Canadian Coalition for
GOOD GOVERNANCE

THE VOICE OF THE SHAREHOLDER

January 11, 2016

Mr. Tom Cotter,
Office of the Chair and Executive Officer (Interim)
Alberta Securities Commission
Suite 600, 250–5th St. SW
Calgary, Alberta
T2P 0R4

Dear Mr. Cotter:

Re: Implementation of National Instrument 58-101 *Disclosure of Corporate Governance Practices* regarding Gender Diversity ("Gender Diversity Policy" or "Policy")

I am writing in my role as Chair of the Canadian Coalition for Good Governance ("CCGG") to encourage the Alberta Securities Commission (the "ASC") to join the nine other Canadian provincial and territorial securities commissions[1] (the "Participating Jurisdictions") that have implemented the Gender Diversity Policy requiring companies to disclose information regarding the representation of women on boards and executive management as well as on term limits for directors. We hope that the Minister of Finance and the Minister for the Status of Women and Environment and Parks, whom I have copied on this letter, will lend their support to this request.

CCGG is a non-profit organization with the mandate of promoting good governance practices in Canadian public companies and the improvement of the regulatory environment in order to best align the interests of boards and management with those of their shareholders, with a view to promoting the efficiency and effectiveness of the Canadian capital markets. CCGG's members are 50 institutional investors that together manage approximately $3 trillion in assets on behalf of pension funds, mutual fund unit holders, and other institutional and individual investors. A list of our members is attached to this submission as Appendix 1.

The Gender Diversity Policy was first proposed as a result of a request made to the Ontario Securities Commission (OSC) by the Ontario Minister of Finance and the Minister Responsible for Women's Issues. It was adopted by the Participating Jurisdictions, effective December 31, 2014, following extensive public consultations that reflected the input of a great many market participants. In July, 2014, in ASC Notice 58-701, the ASC explained that it would not be implementing the Gender Diversity Policy for the following reason:

"The ASC understands the OSC Proposal to reflect the objective of increasing the participation of women on boards of directors and in executive officer positions with TSX-listed issuers. The ASC's mandate as a securities regulator is to protect investors and foster a fair and efficient capital market in Alberta. The ASC is not persuaded that the objective underlying the OSC Proposal –even if implemented through disclosure requirements falls within the ASC's mandate; the ASC has a similar concern regarding board member term limits."

For the reasons outlined below, CCGG believes that the Policy's objective does fall within the ASC's mandate and that a change in approach on the part of the ASC is warranted.

[1] Manitoba, New Brunswick, Newfoundland and Labrador, Northwest Territories, Nova Scotia, Nunavut, Ontario, Quebec and Saskatchewan.

A change in government is an appropriate time to revisit issues that continue to be of fundamental importance and in respect of which no action was taken by the previous government. We believe that gender diversity is such an issue and, accordingly, that the new Alberta government headed by Premier Rachel Notley may be interested in removing Alberta's outlier status as one of the few provinces not to adopt the Gender Diversity Policy and thus not to have embraced enhancing gender diversity at the board and senior management levels of TSX listed issuers. CCGG believes Alberta's stance is relevant to all Canadians because it damages the reputation of the Canadian capital market as a whole if internationally recognized governance developments (in this case, the view that enhancing gender diversity is beneficial to markets) are not reflected in Alberta law and regulation.

It is true that Alberta issuers listed on the TSX are subject to OSC requirements and hence subject to the gender diversity provisions spearheaded by the OSC, but the importance of Alberta's public expression of a commitment to enhancing gender diversity on boards and in senior management should not be underestimated.

Accordingly, CCGG encourages the ASC to rethink its opposition to the Gender Diversity Policy and to adopt the Policy forthwith.

The case for implementing the Gender Diversity Policy

Market participants under the jurisdiction of the ASC would benefit from the implementation of the Policy in Alberta. The governance case for board gender diversity is well-known, as is the business case.[2] Both highlight that the objective of enhancing gender diversity on the boards and in the senior management of public companies is, indeed, within the mandate of the ASC to "foster a fair and efficient capital market in Alberta". Given that research shows the tangible benefits of a diverse board, from the institutional investors' perspective enhancing gender diversity is important and CCGG has consistently supported regulatory initiatives by the Canadian Securities Administrators ("CSA") directed to this end[3] and applauded the CSA's multilateral efforts in this area.

Experience around the world has shown that absent regulatory or policy initiatives, increasing gender diversity is unlikely to happen. Accordingly, there have been significant developments globally with respect to practices intended to increase gender diversity on boards and in senior management. While the goal of enhanced gender diversity is generally embraced by most developed market economies, the methodologies for meeting that goal take different forms. Some countries have legislated quotas[4] while others rely on voluntary private sector-led initiatives, each of which have proven to be at least somewhat effective.[5] Given Canada's wide acceptance and generally successful use of a 'comply and explain' methodology to enhance corporate governance practices, CCGG supports a similar regulatory regime at this time for encouraging gender diversity and thus supports the Gender Diversity Policy.

