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Request for Comments

B.6.1 CSA Notice and Request for Comment – Proposed Amendments to Form 58-101F1 Corporate Governance Disclosure of National Instrument 58-101 Disclosure of Corporate Governance Practices and Proposed Changes to National Policy 58-201 Corporate Governance Guidelines



CSA NOTICE AND REQUEST FOR COMMENT

PROPOSED AMENDMENTS TO FORM 58-101F1 *CORPORATE GOVERNANCE DISCLOSURE OF NATIONAL INSTRUMENT 58-101 DISCLOSURE OF CORPORATE GOVERNANCE PRACTICES AND PROPOSED CHANGES TO NATIONAL POLICY 58-201 CORPORATE GOVERNANCE GUIDELINES*

April 13, 2023

Introduction

The Canadian Securities Administrators (**CSA** or **we**) are publishing for a 90-day comment period:

- proposed amendments to Form 58-101F1 *Corporate Governance Disclosure* (**Form 58-101F1**) of National Instrument 58-101 *Disclosure of Corporate Governance Practices* (**NI 58-101**) pertaining to board nominations, board renewal and diversity, as well as ancillary amendments to section 1.1 Definitions of NI 58-101 (the **Proposed Amendments**); and
- proposed changes to National Policy 58-201 *Corporate Governance Guidelines* (**NP 58-201**) pertaining to board nominations, board renewal and diversity (the **Proposed Changes**),

(collectively, the **Proposed Amendments and Changes**).

The CSA is seeking comment on two approaches to build upon the existing disclosure requirements in Form 58-101F1 regarding the representation of women on boards and in executive officer positions and board renewal adopted by most CSA jurisdictions in 2014¹ (the **2014 Requirements**). While each approach is premised on different concepts discussed further below, both approaches are intended to provide enhanced, decision-useful information to investors to assist with their investment and voting decisions.

We are issuing this notice to solicit your comments on the Proposed Amendments and Changes, and in particular to seek feedback on which approach best meets the needs of stakeholders. The public comment period will end on July 12, 2023.

Although British Columbia and Prince Edward Island have not adopted the 2014 Requirements, all jurisdictions are consulting on the Proposed Amendments and Changes with a view to adopting them.

The text of the Proposed Amendments and Changes is included in Annexes C through G of this notice and will also be available on the websites of the following CSA jurisdictions:

www.albertasecurities.com
www.bcsc.bc.ca
www.fcaa.gov.sk.ca
www.fcnb.ca

www.lautorite.qc.ca
www.mbsecurities.ca
nssc.novascotia.ca
www.osc.ca

¹ Not adopted in British Columbia and Prince Edward Island. Adopted in Alberta in 2016.

Substance and Purpose

The Proposed Amendments and Changes set out amendments to the corporate governance disclosure requirements in Form 58-101F1 and changes to the corporate governance guidelines in NP 58-201 pertaining to board nominations, board renewal and diversity.

In particular, the Proposed Amendments would require disclosure on aspects of diversity beyond the representation of women, while retaining the current disclosure requirements with respect to women included in the 2014 Requirements. The CSA recognizes the importance of providing investors with transparency on issuers' practices with respect to board and executive-level diversity. The Proposed Amendments are intended to elicit meaningful disclosure about how non-venture issuers identify and evaluate new candidates for nomination to the board, how they address board renewal, and how diversity is incorporated into those considerations. This is intended to reflect that the board's consideration of diversity is an integral component of the board's nomination and renewal processes.

The Proposed Changes would provide enhanced guidelines related to board nominations and would introduce guidelines on board renewal and board diversity in NP 58-201. This ensures that the guidelines in NP 58-201 adequately complement the disclosure requirements in Form 58-101F1, as amended by the Proposed Amendments.

The Proposed Amendments and Changes reflect the CSA's commitment to ensuring investors have the information they need to make informed investment and voting decisions. The main objectives of these proposals are to:

- increase transparency about diversity, including diversity beyond women, on boards and in executive officer positions;
- provide investors with decision-useful information that enables them to better understand how diversity ties into an issuer's strategic decisions; and
- provide guidance to issuers on corporate governance practices related to board nominations, board renewal and diversity.

The CSA is committed to engaging with Indigenous Peoples and organizations. We will continue to broaden our engagement as we advance our understanding of how to best approach this work. Input collected through such engagement conducted by individual CSA members will be shared within the CSA so that all members can benefit from the views obtained.

Background

The 2014 Requirements require non-venture issuers to provide disclosure on an annual basis in the following areas:

- director term limits and other mechanisms of board renewal;
- policies regarding the representation of women on the board;
- consideration of the representation of women in the director identification and selection process;
- consideration given to the representation of women in executive officer appointments;
- issuer's targets regarding the representation of women on the board and in executive officer positions; and
- number of women on the board and in executive officer positions.

The objective of the 2014 Requirements was to increase transparency for investors regarding the representation of women on boards and in executive officer positions, and the approach that issuers take in respect of such representation, to inform investment and voting decisions.

In recent years there have been several developments that have heightened the importance of considering diversity on boards and in executive officer positions, beyond women, including:

- As of January 1, 2020, distributing corporations governed by the *Canada Business Corporations Act (CBCA)* are required to provide prescribed diversity disclosure with respect to women, Indigenous peoples (First Nation, Inuit and Métis), persons with disabilities and members of visible minorities in connection with their annual meeting of shareholders held on or after such date.
- In February 2020, the Ontario Government established the Capital Markets Modernization Taskforce to review and modernize the Ontario capital markets. The Taskforce published a final report in January 2021, which includes recommendations pertaining to corporate board diversity.

- On October 1, 2020, institutional investors managing more than \$2.3 trillion in assets signed the Canadian Investor Statement on Diversity & Inclusion, an initiative to combat systemic inequities and advancing diversity and inclusion efforts.

In light of this heightened focus, CSA Staff undertook the following consultations, research and reviews related to diversity:

- **Consultations** – In May 2021, we announced consultations with a variety of stakeholders to better understand their needs and perspectives with respect to diversity, including diversity beyond women. The consultations were held through a variety of forums, including consultation papers, roundtables, meetings and other communications with stakeholders.

A high-level overview of the feedback from these consultations is as follows:

- Diversity is an important consideration in investment and voting decisions.
 - There is strong investor support in expanding the existing disclosure regime to consider diversity beyond women, while maintaining specific disclosure requirements regarding women.
 - Diversity on boards and in executive officer positions is a critical component of good corporate governance.
 - Many stakeholders support guidelines related to diversity that provide issuers with flexibility to adapt them to their circumstances.
 - Institutional investors and proxy advisory firms are developing diversity-related policies which have resulted in disparate diversity disclosure practices among issuers.
 - Some stakeholders expressed support for a consistent, standardized framework for diversity disclosure.
 - Other stakeholders stressed that a flexible approach would be better suited to Canada's diverse capital markets and expressed concern with the disclosure of personal characteristics.
- **Research** – The CSA also revisited and updated research on the approach to diversity by certain securities regulators outside of Canada. Annex B provides a summary of these approaches, which highlight an increasing focus on diversity generally, including diversity beyond women. The CSA continues to follow domestic and international developments related to diversity.
 - **Annual Reviews** – We have considered issuer disclosure practices and key trends arising from eight annual reviews of public disclosure regarding women on boards and in executive officer positions conducted by several CSA jurisdictions since the adoption of the 2014 Requirements. Most recently, CSA Multilateral Staff Notice 58-314 *Review of Disclosure Regarding Women on Boards and in Executive Officer Positions* reports that the proportion of board seats held by women has increased from 11% to 24% during the eight-year period since the 2014 Requirements came into effect.

The Proposed Amendments and Changes were informed by these consultations, research and reviews.

Summary of the Proposed Amendments and Changes

Proposed Amendments

Two versions of Form 58-101F1 are presented for comment (**Form A** and **Form B**). Form A and Form B are generally aligned with respect to disclosure requirements related to board nominations and board renewal but reflect different approaches respecting diversity-related disclosure issuers must provide.

In this consultation, we are seeking feedback on both proposals. While all participating jurisdictions are consulting on both Form A and Form B, certain jurisdictions have expressed their preference for one proposal over the other. Specifically, the British Columbia Securities Commission, the Alberta Securities Commission, the Financial and Consumer Affairs Authority of Saskatchewan and the Office of the Superintendent of Securities Northwest Territories support Form A and the Ontario Securities Commission supports Form B. The Autorité des marchés financiers, the Financial and Consumer Services Commission of New Brunswick, the Manitoba Securities Commission, the Nova Scotia Securities Commission, the Office of the Superintendent of Securities Newfoundland and Labrador, the Office of the Superintendent of Securities Nunavut, the Office of the Yukon Superintendent of Securities and the Superintendent of Securities Department of Justice and Public Safety Prince Edward Island have not expressed a preference at this time.

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Both Form A and Form B are designed to increase transparency about diversity, including diversity beyond women, on boards and in executive officer positions, and provide investors with decision-useful information that enables them to better understand how diversity is addressed by an issuer. At a high level, the key components of each approach, represented in the design of the applicable form, are described below.

Form A would require an issuer to disclose its approach to diversity in respect of the board and executive officers, but would not mandate disclosure in respect of any specific groups, other than women. An issuer would be required to describe its chosen diversity objectives and how it would measure progress, and explain what mechanisms it has determined are appropriate for the issuer to achieve its diversity objectives. If an issuer chooses to collect data with respect to specific groups it identifies as being relevant for the issuer's approach to diversity, this data must be disclosed in a manner determined by the issuer. We acknowledge there may be a desire, by some investors, for comparability of such disclosure. However, the approach taken in Form A is intended to provide each issuer with flexibility to design practices and policies respecting how it will address diversity in its specific circumstances, and not requiring it to report data on any specific group. This approach also removes securities regulators from defining to whom an issuer's approach to diversity must apply, other than women.

Similar to the approach adopted under the CBCA (although differing to some degree on the identified categories utilized), Form B contemplates mandatory reporting on the representation of five designated groups, being women, Indigenous peoples, racialized persons, persons with disabilities and LGBTQ2SI+ persons, on boards and in executive officer positions. An issuer may also choose to voluntarily provide disclosure in respect of other groups beyond the designated groups. All such data would be required to be reported in standardized tabular format to promote consistency and comparability of such disclosure. The information reported must be based on voluntary self-disclosure by directors and executive officers. In addition, Form B would require disclosure regarding any written strategy, written policies and measurable objectives relating to diversity on an issuer's board.

