberta, Manitoba, New Brunswick, Newfoundland and Labrador, Northwest Territories, Nova Scotia, Nunavut, Ontario, Québec, Saskatchewan and Yukon only)~~

~~Disclose whether or not the issuer has adopted term limits for the directors on its board or other mechanisms of board renewal and, if so, include a description of those director term limits or other mechanisms of board renewal. If the issuer has not adopted director term limits or other mechanisms of board renewal, disclose why it has not done so.~~

11. [Repealed]

~~Policies Regarding the Representation of Women on the Board (Alberta, Manitoba, New Brunswick, Newfoundland and Labrador, Northwest Territories, Nova Scotia, Nunavut, Ontario, Québec, Saskatchewan and Yukon only)~~

~~(a) Disclosure whether the issuer has adopted a written policy relating to the identification and nomination of women directors. If the issuer has not adopted such a policy, disclose why it has not done so.~~

~~(b) If an issuer has adopted a policy referred to in (a), disclose the following in respect of the policy:~~

~~(i) a short summary of its objectives and key provisions,~~

~~(ii) the measures taken to ensure that the policy has been effectively implemented,~~

~~(iii) annual and cumulative progress by the issuer in achieving the objectives of the policy, and~~

~~(iv) whether and, if so, how the board or its nominating committee measures the effectiveness of the policy.~~

12. [Repealed]

~~Consideration of the Representation of Women in the Director Identification and Selection Process (Alberta, Manitoba, New Brunswick, Newfoundland and Labrador, Northwest Territories, Nova Scotia, Nunavut, Ontario, Québec, Saskatchewan and Yukon only)~~

~~Disclose whether and, if so, how the board or nominating committee considers the level of representation of women on the board in identifying and nominating candidates for election or re-election to the board. If the issuer does not consider the level of representation of women on the board in identifying and nominating candidates for election or re-election to the board, disclose the issuer's reasons for not doing so.~~

13. [Repealed]

~~Consideration Given to the Representation of Women in Executive Officer Appointments (Alberta, Manitoba, New Brunswick, Newfoundland and Labrador, Northwest Territories, Nova Scotia, Nunavut, Ontario, Québec, Saskatchewan and Yukon only)~~

~~Disclose whether and, if so, how the issuer considers the level of representation of women in executive officer positions when making executive officer appointments. If the issuer does not consider the level of representation of women in executive officer positions when making executive officer appointments, disclose the issuer's reasons for not doing so.~~

14. [Repealed]~~**Issuer's Targets Regarding the Representation of Women on the Board and in Executive Officer Positions (Alberta, Manitoba, New Brunswick, Newfoundland and Labrador, Northwest Territories, Nova Scotia, Nunavut, Ontario, Québec, Saskatchewan and Yukon only)**~~

- ~~(a) For purposes of this Item, a "target" means a number or percentage, or a range of numbers or percentages, adopted by the issuer of women on the issuer's board or in executive officer positions of the issuer by a specific date.~~
- ~~(b) Disclose whether the issuer has adopted a target regarding women on the issuer's board. If the issuer has not adopted a target, disclose why it has not done so.~~
- ~~(c) Disclose whether the issuer has adopted a target regarding women in executive officer positions of the issuer. If the issuer has not adopted a target, disclose why it has not done so.~~
- ~~(d) If the issuer has adopted a target referred to in either (b) or (c), disclose:

 - ~~(i) the target, and~~
 - ~~(ii) the annual and cumulative progress of the issuer in achieving the target.~~~~

15. [Repealed]~~**Number of Women on the Board and in Executive Officer Positions (Alberta, Manitoba, New Brunswick, Newfoundland and Labrador, Northwest Territories, Nova Scotia, Nunavut, Ontario, Québec, Saskatchewan and Yukon only)**~~

- ~~(a) Disclose the number and proportion (in percentage terms) of directors on the issuer's board who are women.~~
- ~~(b) Disclose the number and proportion (in percentage terms) of executive officers of the issuer, including all major subsidiaries of the issuer, who are women.~~

INSTRUCTION:

- (1) *This Form applies to both corporate and non-corporate entities. Reference to a particular corporate characteristic, such as a board, includes any equivalent characteristic of a non-corporate entity.*

Income trust issuers must provide disclosure in a manner which recognizes 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 of the trust, or the board, management or employees of a management company. In the case of an income trust, references to "the issuer" refer to both the trust and any underlying entities, including the operating entity.
- (2) *If the disclosure required by Item 1 is included in a management information circular distributed to security holders of the issuer for the purpose of electing directors to the issuer's board of directors, provide disclosure regarding the existing directors and any proposed directors.*
- (3) *Disclosure regarding board committees made under Item 8 of this Form may include the existence and summary content of any committee charter.*
- (3.1) *Issuers may incorporate disclosure regarding compensation made under Item 7 of this Form by reference to the information required to be included in Form 51-102F6 Statement of Executive Compensation. Clearly identify the information that is incorporated by reference into this Form.*
- (4) [Repealed]

~~*An issuer may disclose any additional information that is relevant in order to understand the context of the information disclosed by the issuer under Item 15(a) or (b) of this Form.*~~
- (5) [Repealed]

~~*An issuer may incorporate information required to be disclosed under Items 10 to 15 by reference to another document. The issuer must clearly identify the reference document or any excerpt of it that the issuer incorporates into the disclosure provided under Items 10 to 15. Unless the issuer has already filed the reference document or excerpt under its SEDAR profile, the issuer must file it at the same time as it files the document containing the disclosure required under this Form.*~~

- (6) *For greater certainty, an “identified group” under Item 6.2 can include, without limitation, Indigenous peoples, persons with disabilities, members of visible minorities, members of the LGBTQ2SI+ community and members of linguistic minorities.*

ANNEX I

ANNOTATED FORM 58-101F1 (FORM B)

Legend of proposed changes to Form 58-101F1 (Form B)**Underline text** → disclosure item changed or added**Strikethrough text** → disclosure item removed**Plain text** → no change to disclosure item**1. Board of Directors —**

- (a) Disclose the identity of directors who are independent.
- (b) Disclose the identity of directors who are not independent and describe the basis for that determination.
- (c) Disclose whether or not a majority of directors are independent. If a majority of directors are not independent, describe what the board of directors (the **board**) does to facilitate its exercise of independent judgement in carrying out its responsibilities.
- (d) If a director is presently a director of any other issuer that is a reporting issuer (or the equivalent) in a jurisdiction or a foreign jurisdiction, identify both the director and the other issuer.
- (e) Disclose whether or not the independent directors hold regularly scheduled meetings at which non-independent directors and members of management are not in attendance. If the independent directors hold such meetings, disclose the number of meetings held since the beginning of the issuer's most recently completed financial year. If the independent directors do not hold such meetings, describe what the board does to facilitate open and candid discussion among its independent directors.
- (f) Disclose whether or not the chair of the board is an independent director. If the board has a chair or lead director who is an independent director, disclose the identity of the independent chair or lead director, and describe his or her role and responsibilities. If the board has neither a chair that is independent nor a lead director that is independent, describe what the board does to provide leadership for its independent directors.
- (g) Disclose the attendance record of each director for all board meetings held since the beginning of the issuer's most recently completed financial year.

2. Board Mandate —

Disclose the text of the board's written mandate. If the board does not have a written mandate, describe how the board delineates its role and responsibilities.

3. Position Descriptions —

- (a) Disclose whether or not the board has developed written position descriptions for the chair and the chair of each board committee. If the board has not developed written position descriptions for the chair and/or the chair of each board committee, briefly describe how the board delineates the role and responsibilities of each such position.
- (b) Disclose whether or not the board and CEO have developed a written position description for the CEO. If the board and CEO have not developed such a position description, briefly describe how the board delineates the role and responsibilities of the CEO.

4. Orientation and Continuing Education —

- (a) Briefly describe what measures the board takes to orient new directors regarding
 - (i) the role of the board, its committees and its directors, and
 - (ii) the nature and operation of the issuer's business.
- (b) Briefly describe what measures, if any, the board takes to provide continuing education for its directors. If the board does not provide continuing education, describe how the board ensures that its directors maintain the skill and knowledge necessary to meet their obligations as directors.

5. Ethical Business Conduct —

- (a) Disclose whether or not the board has adopted a written code for the directors, officers and employees. If the board has adopted a written code:
 - (i) disclose how a person or company may obtain a copy of the code;
 - (ii) describe how the board monitors compliance with its code, or if the board does not monitor compliance, explain whether and how the board satisfies itself regarding compliance with its code; and
 - (iii) provide a cross-reference to any material change report filed since the beginning of the issuer's most recently completed financial year that pertains to any conduct of a director or executive officer that constitutes a departure from the code.
- (b) Describe any steps the board takes to ensure directors exercise independent judgement in considering transactions and agreements in respect of which a director or executive officer has a material interest.
- (c) Describe any other steps the board takes to encourage and promote a culture of ethical business conduct.

6. ~~Nomination of Directors~~ Board Nominations —

- ~~(a) Describe the process by which how the board identifies and evaluates new candidates for board nomination: to the board, including, for greater certainty:~~
- ~~(a) Disclose whether or not the board has a nominating committee, and if so, whether the nominating committee is composed entirely of independent directors;~~
- ~~(b) if the board does not have a nominating committee, or if the nominating committee is not composed entirely of independent directors, describe what steps the board takes to encourage an objective nomination process;~~
- ~~(c) If the board has a nominating committee, describe the responsibilities, powers and operation of the nominating committee.~~
- ~~(c) any written policy respecting the nomination process, including, for greater certainty, the nomination of persons from the designated groups;~~
- ~~(d) if the board does not have a written policy respecting the nomination process, how the board carries out the nomination process;~~
- ~~(e) how the board manages any conflicts of interest that arise or could arise during the nomination process;~~
- ~~(f) whether the board has a composition matrix setting out the mix of skills, knowledge, experience, competencies and attributes that the board currently has and is looking to obtain in its membership;~~
- ~~(g) the skills, knowledge, experience, competencies and attributes of candidates that are considered when evaluating a candidate.~~

6.1 Board Renewal —

Describe how the board addresses board renewal, including, for greater certainty:

- ~~(a) any term limits for directors that the board has adopted;~~
- ~~(b) any mechanisms of board renewal, other than term limits for directors, adopted by the board and how the mechanisms contribute to board renewal;~~
- ~~(c) if the board has not adopted term limits for directors or other mechanisms of board renewal, why it has not done so.~~

6.2 Approach to Diversity —

Describe the issuer's written strategy regarding achieving or maintaining diversity on the board, including:

- ~~(a) any written policy that the board has adopted as it relates to the representation on the board by persons from the designated groups; and~~

- (b) if the board has not adopted a policy referred to in paragraph (a), why it has not done so.

6.3 **Targets and Other Measurable Objectives —**

- (a) Disclose whether the issuer has set a target number or percentage, or a range of numbers or percentages, regarding the representation of the following groups to be achieved by a specific date:
- (i) women on the issuer's board;
- (ii) persons from the designated groups other than women on the issuer's board;
- (iii) women in executive officer positions of the issuer; and
- (iv) persons from the designated groups other than women in executive officer positions of the issuer.
- (b) If the issuer has not set a target for each group referred to in paragraph (a), disclose why it has not done so.
- (c) If the issuer has set a target referred to in paragraph (a), complete the following table as at the issuer's most-recently completed fiscal year end.

	<u>Target</u>	<u>Timeframe for achieving the target</u>	<u>Annual and cumulative progress in achieving the target</u>
<u>Women on the issuer's board</u>	<i><u>[Insert number or percentage or a range of numbers or percentages of women on the board]</u></i>	<i><u>[Insert the date for achievement of target]</u></i>	<i><u>[Insert year in which the target was achieved or if it has not been achieved insert "not applicable".</u></i> <i><u>If the target was previously achieved but the number or percentage of women on the board is below the target, provide this information.]</u></i> <u>Discuss the issuer's progress in meeting and maintaining the target.</u>
<u>Persons from designated groups (other than women) on the issuer's board</u>	<i><u>[Insert number or percentage or a range of numbers or percentages of persons from designated groups (other than women) on the board]</u></i>	<i><u>[Insert the date for achievement of target]</u></i>	<i><u>[Insert year in which the target was achieved or if it has not been achieved insert "not applicable".</u></i> <i><u>If the target was previously achieved but the number or percentage of persons from designated groups (other than women) on the board is below the target, provide this information.]</u></i> <u>Discuss the issuer's progress in meeting</u>

			and maintaining the target.
<u>Women in executive officer positions of the issuer</u>	<i><u>[Insert number or percentage or a range of numbers or percentages of women in executive officer positions of the issuer]</u></i>	<i><u>[Insert the date for achievement of target]</u></i>	<i><u>[Insert year in which the target was achieved or if it has not been achieved insert "not applicable".]</u></i> <i><u>If the target was previously achieved but the number or percentage of women in executive officer positions is below the target, provide this information.]</u></i> <u>Discuss the issuer's progress in meeting and maintaining the target.</u>
<u>Persons from designated groups (other than women) in executive officer positions of the issuer</u>	<i><u>[Insert number or percentage or a range of numbers or percentages of persons from designated groups (other than women) in executive officer positions of the issuer]</u></i>	<i><u>[Insert the date for achievement of target]</u></i>	<i><u>[Insert year in which the target was achieved or if it has not been achieved insert "not applicable".]</u></i> <i><u>If the target was previously achieved but the number or percentage of persons from designated groups (other than women) in executive officer positions is currently below the target, provide this information.]</u></i> <u>Discuss the issuer's progress in meeting and maintaining the target.</u>

- (d) Describe any measurable objectives of the issuer's written strategy, other than targets, that relate to the representation of persons from the designated groups, including:
- (i) the mechanisms that the issuer has implemented to achieve the objectives;
 - (ii) how the issuer measures progress in achieving the objectives; and
 - (iii) the annual and cumulative progress achieved in respect of the objectives.

