

# SHAREHOLDER DEMOCRACY STUDY

## JUNE 2011

**Canadian Coalition for  
GOOD GOVERNANCE**  
THE VOICE OF THE SHAREHOLDER

### Introduction

The Canadian Coalition for Good Governance (“CCGG”) has, since its inception in 2003, encouraged boards of Canadian public companies to voluntarily adopt a number of corporate governance best practices. CCGG members believe that good governance practices and policies are fundamental to ensuring board independence and accountability to shareholders and to building the long-term sustainable value of a company.

Through its policy documents, CCGG provides guidance to public company boards on the perspectives of leading Canadian institutional investors about a variety of corporate governance matters, all of which are available at [www.ccg.ca](http://www.ccg.ca).

### CCGG Study of Shareholder Democracy in Canada

CCGG has conducted the first study on the adoption rates of a number of important governance best practices related to shareholder democracy by S&P/TSX Composite Index (the “Index”) issuers, including:

- The appointment of a chair or lead director who is independent of management
- Holding annual director elections with individual director by director votes
- Implementation by the board of a “majority voting” policy
- Detailed disclosure of voting results for director elections, and
- The holding of an annual ‘Say on Pay’ shareholder advisory vote.

The study focused on the level of acceptance of these good corporate governance practices by companies in the Index as of September 2010 (with data updated to current when new information became available) based on publicly available data, which was verified by confirming letters sent to each issuer. We also investigated the adoption rates of these practices as at April 30, 2003 - the date of the formation of CCGG – of the then companies in the Index to identify trends in these key measures of shareholder democracy.

CCGG retained Dr. Vishaal Baulkaran, a recent PhD graduate from the School of Business and Economics at Wilfred Laurier University, to provide an independent review of the information we collected and to provide an academic perspective on corporate governance trends and related implications.

The detailed CCGG research findings are attached in Appendix A and company-by-company information is available at [www.ccg.ca](http://www.ccg.ca). CCGG will keep this data current and available on our website and asks any issuer who changes its policies to advise CCGG by email at [info@ccg.ca](mailto:info@ccg.ca).

### 2010-2011 CCGG BOARD OF DIRECTORS

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### Key Findings

Significant progress has been made on the adoption of shareholder democracy governance best practices in Canada since 2003, including:

- While slightly more than one third of Index issuers in 2003 had appointed an independent chair, by 2010 the majority of Index issuers had done so – representing 70% of the Index by market capitalization. By 2010, more than two thirds of the boards that did not have an independent chair had appointed an independent lead director, up from 25% in 2003. As a result, by 2010 approximately 88% of Index company boards (92% by market capitalization) had either an independent chair or a lead director.
- Boards with directors having staggered or multi-year terms are now rare in Canada. Only six Index issuers, representing less than 1% of the market capitalization of the Index, still do not hold annual elections for each director.
- By 2010, over 80% of Index issuers (94% by market capitalization) voluntarily permitted shareholders to vote “for” or to “withhold” their votes for each director individually, a dramatic change from 2003 when no issuer had this practice.
- By 2010, more than half of all Index issuers (81% by market capitalization) had adopted a “majority voting” policy – while in 2003 no issuer had adopted majority voting.
- In the 2010 proxy season, 62% of Index issuers (78% by market capitalization) disclosed detailed voting results for their director elections, up from none in 2003.
- In 2010, 44 issuers (19% of Index issuers and 55% by market capitalization) of various sizes and from various industry sectors voluntarily held ‘Say on Pay’ advisory votes. The number of ‘Say on Pay’ adoptees has since grown to 80 (May 2011) and CCGG expects this trend to continue.