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[2] I have attached a copy of CCGG's Board Gender Diversity Policy that notes some of the research in this area. Also see MSCI's November 2015 research report Woman on Boards: Global Trends in Gender Diversity and The Business Case for Women on Boards, a booklet released by the-Federal-Provincial-Territorial Ministries for the Status of Women and referred to on the Alberta Human Services website.

[3] Comment on Proposed Amendments to NI 58-101 (September 2014); Comment on Proposed Amendments to NI 58-101 (April 2014); Comment on OSC Staff Consultation Paper 58-401 (September 2013)

[4] For example, Belgium, France, Germany, Iceland, Italy and Norway have adopted legislation stipulating that a mandated percentage of directors be women. See Gender Diversity on Boards and in Senior Management, Michelle Qu and Andrew MacDougall, Osler, November 6, 2014

[5] Women on Boards Davies Review Annual Report 2015 (UK)

Progress in gender diversity has been slow, both in Canada and internationally.[6] However, there is some evidence that positive change in Canada is happening as a result of the implementation of the Policy. In September 2015, the CSA released Multilateral Staff Notice 58-307 on the results of its review of the first year of disclosure under the Gender Diversity Policy. Based on data collected by the CSA, of the issuers sampled 15% added a woman to their board in the past year. At an OSC roundtable held following the release of the staff notice, the OSC indicated that while it was generally felt that this is not enough progress[7] and further improvement is needed, the OSC believes that the Policy is having a positive impact. Based on the Australian experience with a similar 'comply or explain' model, which saw increasing rates of enhanced gender diversity in the years following the adoption of the model, there is reason to be optimistic that the Policy will lead to improvements. We encourage the ASC to reinforce this optimism by adopting the Policy.

We also encourage the ASC to consider the issue of broader diversity in future as well, as we encouraged the CSA in our submissions on the Gender Diversity Policy. It is of fundamental importance to the high functioning of Canadian public companies that their boards be comprised of directors with a wide variety of experiences, views and backgrounds that reflect, to the extent practicable, the ethnic, cultural and other characteristics of the communities in which the corporations operate and sell their goods or services. In CCGG's view the quality of boards is paramount and that quality increases when the board is comprised of directors representing a wide variety of perspectives.

In conclusion, we thank you for your consideration of this important issue. If you have any questions regarding the above, please feel free to contact our Executive Director, Stephen Erlichman, at 416.847.0524 or serlichman@ccgg.ca or our Director of Policy Development, Catherine McCall, at 416.868.3582 or cmccall@ccgg.ca.

Yours very truly,

Daniel E. Chornous, CFA
Chair of the Board
Canadian Coalition for Good Governance

Cc Mr. Joe Ceci,
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[6] See for example, 2014 Catalyst Census: Women Board Directors

[7] For example, 65% of the 722 companies reviewed disclosed that they had decided not to adopt a written policy on board gender diversity and only 14% clearly disclosed that they had adopted such a policy.

CCGG MEMBERS

Alberta Investment Management Corporation (AIMCo)
Alberta Teachers' Retirement Fund (ATRF)
Archdiocese of Toronto
BlackRock Asset Management Canada Limited
BMO Asset Management Inc.
BNY Mellon Asset Management Canada Ltd.
British Columbia Investment Management Corporation (bcIMC)
Burgundy Asset Management Ltd.
Canada Pension Plan Investment Board (CPPIB)
Canada Post Corporation Registered Pension Plan
CIBC Asset Management Inc.
Colleges of Applied Arts and Technology Pension Plan (CAAT)
Connor, Clark & Lunn Investment Management Ltd.
Desjardins Global Asset Management
Electrical Safety Authority (ESA)
Fiera Capital Corporation
Franklin Templeton Investments Corp.
Greystone Managed Investments Inc.
Healthcare of Ontario Pension Plan (HOOPP)
Industrial Alliance Investment Management Inc.
Jarislowsky Fraser Limited
Leith Wheeler Investment Counsel
Letko, Brosseau and Associates Inc.
Lincluden Investment Management Limited
Mackenzie Financial Corporation
Manulife Asset Management Limited
NAV Canada
New Brunswick Investment Management Corporation (NBIMC)
Northwest & Ethical Investments L.P. (NEI Investments)
OceanRock Investments Inc.
Ontario Municipal Employee Retirement System (OMERS)
Ontario Pension Board
Ontario Teachers' Pension Plan Board (OTPP)
OPSEU Pension Trust
PCJ Investment Counsel Ltd.
Public Sector Pension Investment Board (PSP Investments)
RBC Global Asset Management Inc.
Régime de retraite de la Société de transport de Montréal (STM)
Russell Investments Canada Limited
Scotia Global Asset Management
Sionna Investment Managers Inc.
State Street Global Advisors, Ltd. (SSga)
Sun Life Investment Management Inc. (SLIM)
TD Asset Management Inc.
Teachers' Retirement Allowances Fund
The United Church of Canada Pension Fund
UBC Investment Management Trust Inc.
University of Toronto Asset Management Corporation
Workers' Compensation Board - Alberta
York University

