

2010 GOVERNANCE AGENDA

**Institute of Corporate Directors
Calgary Chapter**

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WHO IS CCGG?

- A coalition of over 45 of Canada's leading institutional investors (pension plans, investment managers, mutual fund managers) managing retirement assets of over \$1.3 Trillion – more than half of all of retirement savings of Canadians
- CCGG promotes good governance practices in Canadian public companies and the improvement of the regulatory environment in order to:
 - Align the interests of boards and management with those of their shareholders
 - Promote the efficiency and effectiveness of the Canadian capital markets

MEMBERS OF CCGG



GLOBALLY RECOGNIZED

“The CCGG is an example for the rest of the world to emulate.”

*Ira Millstein, 2006 International Corporate Governance Network Conference,
Washington, D.C.*

“... a global model of collective investor activism”

Global Proxy Watch May 16, 2008

CCGG’s say on pay board policy is “a trend-setting approach in draft guidelines ... [and] offer a board a road map for engaging with shareholders”.

Global Proxy Watch October 30, 2009

WHY DOES GOOD GOVERNANCE MATTER?

1. Better investment returns

- Growing empirical evidence that well governed companies provide higher and more sustainable returns for investors

2. Reduced investment risks

- Well governed companies have better disclosure to shareholders and lower systemic risks

3. Lower cost of capital for companies

- Provides the confidence necessary to attract global investors

For long term shareholders, selling is not a good option

2010 GOVERNANCE AGENDA

ONGOING FOCUS

1. Board engagement
2. Executive compensation
 - Importance of compensation to investors
 - “Say on Pay”
3. “Building High Performance Boards”
4. Ensuring shareholder democracy in Canada

NEW AREAS

5. Roles and responsibilities of institutional shareholders
6. Governance differences for controlled corporations
7. Canadian Securities Commission implementation

1. BOARD ENGAGEMENT

- Shareholders should have regular, constructive engagement with boards to explain their perspectives on governance, compensation and disclosure practices
- Boards should welcome meeting with large shareholders (usually without management or advisers) leading to better alignment of the interests of shareholders with the interests of the board and management
- CCGG is committed to facilitating engagement and minimizing the time commitment for directors and shareholders

CCGG POLICY ON BOARD ENGAGEMENT

- **Purpose of Engagement**
 - On behalf of members, establish a relationship with boards and create a forum for discussion of governance issues
 - Assist CCGG members in their evaluation of compensation and other governance practices
- **Engagement List** – focus on issuers our members own – 30-35 companies in 2009/10
- **Process** to be followed by CCGG – meeting summaries will be provided to boards

CCGG MODEL BOARD POLICY

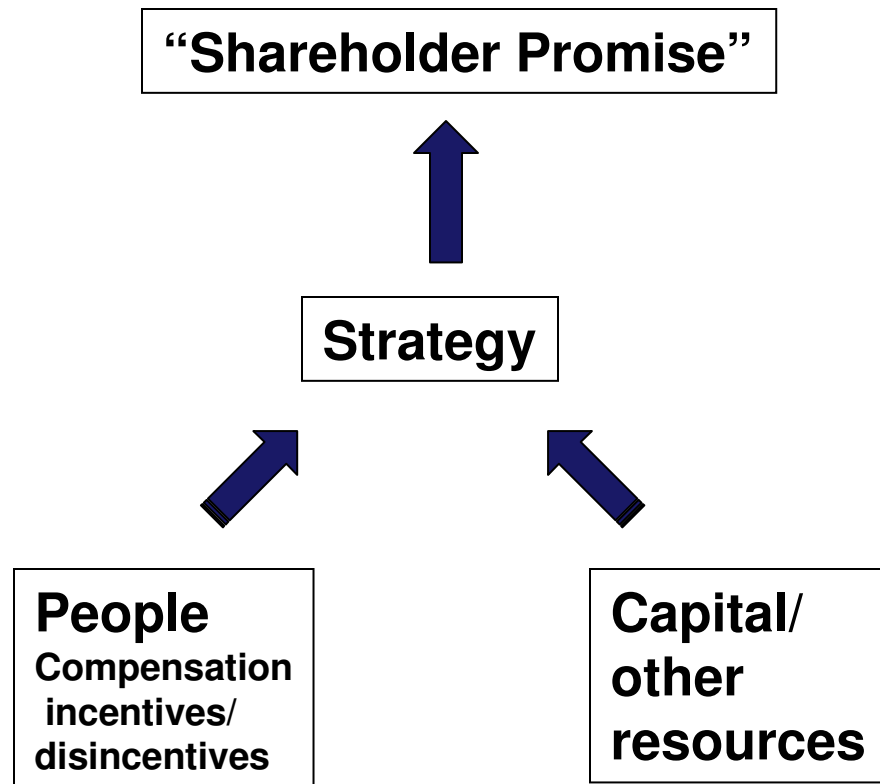
A model for a board to adopt as its policy on shareholder engagement – a voluntary standard for boards in Canada

- Engagement is a board function – speak with the owners to understand their perspectives on governance matters
- Boards should create policies to reach all shareholders as appropriate
- Boards should provide better disclosure of how they use compensation to achieve their corporate objectives

2. EXECUTIVE COMPENSATION - *IMPORTANCE OF COMPENSATION TO SHAREHOLDERS*

- Compensation is a key tool used by boards **to shape behaviour** and incent management to
 - Achieve corporate strategy
 - Take understood and agreed to risks
 - Align their interests and rewards with shareholders