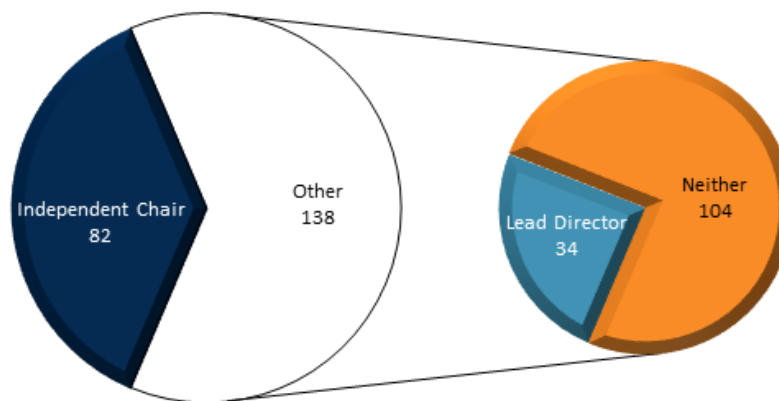
However, even though there has been a significant level of adoption of best practices in shareholder democracy since 2003, many leading Canadian companies have failed to accept the fundamental right of shareholders to be able to effectively vote for or against each individual director nominee, notwithstanding the active encouragement of CCGG since 2006. As at December 31, 2010, a full 43% of the issuers in the Index still had not adopted majority voting – with these companies representing about 20% of the market capitalization of the Index.

## Independent Chair/Lead Director

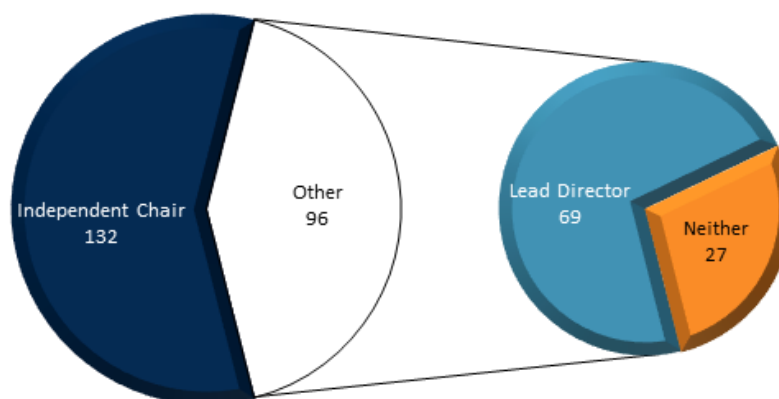
CCGG believes that all public companies should separate the roles of chair of the board and chief executive officer to eliminate potential conflicts of interest and to clarify accountability—the chair to the shareholders and the CEO to the board. If there is an existing chair who is also the CEO, the board should appoint an independent lead director on a transitional basis and confirm to shareholders its plan to appoint an independent chair at the appropriate time.

In 2003, approximately one-third of Index issuer boards had appointed an independent chair. Of the remaining two-thirds who had not appointed an independent chair, approximately one quarter had appointed a lead director. While in 2003 about half of boards had adopted either an independent chair or lead director governance model, by 2010 about 88% of Index company boards (92% by market capitalization) had either an independent chair or a lead director.

Appointment of an Independent Chair, S&P/TSX Composite Index (2003)



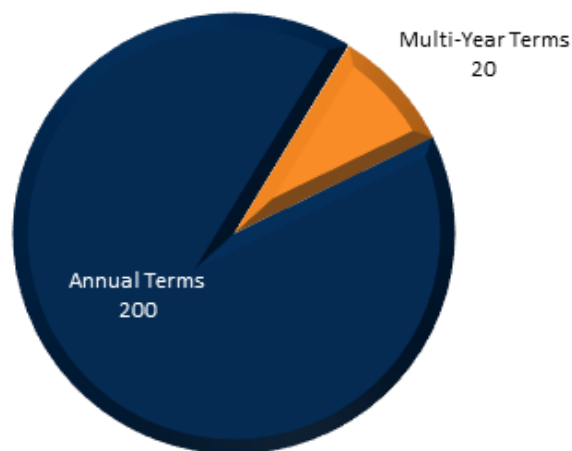
Appointment of an Independent Chair, S&P/TSX Composite Index (2010)