6.4 Number of Persons from Designated Groups on the Issuer's Board and in Executive Officer Positions —

- (a) Complete the following table as at the issuer's most-recent fiscal year end date and as at the fiscal year end for each of the two preceding years.

	<u>[insert year]</u>	<u>[insert year]</u>	<u>[insert year]</u>
<u>Number of directors on the issuer's board who self-identify as:</u>			
<u>Women</u>			
<u>Indigenous peoples</u>			
<u>LGBTQ2SI+ persons</u>			
<u>Persons with disabilities</u>			
<u>Racialized persons</u>			
<u>Number of individuals that are members of more than one designated group</u>			
<u>Total number of the directors on the issuer's board</u>			

(b) Complete the following table in respect of the issuer's most recent completed fiscal year.

	<u>[insert year]</u>
<u>Number of board seats filled during the year by directors who self-identify as:</u>	
<u>Women</u>	
<u>Persons from designated groups, other than women</u>	
<u>Total number of board seats filled in the year</u>	

(c) Complete this table as at the issuer's most recent fiscal year end date and as at the fiscal year end for each of the two preceding years.

	<u>[insert year]</u>	<u>[insert year]</u>	<u>[insert year]</u>
<u>Number of the issuer's executive officers who self-identify as:</u>			
<u>Women</u>			
<u>Indigenous</u>			
<u>LGBTQ2SI+</u>			
<u>Persons with disabilities</u>			
<u>Racialized persons</u>			
<u>Number of individuals that are members of more than one designated group</u>			
<u>Total number of executive officers</u>			

7. Compensation —

(a) Describe the process by which the board determines the compensation for the issuer's directors and officers.

- (b) Disclose whether or not the board has a compensation committee composed entirely of independent directors. If the board does not have a compensation committee composed entirely of independent directors, describe what steps the board takes to ensure an objective process for determining such compensation.
- (c) If the board has a compensation committee, describe the responsibilities, powers and operation of the compensation committee.
- (d) [Repealed]

8. Other Board Committees —

If the board has standing committees other than the audit, compensation and nominating committees, identify the committees and describe their function.

9. Assessments —

Disclose whether or not the board, its committees and individual directors are regularly assessed with respect to their effectiveness and contribution. If assessments are regularly conducted, describe the process used for the assessments. If assessments are not regularly conducted, describe how the board satisfies itself that the board, its committees, and its individual directors are performing effectively.

10. [Repealed]

~~Director Term Limits and Other Mechanisms of Board Renewal (Alberta, Manitoba, New Brunswick, Newfoundland and Labrador, Northwest Territories, Nova Scotia, Nunavut, Ontario, Québec, Saskatchewan and Yukon only)~~

~~Disclose whether or not the issuer has adopted term limits for the directors on its board or other mechanisms of board renewal and, if so, include a description of those director term limits or other mechanisms of board renewal. If the issuer has not adopted director term limits or other mechanisms of board renewal, disclose why it has not done so.~~

11. [Repealed]

~~Policies Regarding the Representation of Women on the Board (Alberta, Manitoba, New Brunswick, Newfoundland and Labrador, Northwest Territories, Nova Scotia, Nunavut, Ontario, Québec, Saskatchewan and Yukon only)~~

- ~~(a) Disclose whether the issuer has adopted a written policy relating to the identification and nomination of women directors. If the issuer has not adopted such a policy, disclose why it has not done so.~~
- ~~(b) If an issuer has adopted a policy referred to in (a), disclose the following in respect of the policy:~~
 - ~~(i) a short summary of its objectives and key provisions;~~
 - ~~(ii) the measures taken to ensure that the policy has been effectively implemented;~~
 - ~~(iii) annual and cumulative progress by the issuer in achieving the objectives of the policy, and~~
 - ~~(iv) whether and, if so, how the board or its nominating committee measures the effectiveness of the policy.~~

12. [Repealed]

~~Consideration of the Representation of Women in the Director Identification and Selection Process (Alberta, Manitoba, New Brunswick, Newfoundland and Labrador, Northwest Territories, Nova Scotia, Nunavut, Ontario, Québec, Saskatchewan and Yukon only)~~

~~Disclose whether and, if so, how the board or nominating committee considers the level of representation of women on the board in identifying and nominating candidates for election or re-election to the board. If the issuer does not consider the level of representation of women on the board in identifying and nominating candidates for election or re-election to the board, disclose the issuer's reasons for not doing so.~~

13. [Repealed]

~~Consideration Given to the Representation of Women in Executive Officer Appointments (Alberta, Manitoba, New Brunswick, Newfoundland and Labrador, Northwest Territories, Nova Scotia, Nunavut, Ontario, Québec, Saskatchewan and Yukon only)~~

Disclose whether and, if so, how the issuer considers the level of representation of women in executive officer positions when making executive officer appointments. If the issuer does not consider the level of representation of women in executive officer positions when making executive officer appointments, disclose the issuer's reasons for not doing so.

14. **[Repealed]**

~~Issuer's Targets Regarding the Representation of Women on the Board and in Executive Officer Positions (Alberta, Manitoba, New Brunswick, Newfoundland and Labrador, Northwest Territories, Nova Scotia, Nunavut, Ontario, Québec, Saskatchewan and Yukon only)~~

- (a) ~~For purposes of this Item, a "target" means a number or percentage, or a range of numbers or percentages, adopted by the issuer of women on the issuer's board or in executive officer positions of the issuer by a specific date.~~
- (b) ~~Disclose whether the issuer has adopted a target regarding women on the issuer's board. If the issuer has not adopted a target, disclose why it has not done so.~~
- (c) ~~Disclose whether the issuer has adopted a target regarding women in executive officer positions of the issuer. If the issuer has not adopted a target, disclose why it has not done so.~~
- (d) ~~If the issuer has adopted a target referred to in either (b) or (c), disclose:~~
 - (i) ~~the target, and~~
 - (ii) ~~the annual and cumulative progress of the issuer in achieving the target.~~

15. **[Repealed]**

~~Number of Women on the Board and in Executive Officer Positions (Alberta, Manitoba, New Brunswick, Newfoundland and Labrador, Northwest Territories, Nova Scotia, Nunavut, Ontario, Québec, Saskatchewan and Yukon only)~~

- (a) ~~Disclose the number and proportion (in percentage terms) of directors on the issuer's board who are women.~~
- (b) ~~Disclose the number and proportion (in percentage terms) of executive officers of the issuer, including all major subsidiaries of the issuer, who are women.~~

INSTRUCTION:

- (1) *This Form applies to both corporate and non-corporate entities. Reference to a particular corporate characteristic, such as a board, includes any equivalent characteristic of a non-corporate entity.*

Income trust issuers must provide disclosure in a manner which recognizes 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 of the trust, or the board, management or employees of a management company. In the case of an income trust, references to "the issuer" refer to both the trust and any underlying entities, including the operating entity.
- (2) *If the disclosure required by Item 1 is included in a management information circular distributed to security holders of the issuer for the purpose of electing directors to the issuer's board of directors, provide disclosure regarding the existing directors and any proposed directors.*
- (3) *Disclosure regarding board committees made under Item 8 of this Form may include the existence and summary content of any committee charter.*
- (3.1) *Issuers may incorporate disclosure regarding compensation made under Item 7 of this Form by reference to the information required to be included in Form 51-102F6 Statement of Executive Compensation. Clearly identify the information that is incorporated by reference into this Form.*
- (4) **[Repealed]**

~~*An issuer may disclose any additional information that is relevant in order to understand the context of the information disclosed by the issuer under Item 15(a) or (b) of this Form.*~~

(5) **[Repealed]**

~~An issuer may incorporate information required to be disclosed under Items 10 to 15 by reference to another document. The issuer must clearly identify the reference document or any excerpt of it that the issuer incorporates into the disclosure provided under Items 10 to 15. Unless the issuer has already filed the reference document or excerpt under its SEDAR profile, the issuer must file it at the same time as it files the document containing the disclosure required under this Form.~~

(6) The information reported in item 6.4 must be based on voluntary disclosure (i.e., self-identification) by board members and executive officers. This information is reported in the aggregate and, as such, does not require disclosure about how any one individual self-identifies. Issuers are responsible for compliance with all applicable privacy laws.

ANNEX J

**ANNOTATED NATIONAL POLICY 58-201
(COMPATIBLE WITH FORM A)**

Legend of proposed changes to policy**Underline text** → disclosure item changed or added**~~Strikethrough text~~** → disclosure item removed**Plain text** → no change to disclosure item**Part 1 Purpose and Application**

1.1 **Purpose of this Policy** — This Policy provides guidance on corporate governance practices which have been formulated to:

- achieve a balance between providing protection to investors and fostering fair and efficient capital markets and confidence in capital markets;
- be sensitive to the realities of the greater numbers of small companies and controlled companies in the Canadian corporate landscape;
- take into account the impact of corporate governance developments in the U.S. and around the world; and
- recognize that corporate governance is evolving.

The guidelines in this Policy are not intended to be prescriptive. We encourage issuers to consider the guidelines in developing their own corporate governance practices and to apply and adapt these guidelines based on their individual circumstances as they evolve.

~~We do, however, understand that some parties have concerns about how this Policy and National Instrument 58-101 *Disclosure of Corporate Governance Practices* affect controlled companies. Accordingly, we intend, over the next year, to carefully consider these concerns in the context of a study to examine the governance of controlled companies. We will consult market participants in conducting the study. After completing the study, we will consider whether to change how this Policy and National Instrument 58-101 treat controlled companies.~~

1.2 **Application** — This Policy applies to all reporting issuers, other than investment funds. Consequently, it applies to both corporate and non-corporate entities. Reference to a particular corporate characteristic, such as a board of directors (the board), includes any equivalent characteristic of a non-corporate entity. For example, in the case of a limited partnership, we recommend that a majority of the directors of the general partner should be independent of the limited partnership (including the general partner).

Income trust issuers should, in applying these guidelines, 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 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.

Part 2 Meaning of Independence

2.1 **Meaning of Independence** — For the purposes of this Policy, a director is independent if ~~he or she~~ the director would be independent for the purposes of National Instrument 58-101 *Disclosure of Corporate Governance Practices*.

Part 3 Corporate Governance Guidelines**Composition of the Board**

- 3.1 The board should have a majority of independent directors.
- 3.2 The chair of the board should be an independent director. Where this is not appropriate, an independent director should be appointed to act as “lead director”. However, either an independent chair or an independent lead director should act as the effective leader of the board and ensure that the board's agenda will enable it to successfully carry out its duties.

Meetings of Independent Directors

- 3.3 The independent directors should hold regularly scheduled meetings at which non-independent directors and members of management are not in attendance.

Board Mandate

- 3.4 The board should adopt a written mandate in which it explicitly acknowledges responsibility for the stewardship of the issuer, including responsibility for:
- (a) to the extent feasible, satisfying itself as to the integrity of the chief executive officer (the CEO) and other executive officers and that the CEO and other executive officers create a culture of integrity throughout the organization;
 - (b) adopting a strategic planning process and approving, on at least an annual basis, a strategic plan which takes into account, among other things, the opportunities and risks of the business;
 - (c) the identification of the principal risks of the issuer's business, and ensuring the implementation of appropriate systems to manage these risks;
 - (d) succession planning (including appointing, training and monitoring senior management);
 - (e) adopting a communication policy for the issuer;
 - (f) the issuer's internal control and management information systems; and
 - (g) developing the issuer's approach to corporate governance, including developing a set of corporate governance principles and guidelines that are specifically applicable to the issuer.¹

The written mandate of the board should also set out:

- (i) measures for receiving feedback from stakeholders (e.g., the board may wish to establish a process to permit stakeholders to directly contact the independent directors), and
- (ii) expectations and responsibilities of directors, including basic duties and responsibilities with respect to attendance at board meetings and advance review of meeting materials.

In developing an effective communication policy for the issuer, issuers should refer to the guidance set out in National Policy 51-201 *Disclosure Standards*.

For purposes of this Policy, "executive officer" has the same meaning as in National Instrument 51-102 *Continuous Disclosure Obligations*.

Position Descriptions

- 3.5 The board should develop clear position descriptions for the chair of the board and the chair of each board committee. In addition, the board, together with the CEO, should develop a clear position description for the CEO, which includes delineating management's responsibilities. The board should also develop or approve the corporate goals and objectives that the CEO is responsible for meeting.