The key difference between Form A and Form B is that the latter mandates disclosure on historically underrepresented groups. In doing so, it conforms to the approach taken in the CBCA and is intended to provide statistical data that is comparable amongst issuers in connection with these groups. Form A's approach is based on a view that securities regulators should not select categories of diversity, other than women, preferring to leave that to the issuer's determination as to what aspects of diversity are most beneficial to that issuer in advancing its business and strategy. In other words, a less prescriptive approach. It may also avoid limitations on the completeness of disclosure arising from the use of information resulting from voluntary self-identification in relation to the specified categories, although this issue may also arise from these or other categories chosen for use by issuers under Form A.

A more detailed comparison between the two forms, and in relation to the current disclosure requirements, can be found in Annex A. The text of the Proposed Amendments can be found in Annex C and Annex D (with Annex E providing proposed amendments to section 1.1 Definitions of NI 58-101 that would apply to Form B only).

Existing disclosure requirements with respect to women

Form A and Form B substantially maintain the existing disclosure requirements with respect to women on boards and in executive officer positions under the 2014 Requirements. Under both forms, the current "comply or explain" disclosure model would continue to apply with respect to policies for women on boards and targets for women on boards and in executive officer positions. Both Form A and Form B also contemplate maintaining existing disclosures of data for women on boards and in executive officer positions. We consider it important that new disclosure requirements pertaining to diversity do not affect the substance of the 2014 Requirements that have been in use for over nine years and have provided valuable information to stakeholders. Notwithstanding the proposed expansion of the concept of diversity, we have heard that information on the representation of women on boards and in executive officer position continues to be important for many stakeholders.

Non-venture issuers

Both Form A and Form B would be applicable only to non-venture issuers, as is currently the case with the 2014 Requirements. The CSA is not currently proposing amendments to Form 58-101F2 *Corporate Governance Disclosure (Venture Issuers)*. We are consulting as to whether we should consider adapting the Proposed Amendments for application to venture issuers in a second phase of this project.

Proposed Changes to NP 58-201

The Proposed Changes would provide enhanced guidelines for all issuers related to board nominations and would introduce guidelines on board renewal and board diversity in NP 58-201 to complement the disclosure requirements contained in Form 58-101F1, as amended by the Proposed Amendments.

Although these guidelines are not intended to be prescriptive, we would encourage issuers to consider them in developing their own corporate governance practices and to apply and adapt these guidelines based on their individual circumstances as they evolve. These corporate governance guidelines have been formulated to achieve a balance between providing protection to investors and fostering fair and efficient capital markets, while recognizing that corporate governance is evolving.

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The proposed guidelines would address the following:

- the responsibilities of the nominating committee;
- the written policy respecting the director nomination process;
- the use of a composition matrix;
- effective succession planning and the mechanisms of board renewal, including term limits;
- the written diversity policy; and
- targets for achieving diversity on the board and in executive officer positions.

Two versions of NP 58-201 are presented for comment (**Policy A** and **Policy B**). The guidelines pertaining to board nominations and board renewal are harmonized in both Policy A and Policy B; however, the guidelines pertaining to board diversity are different as to be compatible with the disclosure requirements provided in Form A and Form B, respectively.

The text of these guidelines can be found in Annex F and Annex G.

Impact on Investors

The Proposed Amendments are expected to be beneficial to investors. The Proposed Amendments are expected to enhance the quality of the information disclosed. This is expected to result in disclosure that is more meaningful and which provides information investors need to make informed investment and voting decisions.

Anticipated Costs and Benefits of the Proposed Amendments

We believe the Proposed Amendments will enhance the quality of the disclosure to be provided to investors, which would enable investors to make better informed investment and voting decisions. We expect the Proposed Amendments will make disclosure easier for non-venture issuers by clarifying and streamlining disclosure requirements pertaining to board nominations, board renewal and diversity. As a result, we expect that the Proposed Amendments will not significantly increase regulatory burden. Accordingly, the Proposed Amendments will not compromise investor protection or the efficiency of the capital markets. A more detailed discussion of the costs and benefits of the Proposed Amendments is included in the Ontario Securities Commission's Annex L – Local Matters.

Local Matters

Where applicable, Annex L provides additional information required by local securities legislation.

Request for Comments

In addition to your comments on all aspects of the Proposed Amendments and Changes, we are seeking specific feedback on the following questions:

Board nominations

1. The Proposed Amendments would require the disclosure of the skills, knowledge, experience, competencies and attributes of candidates that are considered and evaluated. Does this requirement raise concerns for issuers regarding disclosure of confidential or competitively sensitive information? Please explain. *(Please refer to the table entitled "Board Nominations" in Annex A for a description of this proposed requirement)*

Approach to diversity

2. We are consulting on two alternatives with respect to the requirement to provide disclosure on the approach to diversity (Form A and Form B). Which approach best meets the needs of investors for making investing and voting decisions? Which Form best meets the needs of issuers in describing their approach to diversity at the board and executive officer level? Do either of the approaches raise concerns for issuers? Are there certain requirements in either form that you find preferable to the equivalent requirement in the other form? Please explain.
3. Is information on the diversity approach and objectives of issuers with respect to executive officer positions useful for investors? Does this requirement raise concerns for issuers? Please explain. *(Please refer to the table entitled "Approach to Diversity – Executive Officer Positions" in Annex A for a description of this proposed requirement)*
4. Should issuers be required to disclose data about specified designated groups, consistent with the approach in Form B? Or should issuers be required to disclose data about women only and the identified groups for which they collect data,

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consistent with the approach in Form A? Please explain. (*Please refer to the table entitled “Concept of Diversity” in Annex A for a description of “designated groups” and “identified group”*)

5. Would it be beneficial to require reported data to be disclosed in a common tabular format? Does this requirement raise concerns for issuers? Please explain.
6. For CBCA-incorporated issuers, are there issues or challenges in providing both CBCA disclosures and the disclosure proposed under either Form A or Form B? Please explain.

Application to venture issuers

7. Should we consider developing similar disclosure requirements for venture issuers in a second phase of this project? If so, should any changes be made to the proposed disclosure requirements to reflect the different stages of development and circumstances of venture issuers? Please explain.

Please submit your comments in writing on or before **July 12, 2023**. If you are not sending your comments by email, please send us an electronic file containing the submissions (in Microsoft Word Format).

Address your submission to all of the CSA jurisdictions as follows:

Alberta Securities Commission
Autorité des marchés financiers
British Columbia Securities Commission
Financial and Consumer Affairs Authority of Saskatchewan
Financial and Consumer Services Commission, New Brunswick
Manitoba Securities Commission
Nova Scotia Securities Commission
Office of the Superintendent of Securities, Newfoundland and Labrador
Office of the Superintendent of Securities, Northwest Territories
Office of the Superintendent of Securities Nunavut
Office of the Yukon Superintendent of Securities
Ontario Securities Commission
Superintendent of Securities, Department of Justice and Public Safety, Prince Edward Island

Send your comments to the following addresses listed below. Your comments will be forwarded to the remaining jurisdictions.

The Secretary
Ontario Securities Commission
20 Queen Street West
22nd Floor, Box 55
Toronto, Ontario
M5H 3S8
Fax: 416-593-2318
Email: comment@osc.gov.on.ca

Me Philippe Lebel
Corporate Secretary and Executive Director, Legal Affairs
Autorité des marchés financiers
Place de la Cité, tour Cominar
2640, boulevard Laurier, bureau 400
Québec (Québec) G1V 5C1
Fax: 514-864-6381
Email: consultation-en-cours@lautorite.qc.ca

We cannot keep submissions confidential because securities legislation in certain provinces requires publication of the written comments received during the comment period. All comments received will be posted on the websites of each of the Autorité des marchés financiers at www.lautorite.qc.ca and the Ontario Securities Commission at www.osc.gov.on.ca. Therefore, you should not include personal information directly in comments to be published. It is important that you state on whose behalf you are making the submission.

Content of Annexes

This notice contains the following annexes:

- Annex A: Detailed comparison of Form A and Form B with current disclosure requirements.
- Annex B: Approach to diversity by certain securities regulators outside of Canada.
- Annex C: Proposed amendments to NI 58-101 and Form 58-101F1 (Form A).
- Annex D: Proposed amendments to NI 58-101 and Form 58-101F1 (Form B).
- Annex E: Proposed amendments to section 1.1 Definitions of NI 58-101 (Applicable to Form B).

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- Annex F: Proposed changes to NP 58-201 (Compatible with Form A).
- Annex G: Proposed changes to NP 58-201 (Compatible with Form B).
- Annex H: Annotated Form 58-101F1 (Form A).
- Annex I: Annotated Form 58-101F1 (Form B).
- Annex J: Annotated NP 58-201 (Compatible with Form A).
- Annex K: Annotated NP 58-201 (Compatible with Form B).
- Annex L: Local Matters.

Questions

Please refer your questions to any of the following:

British Columbia Securities Commission

Melody Chen
Senior Legal Counsel
Legal Services, Corporate Finance
Tel: 604-899-6530
Email: mchen@bcsc.bc.ca

Nazma Lee
Senior Legal Counsel
Legal Services, Corporate Finance
Tel: 604-899-6867
Email: nlee@bcsc.bc.ca

Alberta Securities Commission

Jennifer Smith
Senior Legal Counsel
Office of the General Counsel
Tel: 403-355-3898
Email: jennifer.smith@asc.ca

Nicole Law
Senior Securities Analyst
Corporate Finance
Tel: 403-355-4865
Email: nicole.law@asc.ca

Financial and Consumer Affairs Authority of Saskatchewan

Heather Kuchuran
Director, Corporate Finance
Securities Division
Tel: 306-787-1009
Email: heather.kuchuran@gov.sk.ca

Manitoba Securities Commission

Patrick Weeks
Deputy Director, Corporate Finance
Tel: 204-945-3326
Email: patrick.weeks@gov.mb.ca

Ontario Securities Commission

Jo-Anne Matear
Special Advisor to the Executive on Sustainable Finance and
Emerging Regulatory Issues, Executive Office
Tel: 416-593-2323
Email: jmatear@osc.gov.on.ca

Jonathan Blackwell
Senior Accountant, Corporate Finance
Tel: 416-593-8138
Email: jblackwell@osc.gov.on.ca

Katie DeBartolo
Senior Accountant, Corporate Finance
Tel: 416-593-2166
Email: kdebartolo@osc.gov.on.ca

Aisha Suleman
Advisor, Global and Domestic Affairs
Tel: 416-593-2324
Email: asuleman@osc.gov.on.ca

Autorité des marchés financiers

Olivier Girardeau
Director of Sustainable Finance Oversight and Supervision
Tel: 514-395-0337, ext. 4334
Email: olivier.girardeau@lautorite.qc.ca

Martin Latulippe
Senior Policy Advisor
Tel: 514-395-0337, ext. 4331
Email: martin.latulippe@lautorite.qc.ca

Financial and Consumer Services Commission of New Brunswick

Ella-Jane Loomis
Senior Legal Counsel, Securities
Tel: 506-453-6591
Email: ella-jane.loomis@fcnb.ca

Nova Scotia Securities Commission

Abel Lazarus
Director, Corporate Finance
Tel: 902-424-6859
Email: abel.lazarus@novascotia.ca

Valerie Tracy
Securities Analyst
Tel: 902-424-5718
Email: valerie.tracy@novascotia.ca

ANNEX A

DETAILED COMPARISON OF FORM A AND FORM B WITH CURRENT DISCLOSURE REQUIREMENTS

The following tables provide a more detailed comparison of Form A and Form B with the current disclosure requirements.