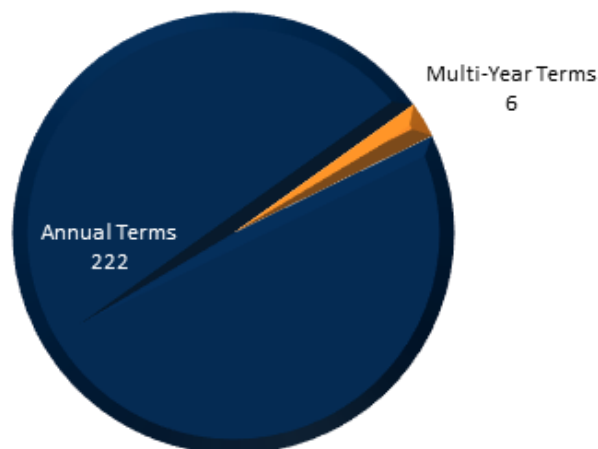
## Annual Director Elections

Allowing shareholders to vote for directors on an annual basis - rather than for multi-year or staggered terms - increases the accountability of directors to shareholders and limits the ability of a board to entrench its members. In 2003, 20 issuers still had staggered or multi-year board terms (3% of the Index market capitalization), which had decreased to 6 or 1% of the Index market capitalization in 2010.

Annual Director Elections, S&P/TSX Composite Index (2003)



Annual Director Elections, S&P/TSX Composite Index (2010)

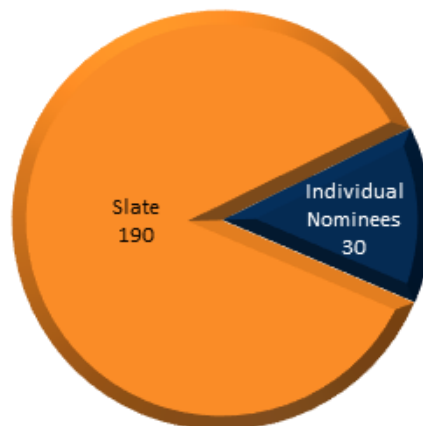


### Individual Director Elections

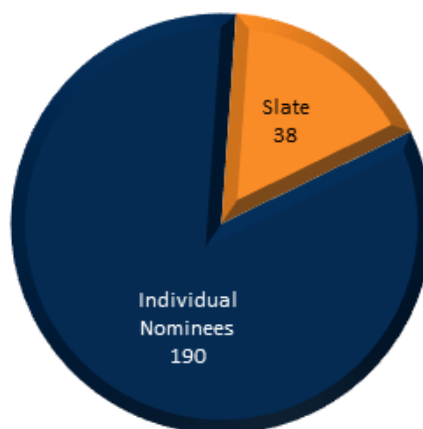
CCGG believes that it is important that shareholders be allowed to vote for each director nominee individually rather than for one slate of all directors. This practice provides valuable information to shareholders, gives feedback to governance and nominating committees of boards on their director recommendations and is an important component of shareholder democracy.

In 2003, most Index issuers used a slate voting system (86%). This practice changed dramatically by 2010. In 2010, only 38 or 17% of Index issuers continued to use a slate voting process, with an overwhelming majority of the Index holding individual director elections – representing 95% of the Index by market capitalization.

Individual Director Elections, S&P/TSX Composite Index (2003)



Individual Director Elections, S&P/TSX Composite Index (2010)



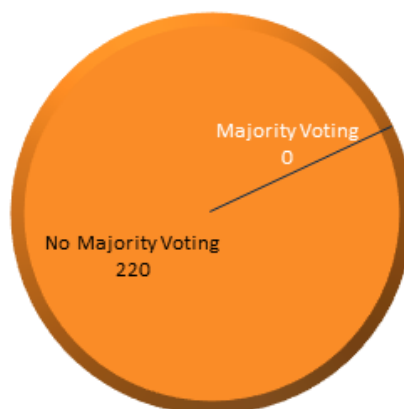
### Majority Voting

Under Canadian securities laws, the form of proxy requires that director elections be based on a “plurality system” whereby a shareholder can either vote “for” a director nominee or “withhold” its vote. “Withhold” votes are not counted and a director needs only one “for” vote to be elected to the board.