Collaboration Partner
Caisse de dépot et placement du Québec

CCGG POLICY
BOARD GENDER DIVERSITY
OCTOBER 2015

Canadian Coalition for GOOD GOVERNANCE
THE VOICE OF THE SHAREHOLDER

For many years, and through various avenues, CCGG has publicly supported increased gender diversity on boards. CCGG has decided to summarize our views in one document at this time and accordingly this policy sets out CCGG's current position on gender diversity on boards.

Need for enhanced gender diversity on boards

The level of board gender diversity at Canadian public companies remains stubbornly low. According to a 2014 study by Catalyst[1], only 20.8% of board seats at S&P/TSX 60 companies are filled by women. Gender diversity is lower at Canadian companies below the TSX 60: only 17.1% of board seats among Canada's 500 largest companies[2] and 12.3% of the board seats of all Canadian public companies are filled by women[3]. CCGG views the underrepresentation of women on boards to be a governance issue and therefore an appropriate policy focus for CCGG.

The Governance Case for Board Gender Diversity

It is CCGG's view that board quality is paramount. It also is CCGG's view that diversity improves board quality. By 'diversity' we mean not only gender but all forms of diversity. As stated in CCGG's Building High Performance Boards: "While the quality of individual directors is paramount, we also expect boards as a whole to be diverse. A high performance board is comprised of directors with a wide variety of experiences, views and backgrounds which, to the extent practicable, reflects the gender, ethnic, cultural and other personal characteristics of the communities in which the corporation operates and sells its goods or services." CCGG's adoption of a board gender diversity policy should not be interpreted as a sign that the lack of other forms of diversity is less deserving of remediation. Since women comprise half the population and remain persistently under-represented on boards, however, gender is an appropriate focus.

[1] 2014 Catalyst Census: Women Board Directors
[2] Canadian Board Diversity Council 2014 Annual Report Card
[3] Davies Insights: Women on Boards, Davies LLP 2014

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Research has shown that diverse boards generally have numerous tangible benefits, such as the following:

- They are more likely to avoid 'group think'[4], that is, where the desire for group consensus circumscribes the ability to present differing perspectives Diversity improves board decision making, independence and the oversight and mitigation of risk.[5]
- Diversity leads to more effective monitoring of CEO performance.[6]
- Evidence shows that diverse groups outperform homogeneous groups when performing complex tasks.[7]

Research also has shown a correlation between board gender diversity and corporate performance[8].

Further, companies that do not consider women as director candidates (i) are drawing corporate leadership from a subset of the available talent pool, with the result that the quality of leadership will necessarily be less than optimal, and (ii) are at a competitive disadvantage compared to those that choose to access the whole pool.

Increasing gender diversity

In recent years, regulators in Canada as well as around the world have considered the problem of board gender disparity and proposed various solutions. In Canada, the Canadian Securities Administrators (CSA) in 2014 released 'comply or explain' disclosure rules (the "CSA Rules") that require TSX listed companies to disclose annually prescribed information about gender diversity policies and practices at the board and executive officer levels. On September 28, 2015, the CSA released Multilateral Staff Notice 58-307 on the results of its review of the first year of disclosure under the CSA Rules. The Ontario Securities Commission ("OSC") held a roundtable to discuss the results of the review the following day. Those results showed that there remains much room for improvement: 65% of the 722 companies reviewed disclosed that they had decided not to adopt a written policy on board gender diversity while only 14% clearly disclosed that they had adopted such a policy. The OSC indicated at the roundtable that it is not satisfied with the results to date and that it will continue to monitor trends in board gender diversity and disclosure going forward.

