May 23, 2019

Mr. Robert Day
Senior Specialist Business Planning
Ontario Securities Commission
20 Queen Street West
22nd Floor
Toronto, Ontario M5H 3S8
rday@osc.gov.on.ca

Dear Mr. Day:

Re: Ontario Securities Commission ("OSC") Draft 2019-2020 Statement of Priorities

We thank you for the opportunity to provide comments on the OSC's draft 2019-2020 Statement of Priorities.

CCGG's members are Canadian institutional investors that together manage approximately $4 trillion in assets on behalf of pension fund contributors, mutual fund unit holders, and other institutional and individual investors. CCGG promotes good governance practices in Canadian public companies, as well as regulatory improvements to best align interests of boards and management with those of their shareholders and to increase the efficiency and effectiveness of the Canadian capital markets. A list of our members is attached to this submission.

General

CCGG represents "the voice of the shareholder" and endeavours to ensure that this stakeholder perspective is reflected in regulatory initiatives.

We would first like to recognize the important work that the OSC carries out in furtherance of its regulatory mandate. The proposed 2019-2020 priorities include initiatives that are fundamental to meeting the OSC's mandate of protecting investors and fostering fair and efficient capital markets. However, we limit our comments herein to institutional investor issues that are important to our members.

We support the OSC's goal of building a data-driven, evidence-based, risk focused organization. CCGG has consistently advocated that reductions in regulations impacting information available to institutional investors should be undertaken cautiously and based on empirical evidence that no harm is likely to occur to investors as a result of the reduction. We are pleased to see that the OSC is prioritizing building capacity with respect to data collection and analysis in order to support evidence-based decision-making.

We note, as we did with respect to the OSC's Statement of Priorities for the last three years, that there are several issues of significant importance to CCGG's members that have not been mentioned or are not included in the OSC's 2019-2020 draft list of priorities. We discuss these areas below, and believe they should be high on the OSC's agenda.

Review of Disclosure Oversight of Environmental and Social Sustainability Risks, including Climate Change

Consistent with last year's Statement of Priorities, the OSC states in the proposed 2019-2020 Statement of Priorities that it will continue to monitor developments by global financial system regulators that are examining the need for companies to disclose exposure to economic, environmental and social sustainability risks, including climate change, to determine the need for a regulatory response. We were pleased to note the OSC's acknowledgement of the work of the Financial Stability Board's Task Force on Climate-related Financial Disclosures (FSB-TCFD). In its publication, The Directors' E&S Guidebook: Practical Insights and Recommendations for Effective Board Oversight and Company Disclosure of Environmental and Social (E&S) Matters, CCGG considers the FSB-TCFD's disclosure framework a good model for companies to look at in contemplating their approach to E&S disclosures.

CCGG would like to encourage the OSC's efforts in the area of climate-change related disclosure. As highlighted in CCGG's submission in response to the request for comment on OSC Staff Notice 11-784: Burden Reduction, CCGG believes a clear and comprehensive climate change disclosure regime is aligned with the OSC's goal of regulatory burden reduction because it is in the interests of both issuers and investors.

CCGG encourages the OSC to prioritize working with the CSA to implement the recommendations in CSA Staff Notice 51-354 *Report on Climate Change Related Disclosure Project*, published in April 2018, which found that issuers and investors identified a need for further education and refreshed guidance on environmental reporting. In addition, investors identified a need for new disclosure requirements[1]. In light of these findings, the CSA has identified that it will be pursuing two areas of policy focus:

1. New guidance and education to assist issuers in complying with their existing disclosure obligations which may include:
    - guidance on entity-specific risk factor disclosure, including legal/regulatory, physical, transitional and reputational risks associated with climate change, and their financial impact on revenues, expenses, cash flows, assets and liabilities;

[1] Section 5.1 of CSA Staff Notice 51-354 *Report on Climate Change-Related Disclosure Project* at p. 33 (Hereinafter, "Staff Notice 510354").