Board Nominations

Current disclosure requirements (Item 6 of Form 58-101F1)	Proposed Amendments in Form A and Form B (Item 6 of Form 58-101F1)
Describe the process by which the board identifies new candidates for board nomination.	The Proposed Amendments would expand on the current requirements by requiring disclosure on how the board identifies and evaluates new candidates for nomination to the board.
Disclose whether or not the board has a nomination committee composed entirely of independent directors. If the board does not have a nomination committee composed entirely of independent directors, describe what steps the board takes to encourage an objective nomination process.	Comparable requirements.
Describe the responsibilities, powers and operation of the nominating committee.	A description of the responsibilities, powers and operation of the nominating committee would no longer be required.
No requirement to disclose information about a written policy respecting the nomination process.	<p>The Proposed Amendments would require disclosure about whether the board has a written policy respecting the nomination process. If the board does not have a written policy respecting the nomination process, the issuer would have to explain how the board carries out the nomination process.</p> <p>Form B asks whether the written policy respecting the nomination process addresses the nomination of persons from the designated groups (as defined). The concept of “designated group” is discussed below under “Approach to Diversity”. In contrast, Form A does not refer to diversity when discussing the written policy but rather considers all diversity questions in the “Approach to Diversity” section, as described below.</p>
Current requirements are silent on other aspects of the nomination process.	<p>The Proposed Amendments would require the following disclosure:</p> <ul style="list-style-type: none"> • How any conflicts of interest that arise or could arise during the nomination process are managed; • Whether the board has a composition matrix setting out the mix of skills, knowledge, experience, competencies and attributes that the board currently has or is looking to achieve in its membership; and • The skills, knowledge, experience, competencies and attributes of candidates that are considered when evaluating a candidate.

Board Renewal

Current disclosure requirements (Item 10 of Form 58-101F1)	Proposed Amendments in Form A and Form B (Item 6.1 of Form 58-101F1)
Disclose whether or not an issuer has adopted term limits or other mechanisms of board renewal and, if so, describe the term limits and other mechanisms.	The Proposed Amendments would require a broader description of <i>how</i> the board addresses renewal. In addition to the current requirements, they would require a description of how any such mechanisms, other than term limits, contribute to effective board renewal.
If an issuer has not adopted director term limits or other mechanisms of board renewal, it must explain why.	Comparable requirements.

Approach to Diversity

Current disclosure requirements (Items 11 to 15 of Form 58-101F1)	Proposed Amendments in Form A (Items 6.2 and 6.3 of Form 58-101F1)	Proposed Amendments in Form B (Items 6.2, 6.3 and 6.4 of Form 58-101F1)
Concept of diversity		
<p>Current disclosure requirements focus solely on women.</p>	<p>Form A would introduce the concept of “identified group”, meaning a group of individuals with a shared personal characteristic, whose representation on the issuer’s board or in its executive officer positions has been identified by the issuer as being part of the issuer’s strategy respecting diversity, but does not include women.</p> <p>The instructions specify that for greater certainty, an “identified group” under Item 6.2 can include, without limitation, Indigenous peoples, persons with disabilities, members of visible minorities, members of the LGBTQ2SI+ community and members of linguistic minorities.</p> <p>The concept of “identified group” is broad and adaptable allowing issuers to include any group of individuals with a shared personal characteristic. Effectively, Form A would mandate disclosures with respect to women and any identified groups that have been identified by the issuer as being part of its strategy respecting diversity.</p>	<p>Form B would introduce the concept of “designated groups”, meaning persons who self-identify as one or more of the following: Indigenous peoples, LGBTQ2SI+ persons, racialized persons, persons with disabilities or women. Each of these groups (except women) would also be defined.</p> <p>Issuers would have to disclose information with respect to these groups. These are the same designated groups under the CBCA with the addition of LGBTQ2SI+ persons.</p>
Approach to diversity – Board		
<p>Disclose details of any written policy relating to the identification and nomination of women directors, and whether the level of representation of women is considered in the nomination process.</p> <p>If an issuer does not have a policy or does not consider the level of representation of women, it must explain why.</p> <p>(Items 11 and 12 of Form 58-101F1)</p>	<p>Form A would require the issuer to describe its approach to achieving or maintaining diversity on its board, including its objectives as they relate to women and to individuals from identified groups, mechanisms that the issuer has in place to achieve those objectives, how the issuer measures achievement, and the annual and cumulative achievement of the objectives.</p> <p>Any written policy or process the board has adopted as it relates to women and to individuals from identified groups would also have to be disclosed. If the issuer has not adopted such a policy or process, it would have to explain why.</p> <p>Form A refers to an issuer’s “approach” and “objectives” with respect to board diversity, recognizing that not all issuers may have a formal strategy on diversity</p>	<p>Form B would require the issuer to describe its written strategy regarding achieving or maintaining diversity on the board, including any written policy the board has adopted as it relates to the representation on the board by persons from the designated groups (as defined).</p> <p>If an issuer has not adopted such a policy, it would have to explain why.</p> <p>Form B refers to an issuer’s “written strategy”. The intention is to focus on a transparent articulation of the issuer’s approach to diversity and the desired objectives that directors and other stakeholders can look to.</p>

Current disclosure requirements (Items 11 to 15 of Form 58-101F1)	Proposed Amendments in Form A (Items 6.2 and 6.3 of Form 58-101F1)	Proposed Amendments in Form B (Items 6.2, 6.3 and 6.4 of Form 58-101F1)
	but may still consider diversity in their board nominations.	
Approach to diversity – Executive officer positions		
<p>Disclose whether the issuer considers the representation of women in executive officer appointments. If an issuer does not consider the level of representation of women in executive officer positions, it must explain why.</p> <p>(Item 13 of Form 58-101F1)</p>	<p>Form A would require the same information on the diversity approach and objectives with respect to executive officer positions as would be required for the board.</p> <p>The narrative disclosure is intended to provide greater context to the required disclosure on targets and data with respect to executive officer positions (as described below).</p>	<p>Form B would not require disclosure on the consideration of diversity when making executive officer appointments or an issuer’s approach to talent management for executive officers as such granular disclosure may increase regulatory burden without corresponding benefit for investors.</p>
Targets and other measurable objectives		
<p>Disclose whether the issuer has adopted targets for women on the board and in executive officer positions, and the target and annual and cumulative progress in achieving those targets. If an issuer has not adopted such targets, it must explain why.</p> <p>(Item 14 of Form 58-101F1)</p>	<p>Form A would require disclosure about targets for women as well as individuals from identified groups on the board and in executive officer positions. For each target, the actual target number or percentage, or range of numbers or percentages the issuer has set, the timeframe for achieving the target, and the annual and cumulative achievement of the target would have to be disclosed.</p> <p>If an issuer has not set targets for women and for individuals from identified groups, it would have to explain why.</p>	<p>Form B would require substantially similar information as Form A with respect to targets, except that the disclosure would be with respect to designated groups (as defined). Additionally, Form B would require much of this disclosure to be presented in a standardized tabular format.</p> <p>In addition, Form B would require disclosure with respect to any measurable objectives of the issuer’s written strategy, other than targets, that relate to the representation of the designated groups (as defined). This requirement is similar to the one described in the Approach to diversity – Board for Form A.</p>
Data		
<p>Disclose the number and proportion of women on the board and in executive officer positions.</p> <p>(Item 15 of Form 58-101F1)</p>	<p>Form A would extend the current disclosure requirements to also include disclosure of data on the representation of individuals from identified groups, but only if the issuer collects such data. This data could continue to be provided in narrative form.</p>	<p>Form B would require disclosure to be presented in a standardized tabular format about:</p> <ul style="list-style-type: none"> • the number of board members and executive officers who identify as a member of a designated group (as defined), as a member of other diverse groups identified by the board or as a member of more than one designated group (over a three year period); and • the number of women, as well as individuals from designated groups (as defined) that filled vacant board seats during the year.

ANNEX B

APPROACH TO DIVERSITY BY CERTAIN SECURITIES REGULATORS OUTSIDE OF CANADA

The following is a summary of the approach to diversity by certain securities regulators outside of Canada.

- **Financial Conduct Authority of the United Kingdom (FCA)** – On April 20, 2022, the FCA published Policy Statement PS22/3¹ in which it sets out its final policy decision for the proposals in CP 21/24 *Diversity and inclusion on company boards and executive committees*. The disclosures will require companies to disclose whether they have met certain diversity targets or explain why they have not. Companies will also be required to provide numerical reporting on the representation of gender and ethnicity on the board and at senior levels of executive management in a prescribed tabular format.
- **U.S. Securities and Exchange Commission (SEC)** – During the SEC's 2020 remarks to the Council of Institutional Investors, SEC Commissioner Allison Lee specially noted that the SEC needs to do more in terms of a specific mandate for diversity. The SEC's Spring 2022 regulatory agenda also indicates that the Division of Corporation Finance is considering recommending that the SEC propose rule amendments to enhance registrant disclosures about the diversity of board members and nominees.

¹ Financial Conduct Authority (2022) *Diversity and Inclusion on Company Boards and Executive Management*. <https://www.fca.org.uk/publication/policy/ps22-3.pdf>

ANNEX C

PROPOSED AMENDMENTS TO
NATIONAL INSTRUMENT 58-101 *DISCLOSURE OF CORPORATE GOVERNANCE PRACTICES*
AND
FORM 58-101F1 *CORPORATE GOVERNANCE DISCLOSURE (FORM A)*

1. *National Instrument 58-101 Disclosure of Corporate Governance Practices is amended by this Instrument.*

2. *In British Columbia and Prince Edward Island, section 1.1 is amended by adding the following definition¹:*

“major subsidiary” has the same meaning as in National Instrument 55-104 *Insider Reporting Requirements and Exemptions*.