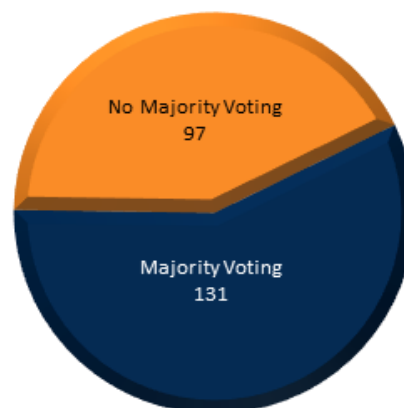
CCGG believes that all directors should have the confidence and support of a majority of their shareholders and should only be elected if a majority of the votes cast are in favour of the election of the individual director. Majority voting policies formalize a process for boards to address situations where a director nominee does not garner the support of a majority of shareholders. See the CCGG’s 2011 *Majority Voting Policy* for further details.

In 2003, no Index issuer had adopted a majority voting policy and their shareholders had no effective method of terminating an underperforming director. Following the creation of CCGG’s first majority voting policy in August 2006, many leading boards adopted a similar majority voting policy. By 2010, 57% of Index issuers had adopted a majority voting policy, representing 81% of the Index by market capitalization.

Majority Voting Policy, S&P/TSX Composite Index (2003)



Majority Voting Policy, S&P/TSX Composite Index (2010)

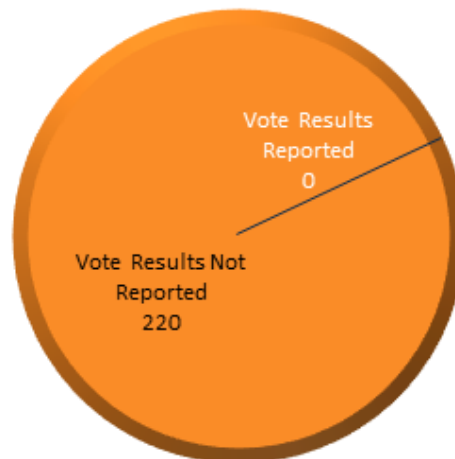


### Detailed Disclosure of Voting Results

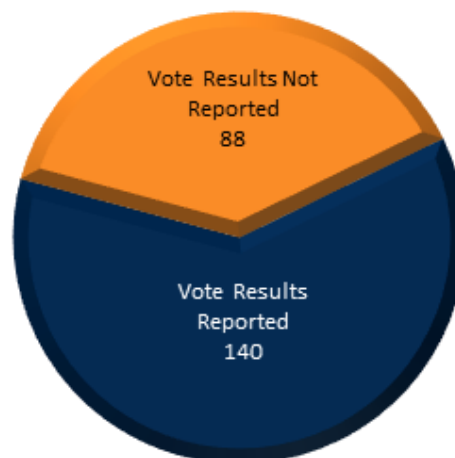
CCGG believes that issuers should promptly disclose detailed voting results after each shareholder meeting to provide shareholders with timely, meaningful information about the outcome of voting at shareholder meetings.

In 2003, no board publicly provided detailed voting results. By the 2010 proxy season, 61% of Index issuers were providing this important information to their shareholders (representing 78% of the Index by market capitalization).