Orientation and Continuing Education

- 3.6 The board should ensure that all new directors receive a comprehensive orientation. All new directors should fully understand the role of the board and its committees, as well as the contribution individual directors are expected to make (including, in particular, the commitment of time and resources that the issuer expects from its directors). All new directors should also understand the nature and operation of the issuer's business.
- 3.7 The board should provide continuing education opportunities for all directors, so that individuals may maintain or enhance their skills and abilities as directors, as well as to ensure their knowledge and understanding of the issuer's business remains current.

¹ Issuers may consider appointing a corporate governance committee to consider these issues. A corporate governance committee should have a majority of independent directors, with the remaining members being "non-management" directors.

Code of Business Conduct and Ethics

3.8 The board should adopt a written code of business conduct and ethics (a code). The code should be applicable to directors, officers and employees of the issuer. The code should constitute written standards that are reasonably designed to promote integrity and to deter wrongdoing. In particular, it should address the following issues:

- (a) conflicts of interest, including transactions and agreements in respect of which a director or executive officer has a material interest;
- (b) protection and proper use of corporate assets and opportunities;
- (c) confidentiality of corporate information;
- (d) fair dealing with the issuer's security holders, customers, suppliers, competitors and employees;
- (e) compliance with laws, rules and regulations; and
- (f) reporting of any illegal or unethical behaviour.

3.9 The board should be responsible for monitoring compliance with the code. Any waivers from the code that are granted for the benefit of the issuer's directors or executive officers should be granted by the board (or a board committee) only.

Although issuers must exercise their own judgement in making materiality determinations, the Canadian securities regulatory authorities consider that conduct by a director or executive officer which constitutes a material departure from the code will likely constitute a "material change" within the meaning of National Instrument 51-102 *Continuous Disclosure Obligations*. National Instrument 51-102 requires every material change report to include a full description of the material change. Where a material departure from the code constitutes a material change to the issuer, we expect that the material change report will disclose, among other things:

- the date of the departure(s),
- the party(ies) involved in the departure(s),
- the reason why the board has or has not sanctioned the departure(s), and
- any measures the board has taken to address or remedy the departure(s).

Nomination of Directors Board Nominations

3.10 The board should appoint a nominating committee composed entirely of independent directors.

3.11 The nominating committee should have a written charter that clearly establishes the committee's purpose, responsibilities, member qualifications, member appointment and removal, structure and operations (including any authority to delegate to individual members and subcommittees), and manner of reporting to the board. In addition, the nominating committee should be given authority to engage and compensate any outside advisor that it determines to be necessary to permit it to carry out its duties. If an issuer is legally required by contract or otherwise to provide third parties with the right to nominate directors, the selection and nomination of those directors need not involve the approval of an independent nominating committee.

3.11.1 The nominating committee should be responsible for reviewing and making recommendations to the board in relation to:

- (a) the appropriate size of the board, with a view to effective decision-making;
- (b) board succession planning;
- (c) orientation and continuing education for directors;
- (d) the development and implementation of a process for assessing the effectiveness of the board, its committees and directors; and
- (e) the process for director recruitment.

3.11.2 A board should have a composition matrix setting out the mix of skills, knowledge, experience, competencies, attributes and independence that the board currently has or is looking to achieve in its membership. In order for the board to effectively fulfill its mandate and address existing and emerging business and governance issues relevant to the issuer, the board should regularly review the composition matrix and use this review process to recruit new directors or provide continuing education opportunities to existing directors.

3.11.3 The board should adopt a written policy respecting the director nomination process that sets out the process used in relation to director appointments and the board's approach to succession planning.

3.11.4 Recommendations for appointments to the board should be based on objective criteria. In making its recommendations, the nominating committee should consider the skills, knowledge, experience, competencies, attributes and level of independence that:

- (a) are necessary for the board, as a whole, to function effectively; and
- (b) are held by each existing director and each new nominee.

The nominating committee should also consider whether or not each new nominee can devote sufficient time and resources to their duties as a board member.

Board Renewal

3.11.5 The board should maintain an effective succession plan for directors, which:

- (a) provides a transparent process and timeline for replacing board members so as to ensure that necessary skills, knowledge, experience, competencies and attributes are maintained;
- (b) maintains a mix of longer-serving directors with a deep understanding of the issuer and its business and newer directors with fresh ideas and perspective; and
- (c) maintains the board's independence from management.

3.11.6 The board should adopt mechanisms of board renewal that are appropriate to its circumstances. These mechanisms may include:

- (a) establishing director term limits;
- (b) assessing the effectiveness of an individual director when proposing the director as a candidate for re-election to the board; and
- (c) using a composition matrix to identify gaps in the board's collective skills, knowledge, experience, competencies, attributes and independence.

3.11.7 If an issuer establishes term limits, factors that may be considered include:

- (a) the board's current size and composition, and the board's composition matrix;
- (b) the board's independence from management and the issuer's ownership structure;
- (c) characteristics of the issuer, including its industry, size and stage of development; and
- (d) the existence of other mechanisms, such as regular assessments, to ensure the effectiveness of board members.

Diversity and Targets

3.11.8 A board should consider adopting a written diversity policy or process to ensure that recruitment of directors is appropriately structured to promote a broad range of perspectives and experiences on the board.

3.11.9 A board should set objectives for achieving diversity in the composition of its board and executive officer positions. Mechanisms to achieve these objectives may include setting targets, establishing a diversity council, implementing training and leadership programs, and expanding strategic outreach directed at developing a diverse pipeline of candidates for director and executive officer positions.

3.11.10 For purposes of this Policy, a "target" has the same meaning as in Form 58-101F1 under National Instrument 58-101 *Disclosure of Corporate Governance Practices*. If a board sets targets for the representation of any of the groups referenced in paragraph 6.2(g) of Form 58-101F1, the board should review and assess the appropriateness of the targets on an annual basis. When considering an appropriate target, a board should consider various factors, including:

- (a) the board's current size and composition, and the boards' composition matrix; and
- (b) characteristics of the issuer, including its industry, size and stage of development, investors, stakeholders, and location of its operations.

3.12 ~~[Deleted] Prior to nominating or appointing individuals as directors, the board should adopt a process involving the following steps:~~

- ~~(A) Consider what competencies and skills the board, as a whole, should possess. In doing so, the board should recognize that the particular competencies and skills required for one issuer may not be the same as those required for another.~~
- ~~(B) Assess what competencies and skills each existing director possesses. It is unlikely that any one director will have all the competencies and skills required by the board. Instead, the board should be considered as a group, with each individual making his or her own contribution. Attention should also be paid to the personality and other qualities of each director, as these may ultimately determine the boardroom dynamic.~~

~~The board should also consider the appropriate size of the board, with a view to facilitating effective decision-making.~~

~~In carrying out each of these functions, the board should consider the advice and input of the nominating committee.~~

3.13 ~~[Deleted] The nominating committee should be responsible for identifying individuals qualified to become new board members and recommending to the board the new director nominees for the next annual meeting of shareholders.~~

3.14 ~~[Deleted] In making its recommendations, the nominating committee should consider:~~

- ~~(a) the competencies and skills that the board considers to be necessary for the board, as a whole, to possess;~~
- ~~(b) the competencies and skills that the board considers each existing director to possess; and~~
- ~~(c) the competencies and skills each new nominee will bring to the boardroom.~~

~~The nominating committee should also consider whether or not each new nominee can devote sufficient time and resources to his or her duties as a board member.~~

Compensation

3.15 The board should appoint a compensation committee composed entirely of independent directors.

3.16 The compensation committee should have a written charter that establishes the committee's purpose, responsibilities, member qualifications, member appointment and removal, structure and operations (including any authority to delegate to individual members or subcommittees), and the manner of reporting to the board. In addition, the compensation committee should be given authority to engage and compensate any outside advisor that it determines to be necessary to permit it to carry out its duties.

3.17 The compensation committee should be responsible for:

- (a) reviewing and approving corporate goals and objectives relevant to CEO compensation, evaluating the CEO's performance in light of those corporate goals and objectives, and determining (or making recommendations to the board with respect to) the CEO's compensation level based on this evaluation;
- (b) making recommendations to the board with respect to non-CEO officer and director compensation, incentive-compensation plans and equity-based plans; and
- (c) reviewing executive compensation disclosure before the issuer publicly discloses this information.

Regular Board Assessments

3.18 The board, its committees and each individual director should be regularly assessed regarding ~~his, her~~ their or its effectiveness and contribution. An assessment should consider

- (a) in the case of the board or a board committee, its mandate or charter, composition and how effectively directors work together to achieve the objectives of the issuer; and
- (b) in the case of an individual director, the applicable position description(s), as well as the ~~competencies and skills~~ skills, knowledge, experience, competencies and attributes each individual director is expected to bring to the board.

ANNEX K

**ANNOTATED NATIONAL POLICY 58-201
(COMPATIBLE WITH FORM B)**

Legend of proposed changes to policy**Underline text** → disclosure item changed or added**~~Strikethrough text~~** → disclosure item removed**Plain text** → no change to disclosure item**Part 1 Purpose and Application**

1.1 Purpose of this Policy — This Policy provides guidance on corporate governance practices which have been formulated to:

- achieve a balance between providing protection to investors and fostering fair and efficient capital markets and confidence in capital markets;
- be sensitive to the realities of the greater numbers of small companies and controlled companies in the Canadian corporate landscape;
- take into account the impact of corporate governance developments in the U.S. and around the world; and
- recognize that corporate governance is evolving.

The guidelines in this Policy are not intended to be prescriptive. We encourage issuers to consider the guidelines in developing their own corporate governance practices and to apply and adapt these guidelines based on their individual circumstances as they evolve.

~~We do, however, understand that some parties have concerns about how this Policy and National Instrument 58-101 Disclosure of Corporate Governance Practices affect controlled companies. Accordingly, we intend, over the next year, to carefully consider these concerns in the context of a study to examine the governance of controlled companies. We will consult market participants in conducting the study. After completing the study, we will consider whether to change how this Policy and National Instrument 58-101 treat controlled companies.~~

1.2 Application — This Policy applies to all reporting issuers, other than investment funds. Consequently, it applies to both corporate and non-corporate entities. Reference to a particular corporate characteristic, such as a board of directors (the board), includes any equivalent characteristic of a non-corporate entity. For example, in the case of a limited partnership, we recommend that a majority of the directors of the general partner should be independent of the limited partnership (including the general partner).

Income trust issuers should, in applying these guidelines, 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 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.

Part 2 Meaning of Independence

2.1 Meaning of Independence — For the purposes of this Policy, a director is independent if ~~he or she~~ the director would be independent for the purposes of National Instrument 58-101 *Disclosure of Corporate Governance Practices*.

Part 3 Corporate Governance Guidelines**Composition of the Board**

- 3.1** The board should have a majority of independent directors.
- 3.2** The chair of the board should be an independent director. Where this is not appropriate, an independent director should be appointed to act as “lead director”. However, either an independent chair or an independent lead director should act as the effective leader of the board and ensure that the board's agenda will enable it to successfully carry out its duties.

Meetings of Independent Directors

- 3.3 The independent directors should hold regularly scheduled meetings at which non-independent directors and members of management are not in attendance.

Board Mandate

- 3.4 The board should adopt a written mandate in which it explicitly acknowledges responsibility for the stewardship of the issuer, including responsibility for:
- (a) to the extent feasible, satisfying itself as to the integrity of the chief executive officer (the CEO) and other executive officers and that the CEO and other executive officers create a culture of integrity throughout the organization;
 - (b) adopting a strategic planning process and approving, on at least an annual basis, a strategic plan which takes into account, among other things, the opportunities and risks of the business;
 - (c) the identification of the principal risks of the issuer's business, and ensuring the implementation of appropriate systems to manage these risks;
 - (d) succession planning (including appointing, training and monitoring senior management);
 - (e) adopting a communication policy for the issuer;
 - (f) the issuer's internal control and management information systems; and
 - (g) developing the issuer's approach to corporate governance, including developing a set of corporate governance principles and guidelines that are specifically applicable to the issuer.¹

The written mandate of the board should also set out:

- (i) measures for receiving feedback from stakeholders (e.g., the board may wish to establish a process to permit stakeholders to directly contact the independent directors), and
- (ii) expectations and responsibilities of directors, including basic duties and responsibilities with respect to attendance at board meetings and advance review of meeting materials.

In developing an effective communication policy for the issuer, issuers should refer to the guidance set out in National Policy 51-201 *Disclosure Standards*.

For purposes of this Policy, "executive officer" has the same meaning as in National Instrument 51-102 *Continuous Disclosure Obligations*.

Position Descriptions

- 3.5 The board should develop clear position descriptions for the chair of the board and the chair of each board committee. In addition, the board, together with the CEO, should develop a clear position description for the CEO, which includes delineating management's responsibilities. The board should also develop or approve the corporate goals and objectives that the CEO is responsible for meeting.

Orientation and Continuing Education

- 3.6 The board should ensure that all new directors receive a comprehensive orientation. All new directors should fully understand the role of the board and its committees, as well as the contribution individual directors are expected to make (including, in particular, the commitment of time and resources that the issuer expects from its directors). All new directors should also understand the nature and operation of the issuer's business.
- 3.7 The board should provide continuing education opportunities for all directors, so that individuals may maintain or enhance their skills and abilities as directors, as well as to ensure their knowledge and understanding of the issuer's business remains current.