3. *Form 58-101F1 Corporate Governance Disclosure is amended by replacing Item 6 with the following:*

6. Board Nominations —

Describe how the board identifies and evaluates new candidates for nomination to the board, including, for greater certainty:

- (a) whether the board has a nominating committee, and if so, whether the nominating committee is composed entirely of independent directors;
- (b) if the board does not have a nominating committee, or if the nominating committee is not composed entirely of independent directors, what steps the board takes to encourage an objective nomination process;
- (c) any written policy respecting the nomination process;
- (d) if the board does not have a written policy respecting the nomination process, how the board carries out the nomination process;
- (e) how the board manages any conflicts of interest that arise or could arise during the nomination process;
- (f) whether the board has a composition matrix setting out the mix of skills, knowledge, experience, competencies and attributes that the board currently has and is looking to obtain in its membership;
- (g) the skills, knowledge, experience, competencies and attributes of candidates that are considered when evaluating a candidate.

6.1 Board Renewal —

Describe how the board addresses board renewal, including, for greater certainty:

- (a) any term limits for directors that the board has adopted;
- (b) any mechanisms of board renewal, other than term limits for directors, adopted by the board and how the mechanisms contribute to board renewal;
- (c) if the board has not adopted term limits for directors or other mechanisms of board renewal, why it has not done so.

6.2 Approach to Diversity —

In this Form, “identified group” means a group of individuals with a shared personal characteristic, whose representation on the issuer’s board or in its executive officer positions has been identified by the issuer as being part of the issuer’s strategy respecting diversity, but does not include women.

¹ This definition is currently effective only in Alberta, Manitoba, New Brunswick, Newfoundland and Labrador, Northwest Territories, Nova Scotia, Nunavut, Ontario, Québec, Saskatchewan and Yukon.

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Describe the issuer's approach to achieving or maintaining diversity on its board and its executive officer positions, including, for greater certainty:

- (a) the issuer's objectives as they relate to women and to individuals from identified groups on the board and in executive officer positions;
- (b) the mechanisms that the issuer has in place to achieve the objectives referred to in paragraph (a);
- (c) how the issuer measures achievement of the objectives referred to in paragraph (a);
- (d) the annual and cumulative achievement of the objectives referred to in paragraph (a);
- (e) any written policy or process that the board has adopted as it relates to women and to individuals from identified groups;
- (f) if the board has not adopted a policy or process referred to in paragraph (e), why it has not done so;
- (g) whether the issuer has set a target number or percentage, or a range of numbers or percentages, regarding the representation of the following groups by a specific date:
 - (i) women on the issuer's board;
 - (ii) individuals from identified groups on the issuer's board;
 - (iii) women in executive officer positions of the issuer; and
 - (iv) individuals from identified groups in executive officer positions of the issuer;
- (h) if the issuer has set one or more targets for women and for individuals from identified groups, referred to in paragraph (g):
 - (i) the target number or percentage, or range of numbers or percentages, the issuer has set;
 - (ii) the timeframe for achieving the targets; and
 - (iii) the annual and cumulative achievement of the targets;
- (i) if the issuer has not set targets for women and for individuals from identified groups, referred to in paragraph (g), why it has not done so.

6.3 Number of Women and Individuals from Identified Groups on the Issuer's Board and in Executive Officer Positions —

- (a) Disclose the number and proportion (in percentage terms) of directors on the issuer's board who are women.
- (b) Disclose the number and proportion (in percentage terms) of executive officers of the issuer, including all major subsidiaries of the issuer, who are women.
- (c) If the issuer collects data on the number and proportion of directors on the issuer's board who are from identified groups, disclose the number and proportion (in percentage terms).
- (d) If the issuer collects data on the number and proportion of executive officers of the issuer, including all major subsidiaries of the issuer, who are from identified groups, disclose the number and proportion (in percentage terms).

4. *In Alberta, Manitoba, New Brunswick, Newfoundland and Labrador, Northwest Territories, Nova Scotia, Nunavut, Ontario, Québec, Saskatchewan and Yukon, Form 58-101F1 is amended by repealing Items 10, 11, 12, 13, 14 and 15.*

5. *In Alberta, Manitoba, New Brunswick, Newfoundland and Labrador, Northwest Territories, Nova Scotia, Nunavut, Ontario, Québec, Saskatchewan and Yukon, the Instructions of Form 58-101F1 are amended by repealing instructions 4 and 5.*

6. In Alberta, Manitoba, New Brunswick, Newfoundland and Labrador, Northwest Territories, Nova Scotia, Nunavut, Ontario, Québec, Saskatchewan and Yukon, the Instructions of Form 58-101F1 are amended by adding the following instruction:

(6) For greater certainty an “identified group” under Item 6.2 can include, without limitation, Indigenous peoples, persons with disabilities, members of visible minorities, members of the LGBTQ2SI+ community and members of linguistic minorities.

7. In British Columbia and Prince Edward Island, the Instructions of Form 58-101F1 are amended by adding the following instruction:

(X) For greater certainty an “identified group” under Item 6.2 can include, without limitation, Indigenous peoples, persons with disabilities, members of visible minorities, members of the LGBTQ2SI+ community and members of linguistic minorities.

8. (1) This Instrument comes into force on ●.

(2) In Saskatchewan, despite subsection (1), if these regulations are filed with the Registration of Regulations after [insert date], these regulations will come into force on the day on which they are filed with the Registrar of Regulations.

ANNEX D

PROPOSED AMENDMENTS TO
NATIONAL INSTRUMENT 58-101 *DISCLOSURE OF CORPORATE GOVERNANCE PRACTICES*
AND
FORM 58-101F1 *CORPORATE GOVERNANCE DISCLOSURE (FORM B)*

1. ***National Instrument 58-101 Disclosure of Corporate Governance Practices is amended by this Instrument.***

2. ***Section 1.1 is amended by adding the following definitions:***

“designated group” means any of the following: Indigenous peoples, LGBTQ2SI+ persons, racialized persons, persons with disabilities or women;

“Indigenous peoples” means persons who are First Nations, Inuit or Métis of Canada;

“LGBTQ2SI+ persons” includes persons who are any of the following: lesbian, gay, bisexual, transgender, 2-spirit, intersex or queer;

“persons with disabilities” means persons who have a long-term or recurring physical, mental, sensory, psychiatric or learning impairment and who

- (a) consider themselves to be disadvantaged in employment by reason of that impairment, or
- (b) believe that an employer or potential employer is likely to consider them to be disadvantaged in employment by reason of that impairment

and includes persons whose functional limitations owing to their impairment have been accommodated in their current job or workplace;

“racialized persons” means persons, other than Indigenous peoples, who are non-Caucasian in race or non-white in colour;.

3. ***In British Columbia and Prince Edward Island, section 1.1 is amended by adding the following definition¹:***

“major subsidiary” has the same meaning as in National Instrument 55-104 *Insider Reporting Requirements and Exemptions*.

4. ***Form 58-101F1 Corporate Governance Disclosure is amended by replacing Item 6 with the following:***

6. Board Nominations —

Describe how the board identifies and evaluates new candidates for nomination to the board, including, for greater certainty:

- (a) whether the board has a nominating committee, and if so, whether the nominating committee is composed entirely of independent directors;
- (b) if the board does not have a nominating committee, or if the nominating committee is not composed entirely of independent directors, what steps the board takes to encourage an objective nomination process;
- (c) any written policy respecting the nomination process, including, for greater certainty, the nomination of persons from the designated groups;
- (d) if the board does not have a written policy respecting the nomination process, how the board carries out the nomination process;
- (e) how the board manages any conflicts of interest that arise or could arise during the nomination process;
- (f) whether the board has a composition matrix setting out the mix of skills, knowledge, experience, competencies and attributes that the board currently has and is looking to obtain in its membership;

¹ This definition is currently effective only in Alberta, Manitoba, New Brunswick, Newfoundland and Labrador, Northwest Territories, Nova Scotia, Nunavut, Ontario, Québec, Saskatchewan and Yukon.

- (g) the skills, knowledge, experience, competencies and attributes of candidates that are considered when evaluating a candidate.

6.1 Board Renewal—

Describe how the board addresses board renewal, including, for greater certainty:

- (a) any term limits for directors that the board has adopted;
- (b) any mechanisms of board renewal, other than term limits for directors, adopted by the board and how the mechanisms contribute to board renewal;
- (c) if the board has not adopted term limits for directors or other mechanisms of board renewal, why it has not done so.

6.2 Approach to Diversity—

Describe the issuer’s written strategy regarding achieving or maintaining diversity on the board, including:

- (a) any written policy that the board has adopted as it relates to the representation on the board by persons from the designated groups; and
- (b) if the board has not adopted a policy referred to in paragraph (a), why it has not done so.

6.3 Targets and Other Measurable Objectives—

- (a) Disclose whether the issuer has set a target number or percentage, or a range of numbers or percentages, regarding the representation of the following groups to be achieved by a specific date:
 - (i) women on the issuer’s board;
 - (ii) persons from the designated groups other than women on the issuer’s board;
 - (iii) women in executive officer positions of the issuer; and
 - (iv) persons from the designated groups other than women in executive officer positions of the issuer.
- (b) If the issuer has not set a target for each group referred to in paragraph (a), disclose why it has not done so.
- (c) If the issuer has set a target referred to in paragraph (a), complete the following table as at the issuer’s most-recently completed fiscal year end.

	Target	Timeframe for achieving the target	Annual and cumulative progress in achieving the target
Women on the issuer’s board	<i>[Insert number or percentage or a range of numbers or percentages of women on the board]</i>	<i>[Insert the date for achievement of target]</i>	<p><i>[Insert year in which the target was achieved or if it has not been achieved insert “not applicable”.</i></p> <p><i>If the target was previously achieved but the number or percentage of women on the board is below the target, provide this information.]</i></p> <p>Discuss the issuer’s progress in meeting and maintaining the target.</p>

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	Target	Timeframe for achieving the target	Annual and cumulative progress in achieving the target
Persons from designated groups (other than women) on the issuer's board	<i>[Insert number or percentage or a range of numbers or percentages of persons from designated groups (other than women) on the board]</i>	<i>[Insert the date for achievement of target]</i>	<p><i>[Insert year in which the target was achieved or if it has not been achieved insert "not applicable".</i></p> <p><i>If the target was previously achieved but the number or percentage of persons from designated groups (other than women) on the board is below the target, provide this information.]</i></p> <p>Discuss the issuer's progress in meeting and maintaining the target.</p>
Women in executive officer positions of the issuer	<i>[Insert number or percentage or a range of numbers or percentages of women in executive officer positions of the issuer]</i>	<i>[Insert the date for achievement of target]</i>	<p><i>[Insert year in which the target was achieved or if it has not been achieved insert "not applicable".</i></p> <p><i>If the target was previously achieved but the number or percentage of women in executive officer positions is below the target, provide this information.]</i></p> <p>Discuss the issuer's progress in meeting and maintaining the target.</p>
Persons from designated groups (other than women) in executive officer positions of the issuer	<i>[Insert number or percentage or a range of numbers or percentages of persons from designated groups (other than women) in executive officer positions of the issuer]</i>	<i>[Insert the date for achievement of target]</i>	<p><i>[Insert year in which the target was achieved or if it has not been achieved insert "not applicable".</i></p> <p><i>If the target was previously achieved but the number or percentage of persons from designated groups (other than women) in executive officer positions is currently below the target, provide this information.]</i></p> <p>Discuss the issuer's progress in meeting and maintaining the target.</p>

(d) Describe any measurable objectives of the issuer's written strategy, other than targets, that relate to the representation of persons from the designated groups, including:

- (i) the mechanisms that the issuer has implemented to achieve the objectives;
- (ii) how the issuer measures progress in achieving the objectives; and

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(iii) the annual and cumulative progress achieved in respect of the objectives.