COMPENSATION – A GOVERNANCE INDICATOR



CCGG COMPENSATION PRINCIPLES

- Shareholders should
 - Articulate their perspective of the important principles that should underlie compensation frameworks
 - Let boards determine the best application of the principles in the specific circumstances of the company
- June 2009 - CCGG issued *Principles of Executive Compensation* to guide boards

CCGG PRINCIPLES OF EXECUTIVE COMPENSATION

1. “Pay for performance” should be a large component of executive compensation – Concept of “at risk” compensation
2. “Performance” should be based on measurable risk adjusted criteria, matched to the time horizon needed to ensure the criteria have been met
3. Compensation should be simplified to focus on key measures of corporate performance
4. Executives should build equity in their company to align their interests with shareholders
5. Companies should limit pensions, benefits, and severance and change of control entitlements
6. Effective succession planning reduces paying for retention

2. COMPENSATION – *SAY ON PAY*

Purpose of Say on Pay Advisory Votes

- Ensure director accountability as a part of shareholder engagement process and director elections
- Allow shareholders to express satisfaction with the board's approach to compensation – not to the details which are the board's responsibility
- Directors retain full responsibility for compensation decisions

CCGG MODEL BOARD POLICY

- Common form of resolution to be asked

Resolved, on an advisory basis and not to diminish the role and responsibilities of the board of directors, that the shareholders accept the approach to executive compensation disclosed in the Company's information circular delivered in advance of the [insert year] annual meeting of shareholders.

- What to do if significant “No” vote

EVOLUTION OF SAY ON PAY IN CANADA

- March 2009 A number of Say on Pay proposals approved
CCGG recommends that all boards adopt Say on Pay
- Spring 2009 13 large issuers agree to hold advisory votes
- June 2009 CCGG issues *Principles of Executive Compensation*
- July 2009 CCGG issues *Board Engagement Policy*
- October 2009 CCGG issues draft model board policy/resolution for Say on Pay and board engagement for extensive consultation
- January 2010 CCGG issues final model policy/resolution

SPRING 2010 FIRST SAY ON PAY VOTES IN CANADA

SAY ON PAY IN 2010

- Many boards are supportive of the CCGG approach to Pay on Pay
 - 13 have announced say on pay advisory votes in 2010
 - Many others are working towards 2010 or 2011
- Many boards are working on ways to engage all shareholders – avoid selective engagement with large shareholders only
- Selective “access” to boards is not a legal issue – not the same as “selective disclosure”

SAY ON PAY – THE UK EXPERIENCE

September 2009 Report issued by RailPen and PIRC summarizing the 6 years of Say on Pay in UK

- Improves investor understanding about the company due to the importance of compensation in the governance process
- Creates new responsibilities for investors
 - Need to develop expertise in pay structures
 - Responsibility to advise boards if they have issues
- Provides insight into the relationships between directors and how much control they have over compensation vs. the role of the CEO
 - Wider implications for the underlying governance structures of the company

3. BUILDING HIGH PERFORMANCE BOARDS

- CCGG has issued a number of suggested best practices for boards to ensure that the board
 - Is accountable and at least 2/3's are independent of management – independent Compensation Committee
 - Has experienced, knowledgeable and effective directors and committees with clear roles and responsibilities and evaluates their performance
 - Separates Chair and CEO
 - Engages with shareholders outside the annual meeting and fully discloses its decisions
 - Establishes reasonable director compensation and share ownership guidelines
- February 2010 – re-issuing guidelines for “*Building High Performance Boards*”

4. ENSURING SHAREHOLDER DEMOCRACY IN CANADA

- Functioning shareholder democracy is essential to a well governed company representing its owners
- Canadian laws and practice have often inhibited the ability of shareholders to vote
- CCGG has recommended a number of voluntary practices for boards to adopt – accepted by many but not all

4. ENSURING SHAREHOLDER DEMOCRACY IN CANADA

CCGG Advocates Companies

- Eliminate slate votes – hold director by director votes
- Allow “for” or “against” votes for directors – “Majority Voting”
- Annual votes for all directors – no staggered boards
- Disclosure of election results
- Changes to the proxy voting system

5. ROLES AND RESPONSIBILITIES OF INSTITUTIONAL SHAREHOLDERS

- Most institutional investors are fiduciaries for others and should be accountable and transparent
- As investors become more active, they need to understand the issues, communicate with companies, vote their shares
- Global pressures to codify
 - UK Walker Report recommends mandating the *Code on the Responsibilities of Institutional Investors*
 - OECD Report on Credit Crisis – Investors should be proactive not reactive and challenge boards collectively where needed
 - ICGN Statement of Principles on Institutional Shareholder Responsibilities

6. GOVERNANCE DIFFERENCES FOR CONTROLLED CORPORATIONS

- Controlled corporations – key governance concern is potential use of corporate assets by the controlling shareholder for its own benefit
 - Will revisit CCGG’s governance guidelines for relevance in these circumstances
 - Research other jurisdictions where controlled corporations are prevalent
 - Consider differences between equity vs. dual class share control

7. CANADIAN SECURITIES COMMISSION IMPLEMENTATION

- Federal government is moving ahead with CSC on an “opt in” basis
 - Expect legislation to be tabled in Spring for constitutional reference
 - Implementation in 2012/3
- CCGG advocates combining enforcement of administrative securities laws with enforcement of white collar criminal laws
- CCGG expects that CSC will implement global standards and best practices of governance as it develops

AMBITIOUS 2010 AGENDA

- Make engagement and Say on Pay a reality
- Move board governance and shareholder democracy forward
- Clarify the roles and responsibilities of Institutional Shareholders
- Examine governance differences of controlled corporations
- Provide input to the development of the Canadian Securities Commission

QUESTIONS?