¹ Issuers may consider appointing a corporate governance committee to consider these issues. A corporate governance committee should have a majority of independent directors, with the remaining members being "non-management" directors.

Code of Business Conduct and Ethics

3.8 The board should adopt a written code of business conduct and ethics (a code). The code should be applicable to directors, officers and employees of the issuer. The code should constitute written standards that are reasonably designed to promote integrity and to deter wrongdoing. In particular, it should address the following issues:

- (a) conflicts of interest, including transactions and agreements in respect of which a director or executive officer has a material interest;
- (b) protection and proper use of corporate assets and opportunities;
- (c) confidentiality of corporate information;
- (d) fair dealing with the issuer's security holders, customers, suppliers, competitors and employees;
- (e) compliance with laws, rules and regulations; and
- (f) reporting of any illegal or unethical behaviour.

3.9 The board should be responsible for monitoring compliance with the code. Any waivers from the code that are granted for the benefit of the issuer's directors or executive officers should be granted by the board (or a board committee) only.

Although issuers must exercise their own judgement in making materiality determinations, the Canadian securities regulatory authorities consider that conduct by a director or executive officer which constitutes a material departure from the code will likely constitute a "material change" within the meaning of National Instrument 51-102 *Continuous Disclosure Obligations*. National Instrument 51-102 requires every material change report to include a full description of the material change. Where a material departure from the code constitutes a material change to the issuer, we expect that the material change report will disclose, among other things:

- the date of the departure(s),
- the party(ies) involved in the departure(s),
- the reason why the board has or has not sanctioned the departure(s), and
- any measures the board has taken to address or remedy the departure(s).

Board Nominations

3.10 The board should appoint a nominating committee composed entirely of independent directors.

3.11 The nominating committee should have a written charter that clearly establishes the committee's purpose, responsibilities, member qualifications, member appointment and removal, structure and operations (including any authority to delegate to individual members and subcommittees), and manner of reporting to the board. In addition, the nominating committee should be given authority to engage and compensate any outside advisor that it determines to be necessary to permit it to carry out its duties. If an issuer is legally required by contract or otherwise to provide third parties with the right to nominate directors, the selection and nomination of those directors need not involve the approval of an independent nominating committee.

3.11.1 The nominating committee should be responsible for reviewing and making recommendations to the board in relation to:

- (a) the appropriate size of the board, with a view to effective decision-making;
- (b) board succession planning;
- (c) orientation and continuing education for directors;
- (d) the development and implementation of a process for assessing the effectiveness of the board, its committees and directors; and
- (e) the process for director recruitment.

3.11.2 A board should have a composition matrix setting out the mix of skills, knowledge, experience, competencies, attributes and independence that the board currently has or is looking to achieve in its membership. In order for the board to effectively fulfill its mandate and address existing and emerging business and governance issues relevant to the issuer,

the board should regularly review the composition matrix and use this review process to recruit new directors or provide continuing education opportunities to existing directors.

3.11.3 The board should adopt a written policy respecting the director nomination process that sets out the process used in relation to director appointments and the board's approach to succession planning.

3.11.4 Recommendations for appointments to the board should be based on objective criteria. In making its recommendations, the nominating committee should consider the skills, knowledge, experience, competencies, attributes and level of independence that:

(a) are necessary for the board, as a whole, to function effectively; and

(b) are held by each existing director and each new nominee.

The nominating committee should also consider whether or not each new nominee can devote sufficient time and resources to their duties as a board member.

Board Renewal

3.11.5 The board should maintain an effective succession plan for directors, which:

(a) provides a transparent process and timeline for replacing board members so as to ensure that necessary skills, knowledge, experience, competencies and attributes are maintained;

(b) maintains a mix of longer-serving directors with a deep understanding of the issuer and its business and newer directors with fresh ideas and perspective; and

(c) maintains the board's independence from management.

3.11.6 The board should adopt mechanisms of board renewal that are appropriate to its circumstances. These mechanisms may include:

(a) establishing director term limits;

(b) assessing the effectiveness of an individual director when proposing the director as a candidate for re-election to the board; and

(c) using a composition matrix to identify gaps in the board's collective skills, knowledge, experience, competencies, attributes and independence.

3.11.7 If an issuer establishes term limits, factors that may be considered include:

(a) the board's current size and composition and its composition matrix;

(b) the board's independence from management and the issuer's ownership structure;

(c) characteristics of the issuer, including its industry, size and stage of development; and

(d) the existence of other mechanisms, such as regular assessments, to ensure the effectiveness of board members.

Diversity and Targets

3.11.8 A board should adopt a written diversity policy to promote a broad range of perspectives and experiences on the board. The policy should:

(a) reflect a commitment to ensuring that recruitment of directors is appropriately structured so that a diverse range of candidates are considered;

(b) include the following as considerations for the board when identifying new candidates:

(i) qualifications, including skills, knowledge, experience, competencies and attributes the board identifies as necessary for the board to effectively fulfill its mandate and address existing and emerging business and governance issues relevant to the issuer;

- (ii) characteristics that will foster a board culture that welcomes multiple perspectives and is free of conscious or unconscious bias and discrimination, and that contribute to board diversity;
- (iii) legal and regulatory requirements, such as those relating to residency and independence;
- (c) set out objectives regarding diversity on the board that are specific, measurable and time-bound;
- (d) discuss the ability of the board or nominating committee to engage independent advisors to assist in identifying candidates and require advisors to present a diverse slate of candidates for consideration;
- (e) set out the responsibility of the board or nominating committee to consider any changes to the policy, the board composition and recruitment process that are necessary to achieve the objectives outlined in the policy; and
- (f) consider the board and nominating committee's effectiveness at implementing the policy during regular assessments.

3.11.9 For purposes of this Policy, a "target" has the same meaning as in Form 58-101F1 under National Instrument 58-101 Disclosure of Corporate Governance Practices. A board should set measurable and time-bound objectives, such as targets, for achieving diversity in the composition of its board and executive officer positions. If a board sets targets for the representation of any of the groups referenced in Item 6.4 of Form 58-101F1, the board should review and assess the appropriateness of the targets on an annual basis. When considering an appropriate target, a board should consider various factors, including

- (a) the board's current size and composition and its composition matrix;
- (b) characteristics of the issuer, including its industry, size and stage of development, location of its operations and stakeholders;
- (c) the issuer's investors and their expectations regarding diversity on the board and executive officers; and
- (d) whether the issuer has a truth and reconciliation action plan regarding its relationship with Indigenous peoples or its business operations intersect with an Indigenous right, title, or jurisdiction.

Other mechanisms for achieving diversity in the composition of its board and executive officer positions may include establishing a diversity council, implementing training and leadership programs, and expanding strategic outreach directed at developing a diverse pipeline of candidates for director and executive officer positions.

3.12 ~~[Deleted] Prior to nominating or appointing individuals as directors, the board should adopt a process involving the following steps:~~

- ~~(A) Consider what competencies and skills the board, as a whole, should possess. In doing so, the board should recognize that the particular competencies and skills required for one issuer may not be the same as those required for another.~~
- ~~(B) Assess what competencies and skills each existing director possesses. It is unlikely that any one director will have all the competencies and skills required by the board. Instead, the board should be considered as a group, with each individual making his or her own contribution. Attention should also be paid to the personality and other qualities of each director, as these may ultimately determine the boardroom dynamic.~~

~~The board should also consider the appropriate size of the board, with a view to facilitating effective decision making.~~

~~In carrying out each of these functions, the board should consider the advice and input of the nominating committee.~~

3.13 ~~[Deleted] The nominating committee should be responsible for identifying individuals qualified to become new board members and recommending to the board the new director nominees for the next annual meeting of shareholders.~~

3.14 ~~[Deleted] In making its recommendations, the nominating committee should consider:~~

- ~~(a) the competencies and skills that the board considers to be necessary for the board, as a whole, to possess;~~
- ~~(b) the competencies and skills that the board considers each existing director to possess; and~~
- ~~(c) the competencies and skills each new nominee will bring to the boardroom.~~

~~The nominating committee should also consider whether or not each new nominee can devote sufficient time and resources to his or her duties as a board member.~~

Compensation

- 3.15** The board should appoint a compensation committee composed entirely of independent directors.
- 3.16** The compensation committee should have a written charter that establishes the committee's purpose, responsibilities, member qualifications, member appointment and removal, structure and operations (including any authority to delegate to individual members or subcommittees), and the manner of reporting to the board. In addition, the compensation committee should be given authority to engage and compensate any outside advisor that it determines to be necessary to permit it to carry out its duties.
- 3.17** The compensation committee should be responsible for:
- (a) reviewing and approving corporate goals and objectives relevant to CEO compensation, evaluating the CEO's performance in light of those corporate goals and objectives, and determining (or making recommendations to the board with respect to) the CEO's compensation level based on this evaluation;
 - (b) making recommendations to the board with respect to non-CEO officer and director compensation, incentive-compensation plans and equity-based plans; and
 - (c) reviewing executive compensation disclosure before the issuer publicly discloses this information.

Regular Board Assessments

- 3.18** The board, its committees and each individual director should be regularly assessed regarding ~~his, her~~ their or its effectiveness and contribution. An assessment should consider
- (a) in the case of the board or a board committee, its mandate or charter, composition and how effectively directors work together to achieve the objectives of the issuer; and
 - (b) in the case of an individual director, the applicable position description(s), as well as the ~~competencies and skills~~ skills, knowledge, experience, competencies and attributes each individual director is expected to bring to the board.

ANNEX L

LOCAL MATTERS

ONTARIO SECURITIES COMMISSION

This Annex to the accompanying CSA Notice and Request for Comments (the **CSA Notice**) sets out matters required to be addressed by the *Securities Act* (Ontario) (the **Act**). The Ontario Securities Commission (the **Commission**, **OSC** or **we**) is publishing this Annex to supplement the CSA Notice.

This Annex is divided into the following sections:

1. Introduction
2. The Proposed Amendments and Changes
3. Work Completed to Inform the Proposed Amendments and Changes
4. Overview of Consultation Feedback
5. Stakeholders and Indigenous Rightsholders Impacted by the Proposed Amendments and Changes
6. Anticipated Costs and Benefits of the Proposed Amendments
7. Rule-making Authority
8. Reliance on Unpublished Studies

1. Introduction

The Canadian Securities Administrators (**CSA** or **we**) are publishing for a 90-day comment period:

- Proposed amendments to Form 58-101F1 *Corporate Governance Disclosure* (**Form 58-101F1**) of National Instrument 58-101 *Disclosure of Corporate Governance Practices* (**NI 58-101**) (including possible ancillary amendments to section 1.1 Definitions of NI 58-101) (the **Proposed Amendments**); and
- Proposed changes to National Policy 58-201 *Corporate Governance Guidelines* (**NP 58-201**) pertaining to board nominations, board renewal and diversity (the **Proposed Changes**).

(collectively, the **Proposed Amendments and Changes**).

Existing requirements for disclosure about the representation of women on boards and in executive officer positions and board renewal were adopted by most CSA jurisdictions in 2014 (the **2014 Requirements**). The 2014 Requirements contained in NI 58-101 have been in place for nine annual reporting periods. At the time of their publication, we committed to subsequently assessing their effectiveness in achieving the intended purpose of increasing transparency.

Over the past number of years, there has been a growing consensus of investors who view diversity disclosure as a necessary aspect of good governance, and an important factor in their investment and voting decisions. There have also been several developments, as described in the CSA Notice, that have heightened the importance of considering diversity on boards and in executive officer positions, beyond women.

As described in the CSA Notice, CSA Staff have held consultations with a variety of stakeholders, conducted research to support evidenced-based policy making, and have considered key trends arising from eight annual reviews of public disclosure regarding women on boards and in executive officer positions, since the adoption of the 2014 Requirements.¹ This has supported our understanding of how the disclosure needs of investors have evolved since 2014.

¹ Trends observed during these annual reviews are set out in CSA Multilateral Staff Notices [58-307 \(year 1\)](#), [58-308 \(year 2\)](#), [58-309 \(year 3\)](#), [58-310 \(year 4\)](#), [58-311 \(year 5\)](#), [58-312 \(year 6\)](#), [58-313 \(year 7\)](#) and [58-314 \(year 8\)](#).

2. The Proposed Amendments and Changes

The Proposed Amendments build upon the 2014 Requirements regarding the representation of women on boards and in executive officer positions and board renewal. The main objectives of the Proposed Amendments are to:

- increase transparency about diversity, including diversity beyond women, on boards and in executive officer positions;
- provide investors with more decision-useful and comparable information that enables them to better understand how diversity ties into an issuer's strategic decisions;
- ensure investors have the information they need to help them make informed investment and voting decisions; and
- provide guidance to issuers on corporate governance practices pertaining to diversity.

Two proposals of each of Form 58-101F1 (**Form A** and **Form B**) and NP 58-201 (**Policy A** and **Policy B**) are presented for comment. The CSA recognizes the importance of ensuring transparency for investors on issuers' practices with respect to board and executive-level diversity. Form A and Form B are generally aligned with respect to disclosure requirements related to board nominations and board renewal, but they reflect different concepts related to disclosure regarding the representation of members from diverse groups. Policy A is aligned with Form A and Policy B is aligned with Form B.