6.4 Number of Persons from Designated Groups on the Issuer’s Board and in Executive Officer Positions—

(a) Complete the following table as at the issuer’s most-recent fiscal year end date and as at the fiscal year end for each of the two preceding years.

	<i>[insert year]</i>	<i>[insert year]</i>	<i>[insert year]</i>
Number of directors on the issuer’s board who self-identify as:			
Women			
Indigenous peoples			
LGBTQ2SI+ persons			
Persons with disabilities			
Racialized persons			
Number of individuals that are members of more than one designated group			
Total number of the directors on the issuer’s board			

(b) Complete the following table in respect of the issuer’s most recent completed fiscal year.

	<i>[insert year]</i>
Number of board seats filled during the year by directors who self-identify as:	
Women	
Persons from designated groups, other than women	
Total number of board seats filled in the year	

(c) Complete this table as at the issuer’s most recent fiscal year end date and as at the fiscal year end for each of the two preceding years.

	<i>[insert year]</i>	<i>[insert year]</i>	<i>[insert year]</i>
Number of the issuer’s executive officers who self-identify as:			
Women			
Indigenous			
LGBTQ2SI+			
Persons with disabilities			
Racialized persons			

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Number of individuals that are members of more than one designated group			
Total number of executive officers			

5. ***In Alberta, Manitoba, New Brunswick, Newfoundland and Labrador, Northwest Territories, Nova Scotia, Nunavut, Ontario, Québec, Saskatchewan and Yukon, Form 58-101F1 is amended by repealing Items 10, 11, 12, 13, 14 and 15.***
6. ***In Alberta, Manitoba, New Brunswick, Newfoundland and Labrador, Northwest Territories, Nova Scotia, Nunavut, Ontario, Québec, Saskatchewan and Yukon, the Instructions of Form 58-101F1 are amended by repealing instructions 4 and 5.***
7. ***In Alberta, Manitoba, New Brunswick, Newfoundland and Labrador, Northwest Territories, Nova Scotia, Nunavut, Ontario, Québec, Saskatchewan and Yukon, the Instructions of Form 58-101F1 are amended by adding the following instruction:***
- (6) *The information reported in item 6.4 must be based on voluntary disclosure (i.e. self-identification) by board members and executive officers. This information is reported in the aggregate and, as such, does not require disclosure about how any one individual self-identifies. Issuers are responsible for compliance with all applicable privacy laws.*
8. ***In British Columbia and Prince Edward Island, the Instructions of Form 58-101F1 are amended by adding the following instruction:***
- (X) *The information reported in item 6.4 must be based on voluntary disclosure (i.e. self-identification) by board members and executive officers. This information is reported in the aggregate and, as such, does not require disclosure about how any one individual self-identifies. Issuers are responsible for compliance with all applicable privacy laws.*
9. (1) This Instrument comes into force on ●.
- (2) In Saskatchewan, despite subsection (1), if these regulations are filed with the Registration of Regulations after [insert date], these regulations will come into force on the day on which they are filed with the Registrar of Regulations.

ANNEX E

PROPOSED AMENDMENTS TO
NATIONAL INSTRUMENT 58-101 *DISCLOSURE OF CORPORATE GOVERNANCE PRACTICES*
(APPLICABLE TO FORM B)

1. *National Instrument 58-101 Disclosure of Corporate Governance Practices is amended by this Instrument.*

2. *Section 1.1 is amended by adding the following definitions:*

“designated group” means any of the following: Indigenous peoples, LGBTQ2SI+ persons, racialized persons, persons with disabilities or women;

“Indigenous peoples” means persons who are First Nations, Inuit or Métis of Canada;

“LGBTQ2SI+ persons” includes persons who are any of the following: lesbian, gay, bisexual, transgender, 2-spirit, intersex or queer;

“persons with disabilities” means persons who have a long-term or recurring physical, mental, sensory, psychiatric or learning impairment and who

(a) consider themselves to be disadvantaged in employment by reason of that impairment, or

(b) believe that an employer or potential employer is likely to consider them to be disadvantaged in employment by reason of that impairment,

and includes persons whose functional limitations owing to their impairment have been accommodated in their current job or workplace;

“racialized persons” means persons, other than Indigenous peoples, who are non-Caucasian in race or non-white in colour;.

Effective Date

3. This Instrument comes into force on [●].

ANNEX F

PROPOSED CHANGES TO
NATIONAL POLICY 58-201 *CORPORATE GOVERNANCE GUIDELINES*
(COMPATIBLE WITH FORM A)

1. ***National Policy 58-201 Corporate Governance Guidelines is changed by this Document.***
2. ***Section 1.1 is changed by***
 - (a) ***replacing*** “The guidelines in this Policy are not intended to be prescriptive. We encourage issuers to consider the guidelines in developing their own corporate governance practices” ***with the following***

“The guidelines in this Policy are not intended to be prescriptive. We recognize that there is a wide range of issuers in the Canadian market that may be at different stages in their development generally. For example, many venture issuers may not have developed sophisticated corporate governance practices, while many smaller non-venture issuers may be in the earlier stages of developing corporate governance policies. Specifically, we acknowledge issuers may find it challenging to incorporate certain of the guidelines below that address diversity. We therefore encourage issuers to consider the guidelines in developing their own corporate governance practice and to apply these guidelines based on their individual circumstances as they evolve.”,
and
 - (b) ***deleting*** “We do, however, understand that some parties have concerns about how this Policy and National Instrument 58-101 *Disclosure of Corporate Governance Practices* affect controlled companies. Accordingly, we intend, over the next year, to carefully consider these concerns in the context of a study to examine the governance of controlled companies. We will consult market participants in conducting the study. After completing the study, we will consider whether to change how this Policy and National Instrument 58-101 treat controlled companies.” .
3. ***Section 2.1 is changed by replacing “he or she” with “the director”.***
4. ***This Document is changed by adding the following sections:***
 - 3.11.1 The nominating committee should be responsible for reviewing and making recommendations to the board in relation to:
 - (a) the appropriate size of the board, with a view to effective decision-making;
 - (b) board succession planning;
 - (c) orientation and continuing education for directors;
 - (d) the development and implementation of a process for assessing the effectiveness of the board, its committees and directors; and
 - (e) the process for director recruitment.
 - 3.11.2 A board should have a composition matrix setting out the mix of skills, knowledge, experience, competencies, attributes and independence that the board currently has or is looking to achieve in its membership. In order for the board to effectively fulfill its mandate and address existing and emerging business and governance issues relevant to the issuer, the board should regularly review the composition matrix and use this review process to recruit new directors or provide continuing education opportunities to existing directors.
 - 3.11.3 The board should adopt a written policy respecting the director nomination process that sets out the process used in relation to director appointments and the board’s approach to succession planning.
 - 3.11.4 Recommendations for appointments to the board should be based on objective criteria. In making its recommendations, the nominating committee should consider the skills, knowledge, experience, competencies, attributes and level of independence that:
 - (a) are necessary for the board, as a whole, to function effectively; and
 - (b) are held by each existing director and each new nominee.

The nominating committee should also consider whether or not each new nominee can devote sufficient time and resources to their duties as a board member.

Board Renewal

- 3.11.5 The board should maintain an effective succession plan for directors, which:
- (a) provides a transparent process and timeline for replacing board members so as to ensure that necessary skills, knowledge, experience, competencies and attributes are maintained;
 - (b) maintains a mix of longer-serving directors with a deep understanding of the issuer and its business and newer directors with fresh ideas and perspectives; and
 - (c) maintains the board's independence from management.
- 3.11.6 The board should adopt mechanisms of board renewal that are appropriate to its circumstances. These mechanisms may include:
- (a) establishing director term limits;
 - (b) assessing the effectiveness of an individual director when proposing the director as a candidate for re-election to the board; and
 - (c) using a composition matrix to identify gaps in the board's collective skills, knowledge, experience, competencies, attributes and independence.
- 3.11.7 If an issuer establishes term limits, factors that may be considered include:
- (a) the board's current size and composition, and the board's composition matrix;
 - (b) the board's independence from management and the issuer's ownership structure;
 - (c) characteristics of the issuer, including its industry, size and stage of development; and
 - (d) the existence of other mechanisms, such as regular assessments, to ensure the effectiveness of board members.

Diversity and Targets

- 3.11.8 A board should consider adopting a written diversity policy or process to ensure that recruitment of directors is appropriately structured to promote a broad range of perspectives and experiences on the board.
- 3.11.9 A board should set objectives for achieving diversity in the composition of its board and officer positions. Mechanisms to achieve these objectives may include setting targets, establishing a diversity council, implementing training and leadership programs, and expanding strategic outreach directed at developing a diverse pipeline of candidates for director and executive officer positions.
- 3.11.10 For purposes of this Policy, a "target" has the same meaning as in Form 58-101F1 under National Instrument 58-101 *Disclosure of Corporate Governance Practices*. If a board sets targets for the representation of any of the groups referenced in paragraph 6.2 (g) of Form 58-101F1, the board should review and assess the appropriateness of the targets on an annual basis. When considering an appropriate target, a board should consider various factors, including:
- (a) the board's current size and composition, and the board's composition matrix; and
 - (b) characteristics of the issuer, including its industry, size and stage of development, investors, stakeholders and location of its operations.

5. **Sections 3.12, 3.13 and 3.14 are deleted.**

6. **Section 3.18 is changed by**

- (a) **replacing** "his, her" **with** "their",
- (b) **in paragraph (a) adding** "composition and how effectively directors work together to achieve the objectives of the issuer;" **after** "in the case of the board or a board committee, its mandate or charter," **and**
- (c) **in paragraph (b) by replacing** "composition and skills" **with** "skills, knowledge, experience, competencies and attributes".