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[4] Maznevski, M. L. (1994) Understanding our differences: Performance in decision-making groups with diverse members, Human Relations, 47(5): 531–52.
[5] Women on Boards" February 2011, U.K., pages 7-9 (the "Davies Report")
[6] Women in the Boardroom and their Impact on Governance and Performance, Renee B. Adams and Daniel Ferreria, October 22, 2008 at https://www.responsible-investor.com/images/uploads/Women_in_the_boardroom.pdf
[7] Diversity and Work Group Performance, November 1, 1999, Graduate School of Stanford Business
[8] "*Women Matter: gender diversity, a corporate performance driver",* McKinsey & Company, 2007; "*The Bottom Line: Corporate Performance and Women's Representation on Boards"*, Lois Joy, Nancy M. Carter, Harvey M. Wagener, Sriram Narayanan, October 2007; "*Mining the Metrics of Board Diversity"*, June 2013 Thomson Reuters; "*Women on Boards"* February 2011, U.K., pages 7-9 (the Davies Report")

Other jurisdictions use different methods than 'comply or explain' to increase board gender diversity. Some countries have legislated quotas[9] while others rely on voluntary private sector-led initiatives[10]. Given Canada's wide acceptance and generally successful use of a 'comply and explain' methodology to enhance corporate governance practices, CCGG supports a similar regulatory regime at this time for encouraging gender diversity, such as the one adopted by the CSA referred to above.

CCGG believes, however, that the current regulations should go beyond simply requiring disclosure of gender diversity policies and should recommend the adoption of such policies in corporate governance 'best practices' guidelines[11]. The CSA Rules are not truly "comply or explain" in that they do not recommend the adoption of gender diversity policies and then require an explanation if there is non-compliance with the guidelines; rather they are simply requirements to disclose whether policies are in place. Without the moral suasion of prescribed best practices for gender diversity, CCGG is concerned that the CSA Rules may not be effective.

CCGG does not believe that any CSA guidelines that are adopted in the future should prescribe the content of company gender diversity policies, for example, by stipulating a certain percentage of women on boards for all companies. Instead, it should be a recommended best practice for a company to adopt a written board gender diversity policy suitable to the company's specific circumstances. This will help to ensure that the issue is at least considered at the highest levels of a corporation.

CCGG recognizes that a 'comply and explain' approach is not always sufficient. For example, there was insufficient progress made under a 'comply or explain' rule for majority voting, which then led to a TSX requirement for companies listed on the exchange to adopt a prescribed form of majority voting policy. If the CSA Rules do not lead to real progress, it may be necessary to revisit the use of a 'comply or explain' methodology in the case of gender diversity as well. CCGG will continue to engage with companies on this issue, as it does on other policy matters, to discuss developments in companies' gender diversity practices.

Director recruitment

Professionalizing the director recruitment process[12], rather than relying on the existing board's (and, in some cases, the CEO's) circle of business and social relationships to find candidates can be an effective way to increase board diversity. A professional recruitment process makes it less likely that nominees will have backgrounds, experiences, views, genders and ethnicities similar to current directors and is more likely to identify new directors who will bring different or unique perspectives to the

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[9] For example, Belgium, France, Germany, Iceland, Italy and Norway have adopted legislation stipulating that a mandated percentage of directors must be women. See Women in Leadership Roles at TSX-Listed Companies: Diversity Disclosure Practices, July 2015, Andrew MacDougall et al, Osler.
[10] Women on Boards Davies Review Annual Report 2015 (UK)
[11] National Policy 58-201 Corporate Governance Guidelines
[12] As stated in CCGG's Brief to Senate Committee on Banking, Trade and Commerce, January 31, 2011

boardroom.[13] Requiring more disclosure about the board recruitment processes of public companies would likely go some distance towards strengthening those processes.

Board refreshment

A robust method of board refreshment is also key to increasing gender diversity: change in board composition is harder when directors are seldom replaced. Simply expanding the size of the board to accommodate more women is not a viable, long-term solution to increasing the percentage of women on boards. Moreover, board renewal is important not only to make positions available for women, but also to help ensure an appropriate balance between the experienced perspective of long term directors and new perspectives that bring fresh insights to the board. Rather than having director term limits or a retirement age, CCGG's preferred method of board renewal is through a strong annual evaluation process of the full board, board committees and individual directors. Because long term directors can continue to meet individual assessment expectations, a robust board evaluation process should incorporate a consideration of the balance between experienced and fresh insights in board composition.

Increasing gender diversity in senior management

Given that directors are traditionally chosen from among those with senior management experience (with many boards still thinking that a CEO background is essential) it is imperative that senior management become more gender diverse if there is to be an adequate pool of female board candidates. There is some evidence that the lack of women in executive positions is a more intractable problem than board diversity.[14] Accordingly, CCGG supports the requirements in the CSA Rules that companies disclose their policies with respect to increasing women in executive officer positions. Again, we would go further and suggest that the CSA corporate governance guidelines be amended to recommend the adoption of policies that consider gender in management succession planning as a 'best practice'.

[13] We do not mean to suggest that the director recruitment process will be sufficient simply by outsourcing the search to an external executive search consultant but rather that it is essential that the pool of board candidates be comprehensive and extend beyond the current board's and management's circle.
[14] *"Women on boards"* April 2013, U.K., pages 6-7; "*Women on Boards*", February 2011 U.K. page 26