Canadian Coalition for GOOD GOVERNANCE

THE VOICE OF THE SHAREHOLDER

October 26, 2012

Ms. Michal Pomotov
Legal Counsel
Toronto Stock Exchange
The Exchange Tower
130 King Street West
Toronto, ON
M5X 1J2

Dear Ms. Pomotov:

Re: October 4, 2012 Proposed Amendments to the TSX Company Manual to require TSX-listed issuers to adopt Majority Voting Policies (the "Proposed Amendments")

We have reviewed the Proposed Amendments and we thank you for the opportunity to provide you with our comments, which are set out below.

Representing the interests of institutional shareholders, CCGG promotes good governance practices in Canadian public companies and the improvement of the regulatory environment to best align the interests of boards and management with those of their shareholders, and to promote the efficiency and effectiveness of the Canadian capital markets. Our members collectively manage almost $2 trillion of savings on behalf of most Canadians. A list of our members is attached to this submission.

We applaud the TSX for the recent amendments to the Company Manual which will improve the overall governance practices of TSX-listed issuers. As we indicated in our previous submission, however, CCGG is strongly of the view that requiring issuers to either adopt a majority voting policy or explain why they have chosen not to do so does not go far enough and will be unlikely to improve the status quo. We are therefore strongly in favour of the Proposed Amendments for the reasons set out below.

Jurisdiction of the TSX

In our view, there is no question that the TSX has the jurisdiction to pursue the Proposed Amendments. The recent governance-related amendments to the Company Manual, which have been approved by the OSC, should put an end to any suggestions to the contrary. Moreover, given the reluctance of the OSC and the CSA to introduce additional rules in the area of governance, CCGG believes that it is preferable for the TSX to act now rather than wait for a consensus to develop among the CSA members (which may never occur). As noted by the TSX when introducing its earlier amendments, any majority voting initiatives that may eventually be pursued by securities regulators will be complementary to the actions taken by the TSX.

Mandatory Adoption of Majority Voting and its Beneficial Effects

As noted by the TSX, "majority voting policies support good governance by providing a meaningful way for security holders to hold directors accountable and remove underperforming or unqualified directors". In our view, experienced, qualified directors who are accountable to the shareholders which elect them are the cornerstone of good governance and the foundation for a well-governed public company. If shareholders cannot remove directors, there is no real accountability and good governance is inevitably impaired.

For this reason, changing the law to introduce a majority voting standard to elect directors is one of the most important governance reforms currently being sought by CCGG. Until the law is changed to require majority voting for uncontested director elections in Canada, requiring listed issuers to adopt a majority voting policy will dramatically improve the governance of Canadian public companies that have not yet adopted a policy voluntarily. Given the critical importance of majority voting to good governance, we believe that the Proposed Amendments should apply equally to TSX and TSX-V listed issuers.

Majority voting has become widely understood and widely adopted by Canadian public companies. Since 2006, CCGG has contacted hundreds of public companies of all sizes each year and urged them to adopt a majority voting policy. The efforts of CCGG and other groups calling for majority voting have been well-publicized in the business community and public companies should be very familiar with the principles of majority voting. To date, 156 TSX-listed companies have adopted CCGG's majority voting policy, representing approximately 85% of the TSX/S&P Composite Index. This wide-spread adoption of majority voting by Canada's leading companies is indicative of the growing understanding of the practice and support for it. It also demonstrates that it can be implemented without legal difficulty or business interruption.

As we noted in our earlier submission, to the best of our knowledge, Canada and the U.S. are the only countries in the world that do not use a majority vote standard for uncontested director elections. As a result, the Proposed Amendments will not only improve the governance practices of individual Canadian companies, it will help them meet internationally accepted best practices. It will also improve the international reputation of the TSX and the Canadian market in general. We do not think that the Proposed Amendments will result in any negative effects.

With respect to the application of majority voting to equity controlled corporations, we refer you to Guideline #1 of our recently released *Governance Differences of Equity Controlled Corporations*, a copy of which is enclosed.

Form of Majority Voting Policy

We recommend that the Proposed Amendments provide that companies should adopt a majority voting policy in CCGG's recommended form. It has already been demonstrated that our model policy is reasonable and workable, as all 156 Canadian companies that have adopted majority voting have done so by adopting our policy. Ensuring that all companies adopt a uniform policy will provide greater clarity and certainty for investors and will ensure that the key principles of majority voting are respected by all companies.

If the TSX chooses not to require companies to adopt a majority voting policy in CCGG's recommended form, at a minimum it is very important for the Proposed Amendments to stipulate (as is set out in our policy) that a majority voting policy should provide that the board must accept the resignation of a director who did not receive majority support, absent exceptional circumstances. Without such a stipulation, we would be very concerned that boards of directors may adopt a policy that is entirely precatory in nature which would not result in any meaningful accountability. The principle that directors should resign and leave the board if they do not receive a majority of votes in their favour is an essential element of a majority voting policy and boards should be required to adopt a policy which reflects that principle. Consequently, we think it is important that proposed section 461.3 include the proviso that a board must accept a director's resignation, absent exceptional circumstances.

In that regard, we think it would be useful for you to include some guidance or commentary as to what would amount to "exceptional circumstances". In CCGG's view, such circumstances would be very rare and would only go to timing of the resignation. For example, if the resigning director has unique, specialized expertise that is required by the board and it will take some time to find another candidate with similar expertise, it may be reasonable for the board to defer the acceptance of that resignation until a replacement is found. It should be understood, however, that once a director fails to receive the support of a majority of the shareholders, even if there are exceptional reasons as to why a board cannot accept that resignation immediately, a transition plan to accept the resignation of that director should immediately be put into place.

We encourage you to implement the Proposed Amendments without delay which will be a significant step forward for the governance practices of Canadian public companies as well as the reputation of the TSX and the Canadian market in general.

If you have any questions regarding the above, please feel free to contact the undersigned or our Executive Director, Stephen Erlichman, at 416.847.0524 or serlichman@ccgg.ca.

Yours very truly,

Daniel E. Chornous, CFA
Chair of the Board
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CCGG MEMBERS

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