7. These changes become effective on [●].

ANNEX G

PROPOSED CHANGES TO
NATIONAL POLICY 58-201 *CORPORATE GOVERNANCE GUIDELINES*
(COMPATIBLE WITH FORM B)

1. ***National Policy 58-201 Corporate Governance Guidelines is changed by this Document.***
2. ***Section 1.1 is changed:***
 - (a) ***by deleting*** “We do, however, understand that some parties have concerns about how this Policy and National Instrument 58-101 *Disclosure of Corporate Governance Practices* affect controlled companies. Accordingly, we intend, over the next year, to carefully consider these concerns in the context of a study to examine the governance of controlled companies. We will consult market participants in conducting the study. After completing the study, we will consider whether to change how this Policy and National Instrument 58-101 treat controlled companies.”, ***and***
 - (b) ***by adding*** “and to apply and adapt these guidelines based on their individual circumstances as they evolve.” ***immediately after*** “We encourage issuers to consider the guidelines in developing their own corporate governance practices”.
3. ***Section 2.1 is changed by replacing*** “he or she” ***with*** “the director”.
4. ***This Document is changed by adding the following sections:***
 - 3.11.1 The nominating committee should be responsible for reviewing and making recommendations to the board in relation to:
 - (a) the appropriate size of the board, with a view to effective decision-making;
 - (b) board succession planning;
 - (c) orientation and continuing education for directors;
 - (d) the development and implementation of a process for assessing the effectiveness of the board, its committees and directors; and
 - (e) the process for director recruitment.
 - 3.11.2 A board should have a composition matrix setting out the mix of skills, knowledge, experience, competencies, attributes and independence that the board currently has or is looking to achieve in its membership. In order for the board to effectively fulfill its mandate and address existing and emerging business and governance issues relevant to the issuer, the board should regularly review the composition matrix and use this review process to recruit new directors or provide continuing education opportunities to existing directors.
 - 3.11.3 The board should adopt a written policy respecting the director nomination process that sets out the process used in relation to director appointments and the board’s approach to succession planning.
 - 3.11.4 Recommendations for appointments to the board should be based on objective criteria. In making its recommendations, the nominating committee should consider the skills, knowledge, experience, competencies, attributes and level of independence that:
 - (a) are necessary for the board, as a whole, to function effectively; and
 - (b) are held by each existing director and each new nominee.

The nominating committee should also consider whether or not each new nominee can devote sufficient time and resources to their duties as a board member.

Board Renewal

- 3.11.5 The board should maintain an effective succession plan for directors, which:
 - (a) provides a transparent process and timeline for replacing board members so as to ensure that necessary skills, knowledge, experience, competencies and attributes are maintained;

- (b) maintains a mix of longer-serving directors with a deep understanding of the issuer and its business and newer directors with fresh ideas and perspective; and
 - (c) maintains the board's independence from management.
- 3.11.6 The board should adopt mechanisms of board renewal that are appropriate to its circumstances. These mechanisms may include:
- (a) establishing director term limits;
 - (b) assessing the effectiveness of an individual director when proposing the director as a candidate for re-election to the board; and
 - (c) using a composition matrix to identify gaps in the board's collective skills, knowledge, experience, competencies, attributes and independence.
- 3.11.7 If an issuer establishes term limits, factors that may be considered include:
- (a) the board's current size and composition and its composition matrix;
 - (b) the board's independence from management and the issuer's ownership structure;
 - (c) characteristics of the issuer, including its industry, size and stage of development; and
 - (d) the existence of other mechanisms, such as regular assessments, to ensure the effectiveness of board members.

Diversity and Targets

- 3.11.8 A board should adopt a written diversity policy to promote a broad range of perspectives and experiences on the board. The policy should:
- (a) reflect a commitment to ensuring that recruitment of directors is appropriately structured so that a diverse range of candidates are considered;
 - (b) include the following as considerations for the board when identifying new candidates:
 - (i) qualifications, including skills, knowledge, experience, competencies and attributes the board identifies as necessary for the board to effectively fulfill its mandate and address existing and emerging business and governance issues relevant to the issuer;
 - (ii) characteristics that will foster a board culture that welcomes multiple perspectives and is free of conscious or unconscious bias and discrimination, and that contribute to board diversity;
 - (iii) legal and regulatory requirements, such as those relating to residency and independence;
 - (c) set out objectives regarding diversity on the board that are specific, measurable and time bound;
 - (d) discuss the ability of the board or nominating committee to engage independent advisors to assist in identifying candidates and require advisors to present a diverse slate of candidates for consideration;
 - (e) set out the responsibility of the board or nominating committee to consider any changes to the policy, the board composition and recruitment process that are necessary to achieve the objectives outlined in the policy; and
 - (f) consider the board and nominating committee's effectiveness at implementing the policy during regular assessments.
- 3.11.9 For purposes of this Policy, a "target" has the same meaning as in Form 58-101F1 under National Instrument 58-101 *Disclosure of Corporate Governance Practices*. A board should set measurable and time-bound objectives, such as targets, for achieving diversity in the composition of its board and executive officer positions. If a board sets targets for the representation of any of the groups referenced in Item 6.4 of Form 58-101F1, the board should review and assess the appropriateness of the targets on an annual basis. When considering an appropriate target, a board should consider various factors, including
- (a) the board's current size and composition and its composition matrix;

- (b) characteristics of the issuer, including its industry, size and stage of development, location of its operations and stakeholders;
- (c) the issuer's investors and their expectations regarding diversity on the board and executive officers; and
- (d) whether the issuer has a truth and reconciliation action plan regarding its relationship with Indigenous peoples or its business operations intersect with an Indigenous right, title, or jurisdiction.

Other mechanisms for achieving diversity in the composition of its board and executive officer positions may include establishing a diversity council, implementing training and leadership programs, and expanding strategic outreach directed at developing a diverse pipeline of candidates for director and executive officer positions.

5. Sections 3.12, 3.13 and 3.14 are deleted.

6. Section 3.18 is changed by

- (a) **replacing** "his, her" **with** "their",
- (b) **in paragraph (a) adding** "composition and how effectively directors work together to achieve the objectives of the issuer;" **after** "in the case of the board or a board committee, its mandate or charter," **and**
- (c) **in paragraph (b) replacing** "competencies and skills" **with** "skills, knowledge, experience, competencies and attributes".

7. These changes become effective on [●].

ANNEX H

ANNOTATED FORM 58-101F1 (FORM A)

Legend of proposed changes to Form 58-101F1 (Form A)

Underline text → disclosure item changed or added

~~Strikethrough text~~ → disclosure item removed

Plain text → no change to disclosure item

1. Board of Directors —

- (a) Disclose the identity of directors who are independent.
- (b) Disclose the identity of directors who are not independent, and describe the basis for that determination.
- (c) Disclose whether or not a majority of directors are independent. If a majority of directors are not independent, describe what the board of directors (the **board**) does to facilitate its exercise of independent judgement in carrying out its responsibilities.
- (d) If a director is presently a director of any other issuer that is a reporting issuer (or the equivalent) in a jurisdiction or a foreign jurisdiction, identify both the director and the other issuer.
- (e) Disclose whether or not the independent directors hold regularly scheduled meetings at which non-independent directors and members of management are not in attendance. If the independent directors hold such meetings, disclose the number of meetings held since the beginning of the issuer's most recently completed financial year. If the independent directors do not hold such meetings, describe what the board does to facilitate open and candid discussion among its independent directors.
- (f) Disclose whether or not the chair of the board is an independent director. If the board has a chair or lead director who is an independent director, disclose the identity of the independent chair or lead director, and describe his or her role and responsibilities. If the board has neither a chair that is independent nor a lead director that is independent, describe what the board does to provide leadership for its independent directors.
- (g) Disclose the attendance record of each director for all board meetings held since the beginning of the issuer's most recently completed financial year.

2. Board Mandate —

Disclose the text of the board's written mandate. If the board does not have a written mandate, describe how the board delineates its role and responsibilities.

3. Position Descriptions —

- (a) Disclose whether or not the board has developed written position descriptions for the chair and the chair of each board committee. If the board has not developed written position descriptions for the chair and/or the chair of each board committee, briefly describe how the board delineates the role and responsibilities of each such position.
- (b) Disclose whether or not the board and CEO have developed a written position description for the CEO. If the board and CEO have not developed such a position description, briefly describe how the board delineates the role and responsibilities of the CEO.

4. Orientation and Continuing Education —

- (a) Briefly describe what measures the board takes to orient new directors regarding
 - (i) the role of the board, its committees and its directors, and
 - (ii) the nature and operation of the issuer's business.
- (b) Briefly describe what measures, if any, the board takes to provide continuing education for its directors. If the board does not provide continuing education, describe how the board ensures that its directors maintain the skill and knowledge necessary to meet their obligations as directors.

5. Ethical Business Conduct —

- (a) Disclose whether or not the board has adopted a written code for the directors, officers and employees. If the board has adopted a written code:
 - (i) disclose how a person or company may obtain a copy of the code;
 - (ii) describe how the board monitors compliance with its code, or if the board does not monitor compliance, explain whether and how the board satisfies itself regarding compliance with its code; and
 - (iii) provide a cross-reference to any material change report filed since the beginning of the issuer's most recently completed financial year that pertains to any conduct of a director or executive officer that constitutes a departure from the code.
- (b) Describe any steps the board takes to ensure directors exercise independent judgement in considering transactions and agreements in respect of which a director or executive officer has a material interest.
- (c) Describe any other steps the board takes to encourage and promote a culture of ethical business conduct.

6. ~~Nomination of Directors~~ Board Nominations —

- ~~(a) Describe the process by which~~ how the board identifies and evaluates new candidates for board nomination: to the board, including, for greater certainty:
- ~~(a) Disclose whether or not the board has a nominating committee, and if so, whether the nominating committee is composed entirely of independent directors;~~
- ~~(b) if the board does not have a nominating committee, or if the nominating committee is not composed entirely of independent directors, describe what steps the board takes to encourage an objective nomination process;~~
- ~~(c) If the board has a nominating committee, describe the responsibilities, powers and operation of the nominating committee.~~
- ~~(c) any written policy respecting the nomination process;~~
- ~~(d) if the board does not have a written policy respecting the nomination process, how the board carries out the nomination process;~~
- ~~(e) how the board manages any conflicts of interest that arise or could arise during the nomination process;~~
- ~~(f) whether the board has a composition matrix setting out the mix of skills, knowledge, experience, competencies and attributes that the board currently has and is looking to obtain in its membership;~~
- ~~(g) the skills, knowledge, experience, competencies and attributes of candidates that are considered when evaluating a candidate.~~

6.1 Board Renewal —

Describe how the board addresses board renewal, including, for greater certainty:

- ~~(a) any term limits for directors that the board has adopted;~~
- ~~(b) any mechanisms of board renewal, other than term limits for directors, adopted by the board and how the mechanisms contribute to board renewal;~~
- ~~(c) if the board has not adopted term limits for directors or other mechanisms of board renewal, why it has not done so.~~

6.2 Approach to Diversity —

In this Form, "identified group" means a group of individuals with a shared personal characteristic, whose representation on the issuer's board or in its executive officer positions has been identified by the issuer as being part of the issuer's strategy respecting diversity, but does not include women.