- further guidance on trends and uncertainties associated with climate change;
- further guidance with respect to the definition of material information to be applied by issuers when assessing climate change-related risks and opportunities;
- guidance in relation to the governance and management oversight of climate change-related risks; and
- additional initiatives to educate issuers with respect to climate change-related risks and opportunities, such as seminars and publications, as well as reviews of climate change-related disclosure as part of the periodic continuous disclosure reviews conducted by CSA jurisdictions.

2. New disclosure requirements in the following areas:
    - disclosure of issuer's governance processes in relation to material risks and opportunities, including the board's responsibility for oversight and the role played by management; and
    - disclosure of how the issuer oversees the identification, assessment and management of material risks[2].

CCGG supports both these initiatives. The CSA highlights governance processes and board and management oversight of climate change-related risks as areas for review in both projects, which is consistent with recommendations made in CCGG's *The Directors' E&S Guidebook*.

CCGG notes that this position is also aligned with the Ontario Ministry of the Environment, Conservation and Parks, in its November 29, 2018 report, "Preserving and Protecting our Environment for Future Generations: A Made-in-Ontario Environment Plan" (the "Environment Plan") which states that Ontario seeks to "enable consistent disclosure about financial risks associated with climate change so that companies can provide information to investors, lenders, insurers and other stakeholders[3]". Action items related to this portion of the Environment Plan indicate that Ontario will work with the financial sector to promote climate-related disclosure in Ontario and will encourage the OSC to improve guidance on climate-related disclosures[4]. CCGG looks forward to participating in this process as it moves forward.

Shareholder Democracy Issues

Say-On-Pay

In its 2019 Budget, the Federal Government announced its intention to implement say-on-pay for corporations governed by the Canada Business Corporations Act ("CBCA") and draft amendments were included in the April Budget Bill, Bill C-97. If implemented, these amendments will make progress in

[2] **Ibid.**, Sections 5.2 and 5.3 of Staff Notice 51-354, at pp. 35-38.

[3] Ontario Ministry of the Environment, Conservation and Parks, "Preserving and Protecting our Environment for Future Generations: A Made-in-Ontario Environment Plan", November 29, 2018, at 27 (Hereinafter, "Environment Plan").

[4] **Ibid.**, Environment Plan, at 29.

bringing Canada in line with other developed nations by requiring a mandatory advisory say-on-pay vote that allows shareholders to voice their views on the appropriateness of an issuer's executive compensation practices. The CBCA's say-on-pay requirements, however, will apply only to those companies incorporated under that statute.

As was the case last year, we note that the OSC did not include say-on-pay on its list of priorities. We continue to encourage the OSC to keep the issue of mandating say-on-pay under securities regulation on its agenda. CCGG's members believe it is an important issue that the OSC should prioritize and preferably spearhead as the regulator of Canada's primary capital market. The benefits of say-on-pay in terms of enhanced issuer/shareholder communication and improved disclosure are broadly acknowledged and it is important that the OSC act to level the playing field so that all issuers and investors in Canada share in these benefits.

The high levels of approval that say-on-pay resolutions typically receive are sometimes cited as evidence that say-on-pay is not really meaningful to shareholders, but it is worth pointing out that issuers that have adopted say-on-pay voluntarily generally tend to be leaders in corporate governance. Significant executive compensation issues are more likely to arise at issuers where governance is less of a priority and it is precisely at these issuers where say-on-pay is most needed.

CCGG does not believe that adopting say-on-pay constitutes an undue additional burden on issuers. Say-on-pay requires only that a say-on-pay resolution be included in the proxies and information circulars that are already distributed to shareholders annually and the votes tallied in the same manner and at the same time as other annual resolutions.