Form A and Form B substantially maintain the existing disclosure requirements with respect to women on boards and in executive officer positions under the 2014 Requirements. Under both forms, the current "comply or explain" disclosure model would continue to apply with respect to policies for women on boards and targets for women on boards and in executive officer positions. Both Form A and Form B also contemplate maintaining existing disclosures of data for women on boards and in executive officer positions. It is important that any new proposed disclosure requirements pertaining to diversity do not affect the substance of the 2014 Requirements that have been in use for over nine years as they have provided valuable information to stakeholders.

While all participating jurisdictions are consulting on both Form A and Form B, certain jurisdictions have expressed their preferences for one proposal over the other. The Commission supports Form B and Policy B.

Given the Commission's support for Form B, this Annex focuses on the potential impact of Form B. Form B would have the effect of expanding the existing disclosure requirements on the representation of women to members of "designated groups". Conversely, Form A may be viewed as a status quo approach, since it would not require an issuer to disclose diversity-related information and data beyond women unless an issuer chooses to collect data on those groups. Section 6 below compares the costs and benefits between Form B and Form A.

Proposed Amendments to Form 58-101F1 (Form B)

The disclosure framework in Form B recognizes investors' needs for information that is clear, comprehensive, standardized and comparable regarding the representation of historically under-represented groups on boards and in executive officer positions, as well as information regarding an issuer's approach to diversity, including any written strategies, written policies, targets and other measurable objectives.

Form B is based on the view that the designated groups have abiding characteristics that reflect Canadian society, while recognizing that issuers may choose to add other now or in the future. Similar to Form A, Form B does not mandate any particular corporate governance practices relating to diversity and follows a "comply or explain" model of disclosure. At the same time, an issuer is free to include some data on any other group it considers appropriate. The objective is to capture how an issuer embraces diversity in its culture and incorporates diversity into its strategic considerations.

The approach in Form B extends the current disclosure framework as it applies to women to historically under-represented groups called "designated groups". This approach is similar to the one adopted under the *Canada Business Corporations Act (CBCA)*, under which approximately 29% of TSX-listed issuers report.² As such, Form B contemplates reporting on the representation of five designated groups, being women, Indigenous peoples, racialized persons, persons with disabilities and LGBTQ2SI+ persons, on boards and in executive officer positions.

However, there is a recognition that diversity considerations will evolve over time. As such, an issuer may also choose to voluntarily provide disclosure in respect of other groups, beyond the designated groups, considered as part of its diversity strategy such that

² Staff reviewed the statute of incorporation as listed in public documents filed on SEDAR (generally the AIF) for:

a. The 625 non-venture issuers who were included in the review sample for CSA Multilateral Staff Notice 58-314 *Review of Disclosure Regarding Women on Boards and in Executive Officer Positions (SN 58-314)*, and

b. 113 additional non-venture issuers who were subject to the 2014 Requirements but were not included in the review sample for SN 58-314.

In aggregate, approximately 29% of the issuers reviewed were incorporated under the CBCA.

a complete picture of the issuer's diversity on boards and in executive officers is provided. Information reported on either a mandatory or voluntary basis must be based on voluntary self-disclosure by directors and executive officers and comply with applicable privacy law requirements. Directors and executive officers may choose to not disclose how they self-identify. To further protect individual privacy, the information would only be reported in the aggregate.

Form B contemplates reporting data on the designated groups in a standardized tabular format to promote consistency, clarity and comparability of disclosures for investors and other stakeholders. An issuer may choose to disclose any additional information that is relevant in order to understand the context of the data.

Consistent with the existing disclosure regime in Form 58-101F1, Form B contemplates a combination of disclosure regarding diversity-related corporate governance practices and data, which would demonstrate the effectiveness of those practices. Form B is intended to address investor calls for diversity-related information that is material to their investment-related decisions, while also providing clarity to issuers on disclosure expectations and aligning with existing reporting frameworks to enhance comparability across the market.

Proposed Changes to NP 58-201 (Policy B)

The Proposed Changes would provide enhanced guidelines related to board nominations and would introduce guidelines on board renewal and board diversity in NP 58-201, to complement the disclosure requirements contained in Form B.

Although these guidelines are not intended to be prescriptive, we would encourage issuers to consider them in developing their own corporate governance practices and to apply and adapt these guidelines based on their individual circumstances as they evolve. These corporate governance guidelines have been formulated to achieve a balance between providing protection to investors and fostering fair and efficient capital markets, while recognizing that corporate governance is evolving.

The proposed guidelines would address the following:

- the responsibilities of the nominating committee;
- the written policy respecting the director nomination process;
- the use of a composition matrix;
- effective succession planning and the mechanisms of board renewal, including term limits;
- the written diversity policy; and
- targets for achieving diversity on the board and in executive officer positions.

3. Work Completed to Inform the Proposed Amendments and Changes

To inform both the development of the Proposed Amendments and Changes and the cost benefit analysis discussed in section 6, significant work has been completed, including the following:

Disclosure Reviews	We have considered issuer disclosure practices and key trends arising from eight annual reviews of public disclosure regarding women on boards and in executive officer positions conducted by several CSA jurisdictions since the adoption of the 2014 Requirements. Most recently, CSA Multilateral Staff Notice 58-314 <i>Review of Disclosure Regarding Women on Boards and in Executive Officer Positions</i> reports that the proportion of board seats held by women has increased from 11% to 24% during the eight-year period since the 2014 Requirements came into effect. We also looked at the disclosure of a sample of 100 issuers incorporated under the CBCA. The sample of issuers selected had (i) year ends between December 31 and March 31 and (ii) filed information circulars before August 15, 2020. The sample was stratified across the different jurisdictions, industries and market capitalizations. Our focus was the prescribed diversity disclosure under the CBCA with respect to women, Indigenous peoples (First Nation, Inuit and Métis), persons with disabilities and racialized persons.
Consultations	On October 24, 2017, we hosted a public roundtable related to women on boards and in executive officer positions. In 2018, we held 44 consultations with stakeholders representing advisory committees, stock exchanges, investors, issuers, directors, advocacy groups, governance and diversity experts

	(including legal and accounting firms) and academics. The consultations occurred through a variety of forums, including consultation papers, roundtables and other meetings with stakeholders. In 2021, we conducted 43 individual consultations with a wide range of issuers, investors and other industry stakeholders. We also hosted a public roundtable on October 13, 2021. These consultations focused on the consideration of broader diversity on boards and in executive officer positions. This work has helped us assess whether and how disclosure needs and practices have evolved since the adoption of the 2014 Requirements. The individuals consulted represented investors and investor advocacy groups, issuers, directors, governance and diversity experts, stock exchanges, advocacy groups, advisory committees and academics.
Research	We conducted additional research regarding: • approaches to broader diversity outside of Canada, including in the U.S, the U.K., the European Union, Australia and certain jurisdictions in Asia. • diversity targets, • director term limits, and • shareholder proxy voting guidelines relating to diversity. The research included consideration of the diversity disclosure regime under the CBCA and the federal Department of Finance's consultation regarding seeking disclosure of diversity matters from federal financial institutions. We considered various developments relating to diversity, such as the <i>Canadian Investor Statement on Diversity & Inclusion</i> (October 2020) and the BlackNorth Initiative. We also reviewed the update to the 1994 Dey Report titled <i>3600 Governance: Where are the Directors in a World of Crisis?</i> (February 2021), as well as <i>Charting the Future of Canadian Governance: A Principled Approach to Navigating Rising Expectations for Board of Directors, Report of the Committee on the Future of Corporate Governance in Canada</i> (December 2022). Both reports set out recommendations relating board diversity and renewal.

4. Overview of Consultation Feedback

During the OSC's consultations in both 2018 and 2021, most stakeholders consulted indicated that it was time for the 2014 Requirements to evolve.

2018 Consultations

While stakeholders acknowledged that there had been some momentum in improving the representation of women on boards and in executive officer roles, progress has been slow and stakeholders were generally supportive that more needs to be done. Below is a high-level summary of feedback received from Ontario stakeholders during our 2018 consultations.

Topic	Summary of Feedback
Other measures or further regulatory action	There was general support for setting guidelines regarding gender diversity-related governance practices, such as board policies regarding the representation of women, targets and board renewal mechanisms including board evaluations and term limits. A smaller number of stakeholders requested the implementation of quotas. Many stakeholders, however, expressed concern about quotas. Stakeholders were generally supportive of providing more specific corporate governance guidelines on the nomination process including guidelines on succession planning, assessing the skills and competencies of directors as part of the director nomination process.
Disclosure Requirements	Stakeholders supported changes to the Disclosure Requirements, including: • Board fill rate – There was general support for requiring issuers to disclose the board fill rate. • Executive officer definition – Many of the stakeholders noted that the definition of "executive officer" is very broad and suggested reporting on the representation of women in a more targeted

Topic	Summary of Feedback
	group (for example, the CEO and executives who report to the CEO) or tiered disclosure (for example reporting on the representation of women in the C-suite and separately reporting on the representation of women in larger group of executive officers). • Policies regarding the representation of women – Some stakeholders suggested considering requiring disclosure of an issuer's diversity policy either on the issuer's website or in its information circular. • Consideration of the representation of women – Some stakeholders suggested considering requiring more disclosure on how the representation of women is considered when identifying board candidates or making executive officer appointments. Other stakeholders noted that the existing disclosure requirements relating to the consideration of the representation of women did not yield decision-useful information. • Three-year trend – Some stakeholders suggested expanding the disclosure requirements to require disclosure over a three-year period, similar to executive compensation. This would allow trend analysis and recognize that the representation of women on boards and in executive officer positions would fluctuate over time.
Board policies and other aspects of diversity	Generally, stakeholders acknowledged that other aspects of diversity are important; however, the majority at the time suggested that securities regulators should maintain their focus on gender diversity at the present time given the slow progress. We note that this feedback was provided in 2018. In light of significant events in spring 2020, the focus on the issue of racial diversity on corporate boards and in executive leadership has intensified. Please see the feedback from the 2021 consultations below for more detail.
Format of disclosure	There was general support for providing the disclosure in a tabular or standardized format to improve the consistency and comparability of disclosures. This would be in addition to allowing for narrative disclosure. Some stakeholders supported reporting issuers submitting the data by e-form in addition to including it in their information circulars. An e-form would result in a database where issuer diversity data could be compiled and potentially become publicly available in spreadsheet format (which would lead to more straight forward comparability amongst issuers).

2021 Consultations

During the OSC's consultations, stakeholders overwhelmingly supported expanding the current 2014 Requirements to include other underrepresented groups beyond women. Stakeholders noted that investors are actively seeking information about the representation of other diverse groups on boards and in executive officer positions, which many believe should be consistent with the CBCA and human rights legislation. Below is a high-level summary of feedback received from Ontario stakeholders during our 2021 consultations.

Topic	Summary of Feedback
Broader diversity data	Stakeholders support the public disclosure of different types of diversity information. This may include disclosure about the representation of racialized persons, Indigenous peoples and persons with disabilities on boards and in executive officer positions. This information may be particularly useful for internal benchmarking and for determining the effectiveness of policy measures.
Standardized disclosure	There was strong support for standardization of diversity-related disclosure. Tabular or standardized disclosure presentation, or reporting of diversity data in a searchable format, may assist with the consistency and comparability of diversity-related data amongst issuers.
Targets	Stakeholders support a corporate governance guideline for targets, which would direct issuers to discuss the factors they considered when setting targets for women and for other diverse groups. Stakeholders also generally believe that issuers should have the flexibility to set their own targets, with guidelines being provided by regulators on what aspirational targets and timelines might look like. There was a general consensus amongst stakeholders that targets should not be set by regulators.

Topic	Summary of Feedback
Board renewal	The majority of stakeholders support a corporate governance guideline related to term limits, which would direct issuers to disclose any factors they considered in setting a director term limit. Stakeholders also believe that issuers should have the flexibility to set their own term limits and that they should not be mandated by regulators.
Director nomination process	A majority of stakeholders noted that they have a diversity policy in place or are currently in the process of developing one. Several stakeholders mentioned that their recruitment practices have changed and are constantly evolving to be more encompassing of diversity.

Overall, Ontario stakeholders noted that diversity is an important element of investment and voting decisions. They noted that there is an expectation in the market that issuers should have a diverse pool of candidates in the recruitment process. Currently, there is limited information available regarding the representation of diverse groups, other than women, and Ontario stakeholders generally recognized the need for such information moving forward.

5. Stakeholders and Indigenous Rightsholders Impacted by the Proposed Amendments and Changes

The major stakeholders include investors and TSX-listed and other non-venture issuers that would be required to comply with the Proposed Amendments.

Investors

The Proposed Amendments and Changes outlined in Form B and Policy B are expected to be beneficial to investors. They are intended to foster streamlined reporting and are expected to enhance the presentation and quality of the information disclosed. This is expected to result in disclosure that is more comparable across issuers, and which provides information investors need to make informed investment and voting decisions.