Describe the issuer's approach to achieving or maintaining diversity on its board and its executive officer positions, including, for greater certainty:

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- (a) the issuer's objectives as they relate to women and to individuals from identified groups on the board and in executive officer positions;
- (b) the mechanisms that the issuer has in place to achieve the objectives referred to in paragraph (a);
- (c) how the issuer measures achievement of the objectives referred to in paragraph (a);
- (d) the annual and cumulative achievement of the objectives referred to in paragraph (a);
- (e) any written policy or process that the board has adopted as it relates to women and to individuals from identified groups;
- (f) if the board has not adopted a policy or process referred to in paragraph (e), why it has not done so;
- (g) whether the issuer has set a target number or percentage, or a range of numbers or percentages, regarding the representation of the following groups by a specific date:
 - (i) women on the issuer's board;
 - (ii) individuals from identified groups on the issuer's board;
 - (iii) women in executive officer positions of the issuer; and
 - (iv) individuals from identified groups in executive officer positions of the issuer;
- (h) if the issuer has set one or more targets for women and for individuals from identified groups, referred to in paragraph (g):
 - (i) the target number or percentage, or range of numbers or percentages, the issuer has set;
 - (ii) the timeframe for achieving the targets; and
 - (iii) the annual and cumulative achievement of the targets;
- (i) if the issuer has not set targets for women and for individuals from identified groups, referred to in paragraph (g), why it has not done so.

6.3 **Number of Women and Individuals from Identified Groups on the Issuer's Board and in Executive Officer Positions —**

- (a) Disclose the number and proportion (in percentage terms) of directors on the issuer's board who are women.
- (b) Disclose the number and proportion (in percentage terms) of executive officers of the issuer, including all major subsidiaries of the issuer, who are women.
- (c) If the issuer collects data on the number and proportion of directors on the issuer's board who are from identified groups, disclose the number and proportion (in percentage terms).
- (d) If the issuer collects data on the number and proportion of executive officers of the issuer, including all major subsidiaries of the issuer, who are from identified groups, disclose the number and proportion (in percentage terms).

7. **Compensation —**

- (a) Describe the process by which the board determines the compensation for the issuer's directors and officers.
- (b) Disclose whether or not the board has a compensation committee composed entirely of independent directors. If the board does not have a compensation committee composed entirely of independent directors, describe what steps the board takes to ensure an objective process for determining such compensation.
- (c) If the board has a compensation committee, describe the responsibilities, powers and operation of the compensation committee.
- (d) [Repealed]

8. **Other Board Committees —**

If the board has standing committees other than the audit, compensation and nominating committees, identify the committees and describe their function.

9. **Assessments —**

Disclose whether or not the board, its committees and individual directors are regularly assessed with respect to their effectiveness and contribution. If assessments are regularly conducted, describe the process used for the assessments. If assessments are not regularly conducted, describe how the board satisfies itself that the board, its committees, and its individual directors are performing effectively.

10. **[Repealed]**

~~**Director Term Limits and Other Mechanisms of Board Renewal (Alberta, Manitoba, New Brunswick, Newfoundland and Labrador, Northwest Territories, Nova Scotia, Nunavut, Ontario, Québec, Saskatchewan and Yukon only)**~~

~~Disclose whether or not the issuer has adopted term limits for the directors on its board or other mechanisms of board renewal and, if so, include a description of those director term limits or other mechanisms of board renewal. If the issuer has not adopted director term limits or other mechanisms of board renewal, disclose why it has not done so.~~

11. **[Repealed]**

~~**Policies Regarding the Representation of Women on the Board (Alberta, Manitoba, New Brunswick, Newfoundland and Labrador, Northwest Territories, Nova Scotia, Nunavut, Ontario, Québec, Saskatchewan and Yukon only)**~~

~~(a) — Disclosure whether the issuer has adopted a written policy relating to the identification and nomination of women directors. If the issuer has not adopted such a policy, disclose why it has not done so.~~

~~(b) — If an issuer has adopted a policy referred to in (a), disclose the following in respect of the policy:~~

~~(i) — a short summary of its objectives and key provisions,~~

~~(ii) — the measures taken to ensure that the policy has been effectively implemented,~~

~~(iii) — annual and cumulative progress by the issuer in achieving the objectives of the policy, and~~

~~(iv) — whether and, if so, how the board or its nominating committee measures the effectiveness of the policy.~~

12. **[Repealed]**

~~**Consideration of the Representation of Women in the Director Identification and Selection Process (Alberta, Manitoba, New Brunswick, Newfoundland and Labrador, Northwest Territories, Nova Scotia, Nunavut, Ontario, Québec, Saskatchewan and Yukon only)**~~

~~Disclose whether and, if so, how the board or nominating committee considers the level of representation of women on the board in identifying and nominating candidates for election or re-election to the board. If the issuer does not consider the level of representation of women on the board in identifying and nominating candidates for election or re-election to the board, disclose the issuer's reasons for not doing so.~~

13. **[Repealed]**

~~**Consideration Given to the Representation of Women in Executive Officer Appointments (Alberta, Manitoba, New Brunswick, Newfoundland and Labrador, Northwest Territories, Nova Scotia, Nunavut, Ontario, Québec, Saskatchewan and Yukon only)**~~

~~Disclose whether and, if so, how the issuer considers the level of representation of women in executive officer positions when making executive officer appointments. If the issuer does not consider the level of representation of women in executive officer positions when making executive officer appointments, disclose the issuer's reasons for not doing so.~~

14. **[Repealed]**

~~Issuer's Targets Regarding the Representation of Women on the Board and in Executive Officer Positions (Alberta, Manitoba, New Brunswick, Newfoundland and Labrador, Northwest Territories, Nova Scotia, Nunavut, Ontario, Québec, Saskatchewan and Yukon only)~~

- ~~(a) For purposes of this Item, a "target" means a number or percentage, or a range of numbers or percentages, adopted by the issuer of women on the issuer's board or in executive officer positions of the issuer by a specific date.~~
- ~~(b) Disclose whether the issuer has adopted a target regarding women on the issuer's board. If the issuer has not adopted a target, disclose why it has not done so.~~
- ~~(c) Disclose whether the issuer has adopted a target regarding women in executive officer positions of the issuer. If the issuer has not adopted a target, disclose why it has not done so.~~
- ~~(d) If the issuer has adopted a target referred to in either (b) or (c), disclose:
 - ~~(i) the target, and~~
 - ~~(ii) the annual and cumulative progress of the issuer in achieving the target.~~~~

15. **[Repealed]**

~~Number of Women on the Board and in Executive Officer Positions (Alberta, Manitoba, New Brunswick, Newfoundland and Labrador, Northwest Territories, Nova Scotia, Nunavut, Ontario, Québec, Saskatchewan and Yukon only)~~

- ~~(a) Disclose the number and proportion (in percentage terms) of directors on the issuer's board who are women.~~
- ~~(b) Disclose the number and proportion (in percentage terms) of executive officers of the issuer, including all major subsidiaries of the issuer, who are women.~~

INSTRUCTION:

- (1) *This Form applies to both corporate and non-corporate entities. Reference to a particular corporate characteristic, such as a board, includes any equivalent characteristic of a non-corporate entity.*

Income trust issuers must provide disclosure in a manner which recognizes that certain functions of a corporate issuer, its board and its management may be performed by any or all of the trustees, the board or management of a subsidiary of the trust, or the board, management or employees of a management company. In the case of an income trust, references to "the issuer" refer to both the trust and any underlying entities, including the operating entity.
- (2) *If the disclosure required by Item 1 is included in a management information circular distributed to security holders of the issuer for the purpose of electing directors to the issuer's board of directors, provide disclosure regarding the existing directors and any proposed directors.*
- (3) *Disclosure regarding board committees made under Item 8 of this Form may include the existence and summary content of any committee charter.*
- (3.1) *Issuers may incorporate disclosure regarding compensation made under Item 7 of this Form by reference to the information required to be included in Form 51-102F6 Statement of Executive Compensation. Clearly identify the information that is incorporated by reference into this Form.*
- (4) **[Repealed]**

An issuer may disclose any additional information that is relevant in order to understand the context of the information disclosed by the issuer under Item 15(a) or (b) of this Form.
- (5) **[Repealed]**

An issuer may incorporate information required to be disclosed under Items 10 to 15 by reference to another document. The issuer must clearly identify the reference document or any excerpt of it that the issuer incorporates into the disclosure provided under Items 10 to 15. Unless the issuer has already filed the reference document or excerpt under its SEDAR profile, the issuer must file it at the same time as it files the document containing the disclosure required under this Form.

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- (6) For greater certainty, an “identified group” under Item 6.2 can include, without limitation, Indigenous peoples, persons with disabilities, members of visible minorities, members of the LGBTQ2SI+ community and members of linguistic minorities.

ANNEX I

ANNOTATED FORM 58-101F1 (FORM B)

Legend of proposed changes to Form 58-101F1 (Form B)

Underline text → disclosure item changed or added

~~Strikethrough text~~ → disclosure item removed

Plain text → no change to disclosure item

1. Board of Directors —

- (a) Disclose the identity of directors who are independent.
- (b) Disclose the identity of directors who are not independent and describe the basis for that determination.
- (c) Disclose whether or not a majority of directors are independent. If a majority of directors are not independent, describe what the board of directors (the **board**) does to facilitate its exercise of independent judgement in carrying out its responsibilities.
- (d) If a director is presently a director of any other issuer that is a reporting issuer (or the equivalent) in a jurisdiction or a foreign jurisdiction, identify both the director and the other issuer.
- (e) Disclose whether or not the independent directors hold regularly scheduled meetings at which non-independent directors and members of management are not in attendance. If the independent directors hold such meetings, disclose the number of meetings held since the beginning of the issuer's most recently completed financial year. If the independent directors do not hold such meetings, describe what the board does to facilitate open and candid discussion among its independent directors.
- (f) Disclose whether or not the chair of the board is an independent director. If the board has a chair or lead director who is an independent director, disclose the identity of the independent chair or lead director, and describe his or her role and responsibilities. If the board has neither a chair that is independent nor a lead director that is independent, describe what the board does to provide leadership for its independent directors.
- (g) Disclose the attendance record of each director for all board meetings held since the beginning of the issuer's most recently completed financial year.

2. Board Mandate —

Disclose the text of the board's written mandate. If the board does not have a written mandate, describe how the board delineates its role and responsibilities.

3. Position Descriptions —

- (a) Disclose whether or not the board has developed written position descriptions for the chair and the chair of each board committee. If the board has not developed written position descriptions for the chair and/or the chair of each board committee, briefly describe how the board delineates the role and responsibilities of each such position.
- (b) Disclose whether or not the board and CEO have developed a written position description for the CEO. If the board and CEO have not developed such a position description, briefly describe how the board delineates the role and responsibilities of the CEO.