#### Disclosure of Detailed Voting Results, S&P/TSX Composite Index (2003)



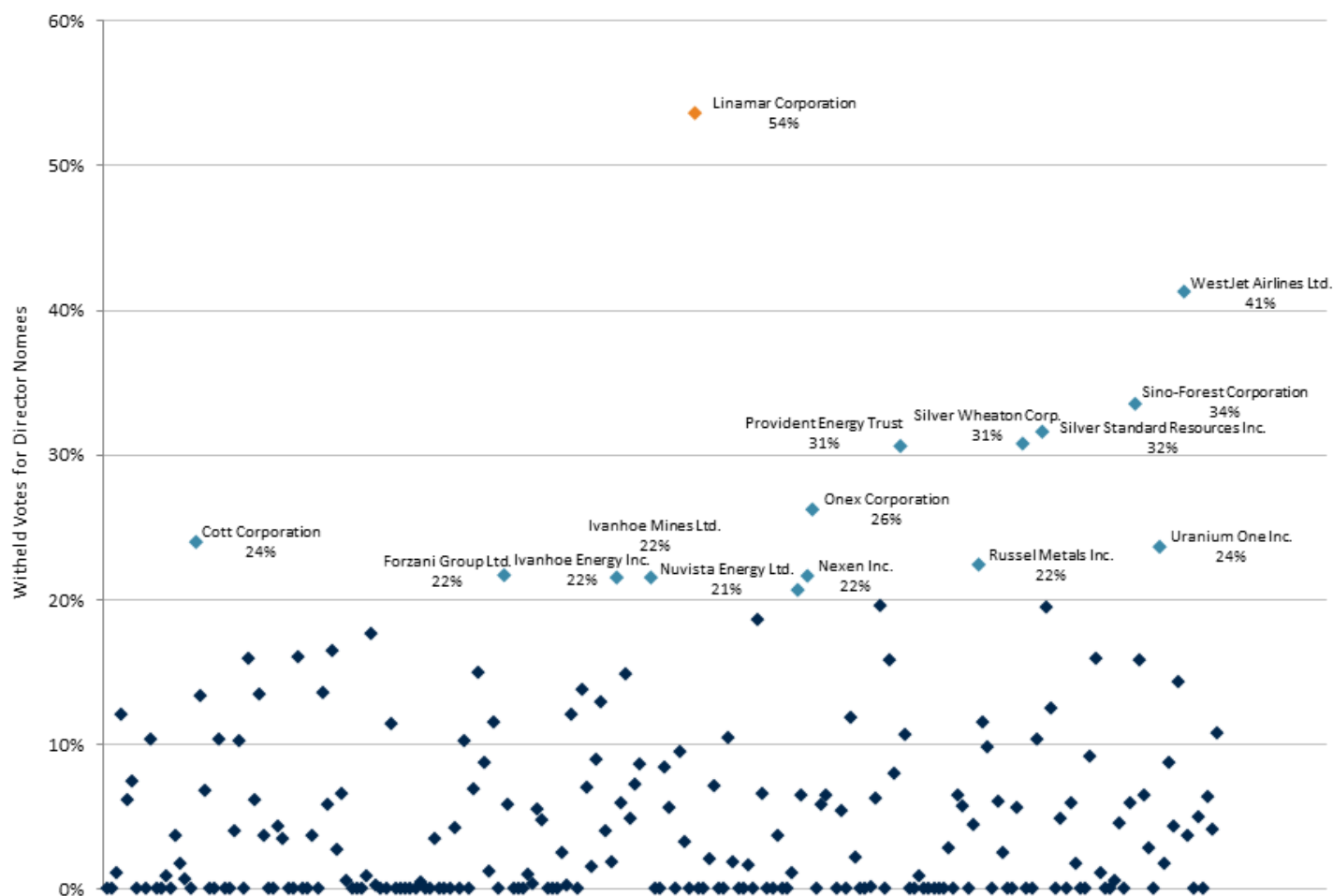
#### Disclosure of Detailed Voting Results, S&P/TSX Composite Index (2010)



In 2010, a significant number of individual directors or slates received a relatively high number of “withhold” votes, indicating that many shareholders are focusing on the qualifications of proposed directors and value the ability to effectively vote for or against individual directors.

Also in 2010, of the Index issuers reporting detailed voting results, only one issuer had more votes “withheld” than “for” its slate. Fifteen (10.6%) had at least one director receiving less than 80% support “for” their candidacy. On average, the director nominees of issuers that filed detailed voting results in 2010 received the support of at least 91% of votes cast.