Data are not available on the amount of money managed for investors that are specifically concerned about diversity. However, recent investor survey results suggest that a sizable number of investors would benefit from more information on diverse representation.³

TSX-listed and other non-venture issuers

In 2022, approximately 1,779 issuers were listed on the TSX, of which approximately 792 issuers were subject to the 2014 Requirements.⁴ We anticipate one-time incremental costs for reporting issuers on adoption of the Proposed Amendments, and to a lesser extent, certain ongoing costs that are outlined in further detail below. Reporting issuers are also expected to benefit from the Proposed Amendments as they are intended to streamline and clarify certain 2014 Requirements.

Indigenous Rightsholders

The Proposed Amendments in Form B contemplate certain disclosures in respect of Indigenous peoples:

- Non-venture issuers would be required to disclose the representation of Indigenous peoples on boards and in executive officer positions.
- Non-venture issuers would also be required to disclose targets in respect of the designated groups (which include Indigenous peoples).

The Proposed Changes in Policy B include guidance regarding setting targets. The guidance notes that a board should consider various factors, including whether the issuer has a truth and reconciliation action plan regarding its relationship with Indigenous peoples or its business operations intersect with an Indigenous right, title, or jurisdiction.

As part of our efforts to develop an action plan for truth and reconciliation, the Commission will continue to advance cooperation with Indigenous peoples and communities. In that regard, we will work to integrate their perspectives and interests, as appropriate,

³ For example, a 2020 survey of retail investors commissioned by the Responsible Investment Association found that 73% of those surveyed said they would like a portion of their investment portfolio to be invested in organizations providing opportunities for the advancement of women and diverse groups. See: <https://www.riacanada.ca/research/2020-ria-investor-opinion-survey/>. 10% of global institutional investors responding to a 2022 survey by RBC GAM considered board diversity within their top 3 ESG priorities. In addition, and while based on a small sample of Canadian respondents, 42% of Canadian investment organizations responding to the RBC GAM supported minority diversity targets for boards: <https://www.rbcgam.com/documents/en/other/esg-executive-summary.pdf> and <https://www.rbcgam.com/documents/en/other/esg-key-findings.pdf>.

⁴ Reporting Issuers listed on the TSX that are not subject to the disclosure requirements include investment funds and other issuers such as designated foreign issuers and SEC foreign issuers.

in relevant areas of securities regulation and policy work, and improve engagement with Indigenous groups. The Commission is committed to engaging with Indigenous peoples and organizations as part of our work on this initiative and will continue to broaden our engagement as we advance our understanding of how to best approach this work.

Other Stakeholders

In addition, other stakeholders that are not investors that seek disclosure regarding diversity on boards and executive positions are likely to benefit from the additional information provided by issuers in Form B.

6. Anticipated Costs and Benefits of the Proposed Amendments

The following section analyzes the anticipated costs and benefits of the Proposed Amendments to the affected stakeholders noted above. Cost-benefit considerations have been informed by internal consultation, as well as publicly available information. A guiding consideration is the OSC's mandate relating to protecting investors, promoting fair, efficient and competitive markets, fostering capital formation, and promoting financial system stability.

As noted in the CSA Notice, the Commission supports the Proposed Amendments under Form B. The analysis is focused on the incremental costs and benefits to the affected stakeholders from the Proposed Amendments under Form B as compared to the existing requirements.

The quantitative estimates below focus on the compliance costs on issuers. While there is some uncertainty in the assumptions underlying these estimates, we view the estimates as a broad guide of the impact on issuers and provide a basis to compare against the anticipated benefits. Only the qualitative benefits of the Proposed Amendments in Form B are considered below due to the significant uncertainty and lack of data needed to quantify the benefits.

On balance, we consider that the benefits of the Proposed Amendments are proportionate to the costs. Below, a comparison of the net impact of Form B and Form A is provided. Overall, in our view, the net benefits of implementing Form B outweigh those from Form A.

Benefits of Form B

The following are specific benefits of the Proposed Amendments in Form B relative to the existing requirements:

Benefits to Investors

Facilitates informed investment decision making

Currently, there is limited information available about the representation of diverse groups, other than women. While disclosure provided as a result of current CBCA requirements does provide information on diverse representation, as noted above, the CBCA requirements only apply to approximately 29% of TSX-listed issuers that will be subject to the Proposed Amendments.

In our consultations, stakeholders noted that diversity is an important element of investment and voting decisions. They noted that there is an expectation in the market that issuers should have a diverse pool of candidates in the recruitment process. A clear majority of stakeholders also expressed support for standardization of diversity-related disclosure. Form B recognizes investors' needs for information that is clear, comprehensive, standardized and comparable.

Improves consistency and comparability of disclosures

Corporate disclosure is critical for the functioning of an efficient capital market. The availability of information may contribute to the efficient allocation of resources, which in turn may facilitate capital formation and economic efficiency. Moreover, the ability of investors to make informed decisions supports competitive markets.

Investors benefit from access to consistent and comparable information to accurately assess the different objectives and practical approaches on diversity across issuers. The Proposed Amendments under Form B contemplate reporting on the representation of five specific designated groups. This disclosure would be standardized across issuers, as Form B would require data to be presented in a standardized tabular format, which is intended to promote consistency and comparability of disclosures.

We also note that institutional investors and proxy advisory firms are developing diversity-related policies which have resulted in multiple diversity-related practices and voting guidelines. Stakeholders have expressed a desire for a single disclosure framework which provides consistent transparency across issuers, about representation for specific under-represented groups, in order to reduce information asymmetry.

Increased transparency and availability of standardized diversity representation data may also contribute to changes in representation from diverse groups on boards and in executive officer positions that better aligns with investors' preferences.⁵ The 2014 Requirements relating to women on boards have coincided with an increase in proportion of board seats occupied by women from 11% at the time the requirements were adopted, to 24% during our most recent annual review.

Benefits to Issuers

Reduced regulatory fragmentation

The Proposed Amendments under Form B are generally consistent with the CBCA, except that the CBCA does not require disclosure of diversity data for persons distinguished by sexual orientation at this time, although that expansion is under consideration in federal legislation. As noted above, approximately 29% of TSX-listed issuers are incorporated under the CBCA and currently are required to provide the broader diversity disclosures required by the CBCA. The general alignment between Form B and the CBCA requirements would facilitate a reduction of regulatory fragmentation, limiting the burden on issuers.

Lower cost of capital for some issuers

Better informed decision-making by investors can have flow on effects for issuers' cost of capital. Investors can more accurately assess an issuer's diversity policies and compare them to other issuers. As a result, some issuers with diversity policies that are aligned with investors' preferences may see a lower cost of raising capital under the Proposed Amendments. However, issuers with diversity policies that are misaligned with investors' preferences may see their costs increase.

Despite the varying impact on different issuers, capital markets will benefit from improved capital formation and economic efficiency as capital is allocated.

Benefits to other stakeholders

Some stakeholders may have views on diversity on boards and in executive officer positions that are not directly related to any investment decisions. Better information can help these stakeholders make decisions about investments that better align with their preferences around diversity.

Overall, expanding diversity disclosure requirements facilitates informed investment decision making which aligns with the Commission's mandate to improve market efficiency and promote capital formation. Diversity is a critical component of good corporate governance as diverse boards and executive management teams are more likely to achieve better outcomes for investors and other stakeholders by introducing a broader spectrum of perspectives, skills and experience⁶.

Costs of Form B

The cost of adopting Form B consist primarily of the labour costs needed to transition processes so that issuers can meet the disclosure requirements (initial costs). There would also be ongoing labour costs associated with ongoing reporting post adoption, which includes the expected benefit from streamlining the 2014 Requirements (annual reporting cost). We assume no significant system changes will be needed as all issuers subject to the Proposed Amendments have processes to meet the current disclosure requirements relating to women in boards and executive positions.

The quantitative cost estimates below specifically measure the incremental labour cost created by Form B when compared to the cost of the 2014 Requirements.⁷ Our approach to quantifying costs was informed by the UK FCA's⁸ and Canadian Government's cost benefit analyses⁹ for their respective diversity-related policies. Our approach was also informed by the Commission's internal processes for collecting information on diversity.

⁵ For example, see: Lu, Shirley (2019), *Quota or Disclosure? Evidence from Corporate Board Gender Diversity Policies*. <https://ssrn.com/abstract=3493375> or <http://dx.doi.org/10.2139/ssrn.3493375>

⁶ 30% Club Canada (2022) 30% Club Canadian Investor Group: Updated Statement of Intent March 2022. <https://30percentclub.org/wp-content/uploads/2022/03/30-Club-Canadian-Investor-Statement-of-Intent-Update-2022-FINAL.pdf>

⁷ Specifically, the labour cost is calculated as number of staff hours multiplied by the hourly wage rate. Hourly wages are based on salary projections in Robert Half (2022), 2023 Salary Guide: <https://www.roberthalf.ca/en/salary-guide>. Salaries are increased by 25% to account for overheads, adjusted for an 1800-hour workweek, and inflated by 3.5% to give an hourly wage estimate for 2024, which is the projected year that the proposals will take effect. 3.5% is the average annual growth rate in full-time weekly employee wages over 2016-2021 for the 'Finance, insurance, real estate, rental and leasing' category. See <https://www150.statcan.gc.ca/t1/tbl1/en/tv.action?pid=1410006401>.

⁸ The UK FCA's cost benefit analysis is in Annex 3 of FCA (2021) 'Diversity and inclusion on company boards and executive committees', CP21/24, <https://www.fca.org.uk/publication/consultation/cp21-24.pdf>.

⁹ The Canadian Government's cost benefit analysis is at <https://www.gazette.gc.ca/rp-pr/p2/2019/2019-07-10/html/sor-dors258-eng.html>.

Our estimates separate issuers subject to the CBCA (estimated to be 231 issuers) from those that are not (561 issuers)¹⁰. As noted, several of the requirements under Form B overlap with the CBCA requirements. As a result, the initial cost for issuers already subject to the CBCA disclosure requirements is assumed to be lower.

In practice, the cost paid by an issuer within these categorizations will vary depending on issuer characteristics, including their size and the type of information that they already collect. The per-issuer estimates below represent an average of the costs faced by issuers within these categories.

Transition-Year Compliance Costs

The initial cost of adopting the Proposed Amendments and Changes is estimated to be \$2,891 per CBCA issuer and \$3,607 per non-CBCA issuer (Table 1). The resulting total incremental cost on the industry is estimated to be \$2.7 million. This estimate of initial costs assumes issuers will incur familiarization and review costs¹¹ and transition costs¹². Familiarization costs relate to issuers reading and understanding the Proposed Amendments and Changes, identifying gaps when compared to current practices, and clarifying the changes than an issuer must make. Transition costs result from actions the issuer must take to meet the new requirements. This may include collecting missing information, setting up processes to collect information from new appointments, and storing the information so it is available for reporting.

Ongoing Compliance Costs

Issuers are assumed to spend five hours each year on reporting. This is estimated to cost \$512 annually per issuer, or \$405,359 for the industry during the first year of reporting (projected to be 2024) and on an ongoing basis thereafter.¹³

Total Costs

Combining the initial and annual reporting costs, the cost of the Proposed Amendments under Form B is estimated to be \$3.1 million for the industry in the year the Proposed Amendments and Changes take effect. The cost for a CBCA issuer is estimated to be \$3,403 and \$4,119 for a non-CBCA issuer.

The present value of costs on the industry over the first 10 years from when the Proposed Amendments and Changes take effect is estimated to be \$6.2 million (in 2024 dollars), or an average of \$620,243 per year over the period.¹⁴ For a CBCA issuer, this translates to a total cost over 10 years of \$7,325 in 2024 dollars, or \$732 per year, on average. The total cost is estimated to be \$8,040 per non-CBCA issuer over the period or \$804 per year.¹⁵

¹⁰ As noted, estimates on the number of issuers subject to the CBCA is based on the number of issuers reporting under the current disclosure requirements for women on boards and executive positions, and a past review by staff that found that approximately 29% of issuers covered under the Proposed Amendments are likely subject to the CBCA.

¹¹ We assume all issuers subject to the requirements will go through this process and will each require, on average, 12 hours from staff. Assumes the following hours by position (or similar position if specified position is not at issuer): Compliance Officer (2hrs @ \$89/hr); in-house counsel (8hrs @ \$118/hr); Chief Compliance Officer (1hr @ \$154/hr); General Counsel (1hr @ \$180/hr).

¹² Issuers subject to the CBCA are expected to already collect some of the information required under Form B and are assumed to spend 16 hours transitioning, whereas other issuers are assumed to spend 24 hours. Assumes work carried out by Compliance Officer or equivalent (\$89/hr).

¹³ Assumes the following hours by position (or similar position if specified position is not at the issuer): Compliance Officer (4hrs @ \$89/hr); Chief Compliance Officer (1hr @ \$154/hr).

¹⁴ Wages are assumed to grow at 3.5% per year. Future cash flows are discounted at 7%.

¹⁵ To test the sensitivity of the estimates to assumptions, a low and high scenario were looked at. The low scenario assumed 50% of the hours applied in the main scenario described in the document, and a 10% discount rate. The high scenario assumed two times the hours in the main scenario and a 3% discount rate. Under the low scenario, the present value in 2024 of the cost over the first 10 years was \$2.9M for the industry, or \$3,424 for each CBCA issuer and \$3,782 for each non-CBCA issuer. Under the high scenario, the cost on the industry was \$13.7M, or \$16,262 for each CBCA issuer and \$17,693 for each non-CBCA issuer.