Majority Voting

Once implemented through regulation, the May 2018 amendments to the CBCA under Bill C-25, will enable shareholders of companies governed by the CBCA to vote “against” directors rather than “withhold” their vote, making true majority voting for uncontested director elections a reality. However, because this will apply only to those public companies incorporated under the CBCA, more work remains to be done to ensure that all public shareholders in Canada can meaningfully exercise their right to elect directors. CCGG believes that the provinces and the territories should follow the CBCA's lead and encourages the OSC to work with the federal momentum in this area and publicly lend its voice in support of including similar majority voting provisions into Ontario corporate statutes.

In the meantime, we encourage the OSC to use its influence to have the TSX rules on majority voting expanded so that they apply to the approximately 1,600 issuers listed on the TSX–V as well as to TSX listed issuers. There is no reason to exclude the shareholders of smaller companies from this fundamental shareholder right.

Universal Proxies

We also recommend that the OSC adopt rules requiring the use of a 'universal proxy' in all contested director elections. In its Universal Proxy Policy, CCGG recommends that all director nominees be included in a fair manner on the same proxy form whether nominated by management or by dissidents so that shareholders are able to freely choose the combination of nominees they wish to support, just as they are able to do if they attend the shareholder meeting in person.

Empty Voting

We also would like to see an acknowledgement that the OSC is considering the issue of empty voting. In its Empty Voting Position Statement, CCGG cautions that the separation of voting interests from economic interests calls into question some of the fundamental assumptions of shareholder democracy upon which our system of corporate governance is based and we believe the OSC should turn its attention to this issue.

We thank you again for the opportunity to provide you with our comments. Please feel free to contact our Executive Director, Catherine McCall, at (416) 868-3582 or cmccall@ccgg.ca or our Director of Policy Development, Sarah Neville at (416) 847-0523 or sneville@ccgg.ca if you would like to discuss the matters in this letter further or if we can be of any assistance.

Yours very truly,

Marcia Moffat
Chair of the Board
Canadian Coalition for Good Governance

CCGG Members 2019

- Alberta Investment Management Corporation (AIMCo)
- Alberta Teachers' Retirement Fund (ATRF)
- Archdiocese of Toronto
- Aviva Investors Canada Inc.
- BlackRock Asset Management Canada Limited
- BMO Global Asset Management Inc.
- Burgundy Asset Management Ltd.
- Caisse de dépot et placement du Québec
- 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
- Fiera Capital Corporation
- Franklin Templeton Canada Corp.
- Galibier Capital Management Ltd.
- Healthcare of Ontario Pension Plan (HOOPP)
- Hillsdale Investment Management Inc.
- Investment Management Corporation of Ontario (IMCO)
- Industrial Alliance Investment Management Inc.
- Jarislowsky Fraser Limited
- Leith Wheeler Investment Counsel Ltd.
- Letko, Brousseau & Associates Inc.
- Lincluden Investment Management Limited
- Mackenzie Financial Corporation
- Manulife Investment Management Limited
- NAV Canada Pension Plan
- Northwest & Ethical Investments L.P. (NEI Investments)
- Ontario Municipal Employee Retirement System (OMERS)
- Ontario Teachers' Pension Plan (OTPP)
- OPSEU Pension Trust
- PCJ Investment Counsel Ltd.
- Pension Plan of the United Church of Canada Pension Fund
- Pier 21 Asset Management Inc.
- Public Sector Pension Investment Board (PSP Investments)
- QV Investors Inc.
- RBC Global Asset Management Inc.
- Régimes de retraite de la Société de transport de Montréal (STM)
- Scotia Global Asset Management
- Sionna Investment Managers Inc.

- State Street Global Advisors, Ltd. (SSgA)
- Sun Life Institutional Investments (Canada) Inc.
- TD Asset Management Inc.
- TD Greystone
- Teachers' Retirement Allowances Fund
- UBC Investment Management Trust Inc.
- University of Toronto Asset Management Corporation
- Vestcor Inc.
- Workers' Compensation Board - Alberta
- York University Pension Fund