S&P/TSX Composite Index 2010 Director Voting Results



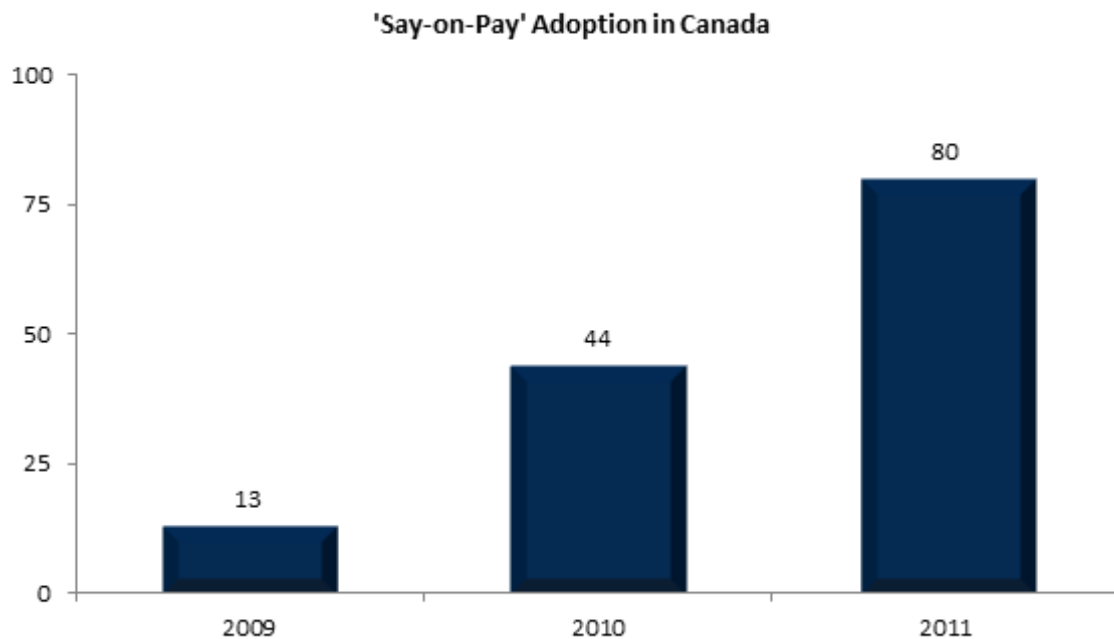


## 'Say on Pay'

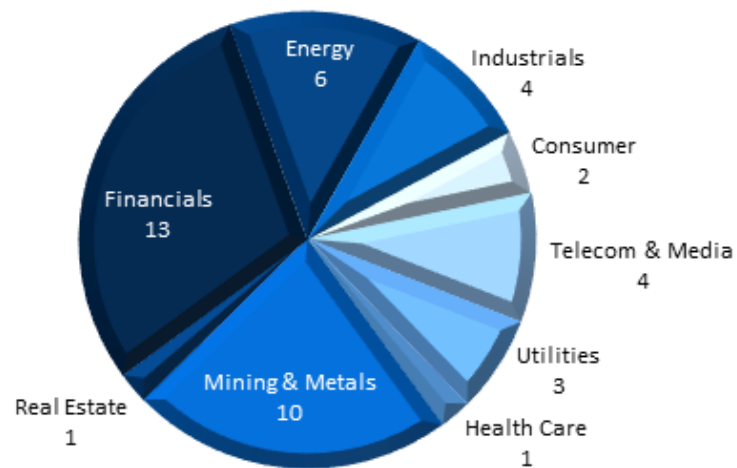
CCGG regards annual 'Say on Pay' shareholder advisory votes as an important part of an ongoing integrated engagement process between shareholders and boards, giving shareholders an opportunity to express their satisfaction with the board's approach to executive compensation in the year as well as over a longer period of time.

'Say on Pay' became a reality in Canada in 2009 and has expanded rapidly. In 2009, CCGG published a model 'Say on Pay' policy to provide guidance to boards on the expected disclosure of their approach to executive compensation, a recommended form of the advisory resolution and what could be done by the board with the results of the vote.

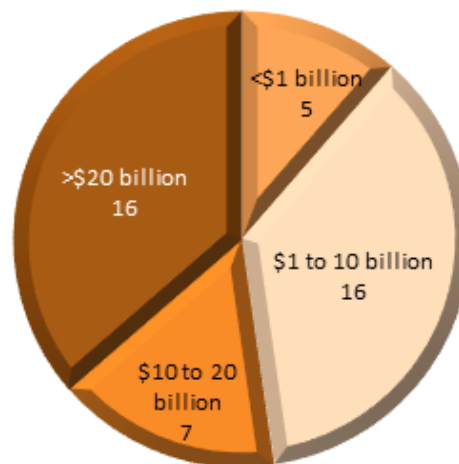
Many leading boards have voluntarily agreed to hold advisory votes on their approach to compensation, with all using the CCGG recommended form of resolution. As of 2010, 44 Canadian issuers had adopted 'Say on Pay' (by May 2011, more than 80 issuers had agreed to adopt 'Say on Pay'). Issuers who have adopted 'Say on Pay' represent most industry sectors, all parts of Canada and have various market capitalizations.