Table 1: Estimated Incremental Cost on Issuers from Form B

	Per Issuer Cost		Total Industry Cost ¹⁶
	CBCA issuer	Non-CBCA issuer	
Familiarization and Review Costs	\$1,460	\$1,460	\$1,156,682
Transition Cost	\$1,431	\$2,146	\$1,534,573
Initial Cost	\$2,891	\$3,607	\$2,691,254
Annual Reporting Cost	\$512	\$512	\$405,359
Total Cost in First Year (in 2024)	\$3,403	\$4,119	\$3,096,613
Total Over First 10 Years (Present Value at 2024)	\$7,325	\$8,040	\$6,202,431
- Annual average over 10-year period	\$732	\$804	\$620,243

Comparison of Form B and Form A

Form A does not specify groups of individuals that an issuer must consider when making disclosure about diversity, other than women. Under Form A, if an issuer collects data on the number and proportion of directors on its board and executive officers who are from identified groups, the issuer is required to disclose this information. Please refer to the CSA Notice for further details on Form A.

The cost of Form A is not expected to differ between CBCA and non-CBCA issuers. As issuers are only required to provide disclosure of information they collect, the cost of transition is assumed to be similar for both CBCA and non-CBCA issuers.

If Form A were adopted, the initial cost is estimated to be \$2,176 per issuer in 2024 (Table 2).¹⁷ The resulting total incremental cost on the industry is estimated to be \$1.7 million. Annual reporting costs are expected to be \$333 per issuer and \$263,706 for the industry in the first year of reporting.¹⁸ The total cost of the Proposed Amendments under Form A is estimated to be \$2,509 per issuer and \$2.0 million for the industry in the first year that the Proposed Amendments take effect. The present value of costs on the industry over the first 10 years from when the Proposed Amendments take effect is estimated to be \$4.0 million (in 2024 dollars), or an average of \$400,749 per year over the period or \$506 per issuer.¹⁹

Table 2: Estimated Incremental Cost of Form A (2024 dollars)

	Per Issuer Cost	Total Industry Cost
Familiarization and Review Costs	\$1,460	\$1,156,682
Transition Cost	\$715	\$566,611
Initial Cost	\$2,176	\$1,723,293
Annual Reporting Cost	\$333	\$263,706
Total Cost in First Year (in 2024)	\$2,509	\$1,986,999
Total Over First 10 Years (Present Value at 2024)	\$5,060	\$4,007,487
- Average annual over 10-year period	\$506	\$400,749

As discussed above, while Form B imposes a marginally higher cost on an issuer, we consider that it provides investors with more clear, consistent and comparable information on the representation to historically under-represented groups called “designated groups”, which will support investment and voting decisions and better addresses stakeholders’ preferences. Clearer information may also improve economic efficiency and promote capital formation in Canada including by attracting investors who may not have otherwise invested in Canada. As a result, the OSC believes that the benefits of Form B exceed those of Form A. While Form B will provide stakeholders with comparable and mandatory diversity data to facilitate their investing and voting decisions, Form A may be seen as a status quo approach since it does not require disclosure of diversity data beyond women.

¹⁶ Industry refers to all 792 issuers. The total industry cost is calculated by multiplying the per issuer cost by the number of issuers by type.

¹⁷ Assumes the following hours for familiarization and review by position (or similar position if specified position is not at issuer): Compliance Officer (2hrs @ \$89/hr); in-house counsel (8hrs @ \$118/hr); Chief Compliance Officer (1hr @ \$154/hr); General Counsel (1hr @ \$180/hr). Assumes all issuers spend 8 hours transitioning, with work carried out by Compliance Officer or equivalent (\$89/hr).

¹⁸ Assumes the following hours by position (or similar position if specified position is not at issuer): Compliance Officer (2hrs @ \$89/hr); Chief Compliance Officer (1hr @ \$154/hr).

¹⁹ Wages are assumed to grow at 3.5% per year. Future cash flows are discounted at 7%.

7. Rule-making Authority

The following provisions of the Act provide the Commission with the authority to adopt the Proposed Amendments.

- Paragraph 143(1)(22) of the Act authorizes the Commission to make rules prescribing requirements in respect of the preparation and dissemination and other use, by reporting issuers, of documents providing for continuous disclosure that are in addition to the requirements under the Act, including requirements in respect of, (i) an annual report, (ii) an annual information form, and (iii) supplemental analysis of financial statements.
- Paragraph 143(1)(39) of the Act authorizes the Commission to make rules requiring or respecting the media, format, preparation, form, content, execution, certification, dissemination and other use, filing and review of all documents required under or governed by the Act, the regulations or the rules, all applications to the Commission under the *Business Corporations Act* and all documents determined by the regulations or the rules to be ancillary to the documents, including, (i) applications for registration and other purposes, (ii) preliminary prospectuses and prospectuses, (iii) interim financial statements and financial statements, (iv) proxies and information, and (v) take-over bid circulars, issuer bid circulars and director's circulars.

8. Reliance on Unpublished Studies

The Commission is not relying on any unpublished study, report or other written material in proposing the Proposed Amendments.

B.7

Insider Reporting

This chapter is available in the print version of the OSC Bulletin, as well as in Thomson Reuters Canada's internet service SecuritiesSource (see www.westlawnextcanada.com).

This chapter contains a weekly summary of insider transactions of Ontario reporting issuers in the System for Electronic Disclosure by Insiders (SEDI). The weekly summary contains insider transactions reported during the seven days ending Sunday at 11:59 pm.

To obtain Insider Reporting information, please visit the SEDI website (www.sedi.ca).

B.9

IPOs, New Issues and Secondary Financings

INVESTMENT FUNDS

Issuer Name:

Sprott Physical Gold and Silver Trust
Principal Regulator - Ontario

Type and Date:

Final Shelf Prospectus (NI 44-102) dated April 6, 2023
NP 11-202 Receipt dated April 6, 2023

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #3510833

Issuer Name:

Sprott Physical Silver Trust
Principal Regulator - Ontario

Type and Date:

Final Shelf Prospectus (NI 44-102) dated April 6, 2023
NP 11-202 Receipt dated April 6, 2023

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #3510835

Issuer Name:

CI Auspice Broad Commodity ETF
CI Galaxy Bitcoin ETF
CI Galaxy Ethereum ETF
CI Galaxy Multi-Crypto ETF
Principal Regulator – Ontario

Type and Date:

Final Long Form Prospectus dated Mar 31, 2023
NP 11-202 Final Receipt dated Apr 5, 2023

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #3494530

Issuer Name:

Portland Canadian Balanced Fund
Portland Global Balanced Fund
Principal Regulator – Ontario

Type and Date:

Final Simplified Prospectus dated Apr 5, 2023
NP 11-202 Final Receipt dated Apr 6, 2023

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #3500337

Issuer Name:

Portland 15 of 15 Alternative Fund
Portland Global Alternative Fund
Portland Life Sciences Alternative Fund
Portland North American Alternative Fund
Portland Replacement of Fossil Fuels Alternative Fund
Principal Regulator – Ontario

Type and Date:

Combined Preliminary and Pro Forma Simplified
Prospectus dated Apr 5, 2023
NP 11-202 Final Receipt dated Apr 6, 2023

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #3500690

Issuer Name:

Horizons 0-3 Month T-Bill ETF
Horizons 0-3 Month U.S. T-Bill ETF
Principal Regulator – Ontario

Type and Date:

Final Long Form Prospectus dated Apr 4, 2023
NP 11-202 Final Receipt dated Apr 5, 2023

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #03505508

Issuer Name:

Franklin S&P 500 Dividend Aristocrats Covered Call Index ETF

Franklin S&P/TSX Canadian Dividend Aristocrats Covered Call Index ETF

Principal Regulator – Ontario

Type and Date:

Combined Preliminary and Pro Forma Long Form

Prospectus dated Apr 3, 2023

NP 11-202 Preliminary Receipt dated Apr 4, 2023

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #3516074

Issuer Name:

EHP Tactical Growth Alternative Fund

Principal Regulator – Ontario

Type and Date:

Preliminary Simplified Prospectus dated Apr 3, 2023

NP 11-202 Preliminary Receipt dated Apr 4, 2023

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #3516045

Issuer Name:

Chorus II 100 Equity Growth Portfolio

Chorus II Aggressive Growth Portfolio

Chorus II Balanced Low Volatility Portfolio

Chorus II Conservative Low Volatility Portfolio

Chorus II Growth Portfolio

Chorus II Maximum Growth Portfolio

Chorus II Moderate Low Volatility Portfolio

Desjardins Alt Long/Short Equity Market Neutral ETF Fund

Desjardins American Equity Growth Currency Neutral Fund

Desjardins American Equity Growth Fund

Desjardins American Equity Value Fund

Desjardins Canadian Bond Fund

Desjardins Canadian Equity Fund

Desjardins Canadian Equity Income Fund

Desjardins Canadian Equity Value Fund

Desjardins Canadian Preferred Share Fund

Desjardins Canadian Small Cap Equity Fund

Desjardins Dividend Growth Fund

Desjardins Dividend Income Fund

Desjardins Emerging Markets Bond Fund

Desjardins Emerging Markets Fund

Desjardins Emerging Markets Opportunities Fund

Desjardins Enhanced Bond Fund

Desjardins Floating Rate Income Fund

Desjardins Global Balanced Growth Fund

Desjardins Global Balanced Strategic Income Fund

Desjardins Global Corporate Bond Fund

Desjardins Global Dividend Fund

Desjardins Global Equity Fund

Desjardins Global Government Bond Index Fund

Desjardins Global High Yield Bond Fund

Desjardins Global Infrastructure Fund

Desjardins Global Managed Bond Fund

Desjardins Global Small Cap Equity Fund

Desjardins Global Tactical Bond Fund

Desjardins Global Total Return Bond Fund

Desjardins International Equity Value Fund

Desjardins Low Volatility Canadian Equity Fund

Desjardins Money Market Fund

Desjardins Overseas Equity Fund

Desjardins Overseas Equity Growth Fund

Desjardins Québec Balanced Fund

Desjardins Short-Term Income Fund

Desjardins SocieTerra American Equity Fund

Desjardins SocieTerra American Small Cap Equity Fund

Desjardins SocieTerra Canadian Bond Fund

Desjardins SocieTerra Canadian Equity Fund

Desjardins SocieTerra Canadian Equity Income Fund

Desjardins SocieTerra Cleantech Fund

Desjardins SocieTerra Emerging Markets Bond Fund

Desjardins SocieTerra Emerging Markets Equity Fund

Desjardins SocieTerra Environmental Bond Fund

Desjardins SocieTerra Global Balanced Fund

Desjardins SocieTerra Global Bond Fund

Desjardins SocieTerra Global Corporate Bond Fund

Desjardins SocieTerra Global Dividend Fund

Desjardins SocieTerra Global Managed Bond Fund

Desjardins SocieTerra Global Opportunities Fund
(previously Desjardins SocieTerra Environment Fund)
Desjardins SocieTerra International Equity Fund
Desjardins SocieTerra International Small Cap Equity Fund
Desjardins SocieTerra Low Volatility Global Equity Fund
Desjardins SocieTerra Positive Change Fund
Desjardins SocieTerra Short-Term Income Fund

Melodia 100 Percent Equity Growth Portfolio
Melodia Balanced Growth Portfolio
Melodia Conservative Income Portfolio
Melodia Diversified Growth Portfolio
Melodia Diversified Income Portfolio
Melodia Maximum Growth Portfolio
Melodia Moderate Growth Portfolio
Melodia Moderate Income Portfolio

Melodia Very Conservative Income Portfolio
Societerra 100 per cent Equity Portfolio
SocieTerra Balanced Portfolio
SocieTerra Conservative Portfolio
SocieTerra Fixed Income Portfolio
SocieTerra Growth Portfolio
SocieTerra Maximum Growth Portfolio
SocieTerra Moderate Portfolio

Wise 100 per cent Equity ETF Portfolio
Wise Balanced ETF Portfolio
Wise Conservative ETF Portfolio
Wise Fixed Income ETF Portfolio
Wise Growth ETF Portfolio
Wise Maximum Growth ETF Portfolio
Principal Regulator – Quebec

Type and Date:

Final Simplified Prospectus dated Mar 31, 2023
NP 11-202 Final Receipt dated Apr 5, 2023

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #3487419

Issuer Name:

First Trust Cboe Vest Fund of Buffer ETFs (Canada) ETF
Principal Regulator – Ontario

Type and Date:

Preliminary Long Form Prospectus dated Apr 4, 2023
NP 11-202 Preliminary Receipt dated Apr 4, 2023

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #3516491

Issuer Name:

Fidelity Global Innovators ETF
Principal Regulator – Ontario

Type and Date:

Preliminary Long Form Prospectus dated Apr 6, 2023
NP 11-202 Preliminary Receipt dated Apr 10, 2023

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #3517415

Issuer Name:

First Trust AlphaDEX U.S. Health Care Sector Index ETF
First Trust AlphaDEX U.S. Industrials Sector Index ETF
First Trust AlphaDEX U.S. Technology Sector Index ETF
First Trust Cloud Computing ETF

First Trust Dow Jones Internet ETF

First Trust Global Risk Managed Income Index ETF

First Trust Indxx Innovative Transaction and Process ETF

First Trust Indxx NextG ETF

First Trust Morningstar Dividend Leaders ETF (CAD-Hedged)

First Trust Nasdaq Cybersecurity ETF

First Trust NASDAQ® Clean Edge® Green Energy ETF

First Trust NYSE Arca Biotechnology ETF

Principal Regulator – Ontario

Type and Date:

Final Long Form Prospectus dated Apr 6, 2023
NP 11-202 Final Receipt dated Apr 6, 2023

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #3498606

Issuer Name:

First Trust Canadian Capital Strength ETF
First Trust International Capital Strength ETF
First Trust JFL Fixed Income Core Plus ETF
First Trust JFL Global Equity ETF
First Trust Senior Loan ETF (CAD-Hedged)
First Trust Value Line® Dividend Index ETF (CAD-Hedged)
Principal Regulator – Ontario

Type and Date:

Final Long Form Prospectus dated Apr 6, 2023
NP 11-202 Final Receipt dated Apr 6, 2023

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #3498481

Issuer Name:

Canada Life Global Multi-Sector Fixed Income Fund
Canada Life Pathways Global Multi Sector Bond Fund
Principal Regulator - Ontario

Type and Date:

Amendment #3 to Final Simplified Prospectus dated March 31, 2023
NP 11-202 Final Receipt dated Apr 4, 2023

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #3394907

Issuer Name:

Fidelity Canadian Equity Private Pool
Fidelity Concentrated Canadian Equity Private Pool
Fidelity U.S. Equity Private Pool
Fidelity U.S. Equity Currency Neutral Private Pool
Fidelity International Equity Private Pool
Fidelity International Equity Currency Neutral Private Pool
Fidelity Global Equity Private Pool
Fidelity Global Equity Currency Neutral Private Pool
Fidelity Concentrated Value Private Pool
Fidelity Balanced Income Private Pool
Fidelity Balanced Income Currency Neutral Private Pool
Fidelity Balanced Private Pool
Fidelity Balanced Currency Neutral Private Pool
Fidelity Asset Allocation Private Pool
Fidelity Asset Allocation Currency Neutral Private Pool
Fidelity Premium Fixed Income Private Pool Class
Principal Regulator - Ontario

Type and Date:

Amendment #4 to Final Simplified Prospectus and
Amendment #6 to AIF dated March 31, 2023
NP 11-202 Final Receipt dated Apr 6, 2023

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #3352029

Issuer Name:

Fidelity U.S. Dividend Private Pool
Fidelity U.S. Growth and Income Private Pool
Fidelity Conservative Income Private Pool
Fidelity Global Asset Allocation Private Pool
Fidelity Global Asset Allocation Currency Neutral Private Pool
Fidelity Asset Allocation Private Pool Trust
Fidelity Balanced Private Pool Trust
Fidelity Balanced Income Private Pool Trust
Fidelity Premium Fixed Income Private Pool
Fidelity Premium Money Market Private Pool
Fidelity Premium Tactical Fixed Income Private Pool
Principal Regulator - Ontario

Type and Date:

Amendment #1 to the Amended and Restated Simplified
Prospectus dated March 31, 2023
NP 11-202 Final Receipt dated Apr 6, 2023

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #3441949

NON-INVESTMENT FUNDS

Issuer Name:

KO Gold Inc.

Principal Regulator - Ontario

Type and Date:

Preliminary Long Form Prospectus dated April 6, 2023

NP 11-202 Preliminary Receipt dated April 10, 2023

Offering Price and Description:

0.00

Underwriter(s) or Distributor(s):

-

Promoter(s):

Greg Isenor

Project #3517692

Issuer Name:

Taseko Mines Limited

Principal Regulator - British Columbia

Type and Date:

Preliminary Shelf Prospectus dated April 4, 2023

NP 11-202 Preliminary Receipt dated April 5, 2023

Offering Price and Description:

US\$600,000,000.00 - Common Shares, Warrants,
Subscription Receipts, Debt, Securities, Units

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #3516723

Issuer Name:

Bear Creek Mining Corporation

Principal Regulator - British Columbia

Type and Date:

Final Shelf Prospectus dated April 3, 2023

NP 11-202 Receipt dated April 4, 2023

Offering Price and Description:

CDN\$150,000,000.00 - COMMON SHARES, DEBT
SECURITIES, WARRANTS, SUBSCRIPTION RECEIPTS,
UNITS

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #3478913

Issuer Name:

CNJ Capital Investments Inc.

Principal Regulator - British Columbia

Type and Date:

Final CPC Prospectus dated April 3, 2023

NP 11-202 Receipt dated April 4, 2023

Offering Price and Description:

\$300,000.00 - 3,000,000 Common Shares

Price: \$0.10 per share

Underwriter(s) or Distributor(s):

HAYWOOD SECURITIES INC.

Promoter(s):

-

Project #3492490

Issuer Name:

Sprott Physical Gold and Silver Trust

Principal Regulator - Ontario

Type and Date:

Final Shelf Prospectus dated April 6, 2023

NP 11-202 Receipt dated April 6, 2023

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #3510833

Issuer Name:

Sprott Physical Silver Trust

Principal Regulator - Ontario

Type and Date:

Final Shelf Prospectus dated April 6, 2023

NP 11-202 Receipt dated April 6, 2023

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #3510835

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B.10 Registrations

B.10.1 Registrants

Type	Company	Category of Registration	Effective Date
New Registration	BANCORP INVESTOR SERVICES LTD.	Exempt Market Dealer	April 5, 2023
New Registration	Charterhouse Prime Investments Ltd.	Exempt Market Dealer	April 6, 2023
Voluntary Surrender	AQR Capital Management (Canada), LLC	Exempt Market Dealer	April 4, 2023

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B.11

SRO, Marketplaces, Clearing Agencies and Trade Repositories

B.11.1 SRO

B.11.1.1 New Self-Regulatory Organization of Canada (New SRO) – Amendments to Permit Reduced Margin for Swap Position Partial Offsets Held in Inventory – Notice of Commission Approval

NOTICE OF COMMISSION APPROVAL

AMENDMENTS TO PERMIT REDUCED MARGIN FOR SWAP POSITION PARTIAL OFFSETS HELD IN INVENTORY

NEW SELF-REGULATORY ORGANIZATION OF CANADA (NEW SRO)

The Ontario Securities Commission has approved New SRO's proposed amendments (**Amendments**) to the Investment Dealer and Partially Consolidated Rules (**IDPC**) that would permit margin reductions for Dealer Member inventory offsets of:

- non-equivalent notional amounts between two swap positions, and
- non-equivalent quantities between swap positions and underlying securities.

The Amendments were published as proposed amendments to the Investment Industry Regulatory Organization of Canada Rules in Notice 22-0122. On January 1, 2023, the Board of Directors of the New SRO approved the adoption of the Amendments as proposed amendments to IDPC Rule 5600.

One comment letter was received. No changes were made to the Amendments in response to the comments received. A summary of the public comments and New SRO's responses to those comments, as well as the New SRO Notice of Approval/Implementation, including text of the Amendments, can be found at www.osc.ca.

The Amendments will be effective May 15, 2023.

In addition, the Alberta Securities Commission; the Autorité des marchés financiers; the British Columbia Securities Commission; the Financial and Consumer Affairs Authority of Saskatchewan; the Financial and Consumer Services Commission of New Brunswick; the Manitoba Securities Commission; the Northwest Territories Office of the Superintendent of Securities; the Nova Scotia Securities Commission; the Nunavut Securities Office; the Office of the Superintendent of Securities, Digital Government and Services, Newfoundland and Labrador; the Office of the Yukon Superintendent of Securities; and the Prince Edward Island Office of the Superintendent of Securities have either not objected to or have approved the Amendments.

B.11.3 Clearing Agencies

B.11.3.1 CDS Clearing and Depository Services Inc. (CDS) – Proposed Amendments to CDS Fee Schedule – Central Counterparty (CCP) Services Failure to Receive – OSC Staff Notice of Request for Comment

OSC STAFF NOTICE OF REQUEST FOR COMMENT

CDS CLEARING AND DEPOSITORY SERVICES INC. (CDS)

**PROPOSED AMENDMENTS TO CDS FEE SCHEDULE – CENTRAL COUNTERPARTY (CCP) SERVICES
FAILURE TO RECEIVE**

The Ontario Securities Commission is publishing for a 30-day public comment period proposed amendments to the CDS fee schedule related to the Central Counterparty (CCP) Services Failure to Receive Incidental Fee.

The comment period ends May 15, 2023.

A copy of the **CDS Notice** is published on our website at www.osc.ca.

Index

3iQ CoinShares Bitcoin ETF		CRAFT 1861 Global Holdings Inc.	
Decision	3121	Cease Trading Order.....	3123
3iQ CoinShares Ether ETF		Form 58-101F1 Corporate Governance Disclosure	
Decision	3121	Proposed Amendments – CSA Notice and Request for Comment.....	3125
3iQ Corp.		Fortune Minerals Limited	
Decision	3121	Cease Trading Order.....	3123
Acerus Pharmaceuticals Corporation		Gatos Silver, Inc.	
Cease Trading Order	3123	Cease Trading Order.....	3124
Agrios Global Holdings Ltd.		Gong, Xiao Hua (Edward)	
Cease Trading Order	3124	Notice from the Governance & Tribunal Secretariat	3103
Alkaline Fuel Cell Power Corp.		Capital Markets Tribunal Order	3105
Cease Trading Order	3123	Greenbrook TMS Inc.	
Cease Trading Order	3124	Cease Trading Order.....	3123
Amcomri Entertainment Inc.		Cease Trading Order.....	3124
Cease Trading Order	3123	Halo Collective Inc.	
Anaergia Inc		Cease Trading Order.....	3124
Cease Trading Order	3123	iMining Technologies Inc.	
Cease Trading Order	3124	Cease Trading Order.....	3124
AQR Capital Management (Canada), LLC		Isracann Bioscience Inc.	
Voluntary Surrender	3407	Cease Trading Order.....	3123
Aralez Pharmaceuticals Canada Inc.		Lendle Corporation	
Order.....	3108	Notice from the Governance & Tribunal Secretariat	3103
Asif, Usman		mCloud Technologies Corp.	
Notice from the Governance & Tribunal Secretariat.....	3103	Cease Trading Order.....	3123
Bancorp Investor Services Ltd.		Cease Trading Order.....	3124
New Registration.....	3407	Molecule Holdings Inc.	
CDS Clearing and Depository Services Inc.		Cease Trading Order.....	3124
Clearing Agencies – Proposed Amendments to CDS Fee Schedule – Central Counterparty (CCP) Services Failure to Receive – OSC Staff Notice of Request for Comment.....	3410	Mughal Asset Management Corporation	
CDS		Notice from the Governance & Tribunal Secretariat	3103
Clearing Agencies – Proposed Amendments to CDS Fee Schedule – Central Counterparty (CCP) Services Failure to Receive – OSC Staff Notice of Request for Comment.....	3410	National Instrument 58-101 Disclosure of Corporate Governance Practices	
Charterhouse Prime Investments Ltd.		Proposed Amendments – CSA Notice and Request for Comment.....	3125
New Registration.....	3407	National Policy 58-201 Corporate Governance Guidelines	
Cornerstone Capital Resources Inc.		Proposed Changes – CSA Notice and Request for Comment.....	3125
Order.....	3107		

Nebu Resources Inc.	
Cease Trading Order	3123
New Self-Regulatory Organization of Canada	
SRO – Amendments to Permit Reduced Margin for Swap Position Partial Offsets Held in Inventory – Notice of Commission Approval	3409
New SRO	
SRO – Amendments to Permit Reduced Margin for Swap Position Partial Offsets Held in Inventory – Notice of Commission Approval	3409
Performance Sports Group Ltd.	
Cease Trading Order	3124
Pure Gold Mining Inc.	
Cease Trading Order	3123
Rockshield Acquisition Corp.	
Cease Trading Order	3123
Rockshield Opportunities Corp.	
Cease Trading Order	3123
Rustulka, Kenton Roy	
Capital Markets Tribunal Notice of Hearing with Related Statement of Allegations – ss. 127(1), 127(10)	3099
Notice from the Governance & Tribunal Secretariat.....	3104
Saskatchewan Pension Plan (The)	
Decision	3112
Silo Wellness Inc.	
Cease Trading Order	3123
SOL Global Investments Corp.	
Cease Trading Order	3124
Sproutly Canada, Inc.	
Cease Trading Order	3124
Titan Medical Inc.	
Cease Trading Order	3124
TrackX Holdings Inc.	
Cease Trading Order	3123
Transcanna Holding Inc.	
Cease Trading Order	3123
Very Good Food Company Inc. (The)	
Cease Trading Order	3123
Waterloo Brewing Ltd.	
Decision	3111
Wellbeing Digital Sciences Inc.	
Cease Trading Order	3123