'Say-on-Pay' Adoption by Sector (2010)



'Say-on-Pay' Adoption by Market Capitalization (2010)



Results of the 2010 'Say on Pay' advisory votes indicate a level of support from shareholders ranging between 86.3% and 99.2%. For complete current data on the adoption of 'Say on Pay' by Canadian issuers, see [www.ccg.ca](http://www.ccg.ca).

### Conclusions

Despite a lack of regulatory reform over the last decade in the governance of Canadian public issuers, significant progress has been made in the adoption of governance best practices in Canada since the founding of CCGG in 2003.

Today, most Index issuers:

- Have adopted a governance model of either an independent chair or a lead director
- Hold annual director by director elections
- Disclose the results of director elections.

However, while the boards of most of Canada's largest issuers have agreed that shareholders should be able to elect or reject each director by adopting "Majority Voting", a surprising number of significant Canadian issuers have continued the shareholder unfriendly and archaic practice of plurality voting – over 40% of issuers representing close to 20% of the Index by market capitalization. Not surprisingly, the issuers who have accepted shareholder democracy have also been the leaders in adopting 'Say on Pay', with over 55% of the Index by market capitalization holding or agreeing to hold 'Say on Pay' votes.

Clearly, much more work needs to be done in the Canadian marketplace to ensure that Canadian investors have adequate rights. CCGG intends to continue to work to convince those boards who do not have functioning shareholder democracy to adopt Majority Voting. As well, CCGG is advocating that securities regulators mandate widely accepted shareholder democracy principles in order to require entrenched boards to consider the views of the owners of their company.

## APPENDIX A

### STUDY RESULTS

#### Independent Chair / Lead Director

	<u>2003</u>	<u>2010</u>
<u>Independent Chair</u>		
Number	82	132
Percentage of Companies	37%	58%
Percentage of Index (by Market Cap)	52%	70%

#### Lead Director

Number	34	69
Percentage of Companies	15%	30%
Percentage of Index (by Market Cap)	17%	22%

#### Neither

Number	104	27
Percentage of Companies	47%	12%
Percentage of Index (by Market Cap)	31%	8%

#### Annual Director Elections

	<u>2003</u>	<u>2010</u>
<u>Annual Elections</u>		
Number	200	222
Percentage of Companies	91%	97%
Percentage of Index (by Market Cap)	99%	99%

#### Multi-Year Terms

Number	20	6
Percentage of Companies	9%	3%
Percentage of Index (by Market Cap)	1%	1%

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### Individual Director Elections

	<u>2003</u>	<u>2010</u>
<u>Individual Elections</u>		
Number	30	190
Percentage of Companies	14%	83%
Percentage of Index (by Market Cap)	30%	95%

#### Slate

Number	190	38
Percentage of Companies	86%	17%
Percentage of Index (by Market Cap)	70%	5%

### Majority Voting

	<u>2003</u>	<u>2010</u>
<u>Majority Voting</u>		
Number	0	131
Percentage of Companies	0%	57%
Percentage of Index (by Market Cap)	0%	81%

#### No Majority Voting

Number	220	97
Percentage of Companies	100%	43%
Percentage of Index (by Market Cap)	100%	19%

### Disclosure of Detailed Vote Results

	<u>2003</u>	<u>2010</u>
<u>Vote Results Reported</u>		
Number	0	140
Percentage of Companies	0%	61%
Percentage of Index (by Market Cap)	0%	78%

#### Not Reported

Number	220	88
Percentage of Companies	100%	39%
Percentage of Index (by Market Cap)	100%	22%

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### 'Say on Pay'

	<u>2003</u>	<u>2010</u>
<u>'Say on Pay'</u>		
Number	0	44
Percentage of Companies	0%	19%
Percentage of Index (by Market Cap)	0%	55%

### No 'Say on Pay'

Number	220	184
Percentage of Companies	100%	84%
Percentage of Index (by Market Cap)	100%	45%