4. Orientation and Continuing Education —

- (a) Briefly describe what measures the board takes to orient new directors regarding
 - (i) the role of the board, its committees and its directors, and
 - (ii) the nature and operation of the issuer's business.
- (b) Briefly describe what measures, if any, the board takes to provide continuing education for its directors. If the board does not provide continuing education, describe how the board ensures that its directors maintain the skill and knowledge necessary to meet their obligations as directors.

5. Ethical Business Conduct —

- (a) Disclose whether or not the board has adopted a written code for the directors, officers and employees. If the board has adopted a written code:
 - (i) disclose how a person or company may obtain a copy of the code;
 - (ii) describe how the board monitors compliance with its code, or if the board does not monitor compliance, explain whether and how the board satisfies itself regarding compliance with its code; and
 - (iii) provide a cross-reference to any material change report filed since the beginning of the issuer's most recently completed financial year that pertains to any conduct of a director or executive officer that constitutes a departure from the code.
- (b) Describe any steps the board takes to ensure directors exercise independent judgement in considering transactions and agreements in respect of which a director or executive officer has a material interest.
- (c) Describe any other steps the board takes to encourage and promote a culture of ethical business conduct.

6. ~~Nomination of Directors~~ Board Nominations —

- ~~(a) Describe the process by which~~ how the board identifies and evaluates new candidates for board nomination: to the board, including, for greater certainty:
- ~~(a) Disclose whether or not the board has a nominating committee, and if so, whether the nominating committee is composed entirely of independent directors;~~
- ~~(b) if the board does not have a nominating committee, or if the nominating committee is not composed entirely of independent directors, describe what steps the board takes to encourage an objective nomination process;~~
- ~~(c) If the board has a nominating committee, describe the responsibilities, powers and operation of the nominating committee.~~
- ~~(c) any written policy respecting the nomination process, including, for greater certainty, the nomination of persons from the designated groups;~~
- ~~(d) if the board does not have a written policy respecting the nomination process, how the board carries out the nomination process;~~
- ~~(e) how the board manages any conflicts of interest that arise or could arise during the nomination process;~~
- ~~(f) whether the board has a composition matrix setting out the mix of skills, knowledge, experience, competencies and attributes that the board currently has and is looking to obtain in its membership;~~
- ~~(g) the skills, knowledge, experience, competencies and attributes of candidates that are considered when evaluating a candidate.~~

6.1 Board Renewal —

Describe how the board addresses board renewal, including, for greater certainty:

- ~~(a) any term limits for directors that the board has adopted;~~
- ~~(b) any mechanisms of board renewal, other than term limits for directors, adopted by the board and how the mechanisms contribute to board renewal;~~
- ~~(c) if the board has not adopted term limits for directors or other mechanisms of board renewal, why it has not done so.~~

6.2 Approach to Diversity —

Describe the issuer's written strategy regarding achieving or maintaining diversity on the board, including:

- ~~(a) any written policy that the board has adopted as it relates to the representation on the board by persons from the designated groups; and~~

(b) if the board has not adopted a policy referred to in paragraph (a), why it has not done so.

6.3 Targets and Other Measurable Objectives —

(a) Disclose whether the issuer has set a target number or percentage, or a range of numbers or percentages, regarding the representation of the following groups to be achieved by a specific date:

(i) _____ women on the issuer’s board;

(ii) _____ persons from the designated groups other than women on the issuer’s board;

(iii) _____ women in executive officer positions of the issuer; and

(iv) _____ persons from the designated groups other than women in executive officer positions of the issuer.

(b) If the issuer has not set a target for each group referred to in paragraph (a), disclose why it has not done so.

(c) If the issuer has set a target referred to in paragraph (a), complete the following table as at the issuer’s most-recently completed fiscal year end.

	<u>Target</u>	<u>Timeframe for achieving the target</u>	<u>Annual and cumulative progress in achieving the target</u>
<u>Women on the issuer’s board</u>	<i><u>[Insert number or percentage or a range of numbers or percentages of women on the board]</u></i>	<i><u>[Insert the date for achievement of target]</u></i>	<p><i><u>[Insert year in which the target was achieved or if it has not been achieved insert “not applicable”.</u></i></p> <p><i><u>If the target was previously achieved but the number or percentage of women on the board is below the target, provide this information.]</u></i></p> <p><u>Discuss the issuer’s progress in meeting and maintaining the target.</u></p>
<u>Persons from designated groups (other than women) on the issuer’s board</u>	<i><u>[Insert number or percentage or a range of numbers or percentages of persons from designated groups (other than women) on the board]</u></i>	<i><u>[Insert the date for achievement of target]</u></i>	<p><i><u>[Insert year in which the target was achieved or if it has not been achieved insert “not applicable”.</u></i></p> <p><i><u>If the target was previously achieved but the number or percentage of persons from designated groups (other than women) on the board is below the target, provide this information.]</u></i></p> <p><u>Discuss the issuer’s progress in meeting</u></p>

			and maintaining the target.
<u>Women in executive officer positions of the issuer</u>	<i><u>[Insert number or percentage or a range of numbers or percentages of women in executive officer positions of the issuer]</u></i>	<i><u>[Insert the date for achievement of target]</u></i>	<p><i><u>[Insert year in which the target was achieved or if it has not been achieved insert "not applicable".</u></i></p> <p><i><u>If the target was previously achieved but the number or percentage of women in executive officer positions is below the target, provide this information.]</u></i></p> <p><u>Discuss the issuer's progress in meeting and maintaining the target.</u></p>
<u>Persons from designated groups (other than women) in executive officer positions of the issuer</u>	<i><u>[Insert number or percentage or a range of numbers or percentages of persons from designated groups (other than women) in executive officer positions of the issuer]</u></i>	<i><u>[Insert the date for achievement of target]</u></i>	<p><i><u>[Insert year in which the target was achieved or if it has not been achieved insert "not applicable".</u></i></p> <p><i><u>If the target was previously achieved but the number or percentage of persons from designated groups (other than women) in executive officer positions is currently below the target, provide this information.]</u></i></p> <p><u>Discuss the issuer's progress in meeting and maintaining the target.</u></p>

- (d) Describe any measurable objectives of the issuer's written strategy, other than targets, that relate to the representation of persons from the designated groups, including:
- (i) the mechanisms that the issuer has implemented to achieve the objectives;
 - (ii) how the issuer measures progress in achieving the objectives; and
 - (iii) the annual and cumulative progress achieved in respect of the objectives.

6.4 Number of Persons from Designated Groups on the Issuer's Board and in Executive Officer Positions —

- (a) Complete the following table as at the issuer's most-recent fiscal year end date and as at the fiscal year end for each of the two preceding years.

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	<u><i>[insert year]</i></u>	<u><i>[insert year]</i></u>	<u><i>[insert year]</i></u>
<u>Number of directors on the issuer’s board who self-identify as:</u>			
<u>Women</u>			
<u>Indigenous peoples</u>			
<u>LGBTQ2SI+ persons</u>			
<u>Persons with disabilities</u>			
<u>Racialized persons</u>			
<u>Number of individuals that are members of more than one designated group</u>			
<u>Total number of the directors on the issuer’s board</u>			

(b) Complete the following table in respect of the issuer’s most recent completed fiscal year.

	<u><i>[insert year]</i></u>
<u>Number of board seats filled during the year by directors who self-identify as:</u>	
<u>Women</u>	
<u>Persons from designated groups, other than women</u>	
<u>Total number of board seats filled in the year</u>	

(c) Complete this table as at the issuer’s most recent fiscal year end date and as at the fiscal year end for each of the two preceding years.

	<u><i>[insert year]</i></u>	<u><i>[insert year]</i></u>	<u><i>[insert year]</i></u>
<u>Number of the issuer’s executive officers who self-identify as:</u>			
<u>Women</u>			
<u>Indigenous</u>			
<u>LGBTQ2SI+</u>			
<u>Persons with disabilities</u>			
<u>Racialized persons</u>			
<u>Number of individuals that are members of more than one designated group</u>			
<u>Total number of executive officers</u>			

7. Compensation —

(a) Describe the process by which the board determines the compensation for the issuer’s directors and officers.

- (b) Disclose whether or not the board has a compensation committee composed entirely of independent directors. If the board does not have a compensation committee composed entirely of independent directors, describe what steps the board takes to ensure an objective process for determining such compensation.
- (c) If the board has a compensation committee, describe the responsibilities, powers and operation of the compensation committee.
- (d) [Repealed]

8. Other Board Committees —

If the board has standing committees other than the audit, compensation and nominating committees, identify the committees and describe their function.

9. Assessments —

Disclose whether or not the board, its committees and individual directors are regularly assessed with respect to their effectiveness and contribution. If assessments are regularly conducted, describe the process used for the assessments. If assessments are not regularly conducted, describe how the board satisfies itself that the board, its committees, and its individual directors are performing effectively.

10. [Repealed]

~~**Director Term Limits and Other Mechanisms of Board Renewal (Alberta, Manitoba, New Brunswick, Newfoundland and Labrador, Northwest Territories, Nova Scotia, Nunavut, Ontario, Québec, Saskatchewan and Yukon only)**~~

~~Disclose whether or not the issuer has adopted term limits for the directors on its board or other mechanisms of board renewal and, if so, include a description of those director term limits or other mechanisms of board renewal. If the issuer has not adopted director term limits or other mechanisms of board renewal, disclose why it has not done so.~~

11. [Repealed]

~~**Policies Regarding the Representation of Women on the Board (Alberta, Manitoba, New Brunswick, Newfoundland and Labrador, Northwest Territories, Nova Scotia, Nunavut, Ontario, Québec, Saskatchewan and Yukon only)**~~

- ~~(a) — Disclose whether the issuer has adopted a written policy relating to the identification and nomination of women directors. If the issuer has not adopted such a policy, disclose why it has not done so.~~
- ~~(b) — If an issuer has adopted a policy referred to in (a), disclose the following in respect of the policy:~~
 - ~~(i) — a short summary of its objectives and key provisions,~~
 - ~~(ii) — the measures taken to ensure that the policy has been effectively implemented,~~
 - ~~(iii) — annual and cumulative progress by the issuer in achieving the objectives of the policy, and~~
 - ~~(iv) — whether and, if so, how the board or its nominating committee measures the effectiveness of the policy.~~

12. [Repealed]

~~**Consideration of the Representation of Women in the Director Identification and Selection Process (Alberta, Manitoba, New Brunswick, Newfoundland and Labrador, Northwest Territories, Nova Scotia, Nunavut, Ontario, Québec, Saskatchewan and Yukon only)**~~

~~Disclose whether and, if so, how the board or nominating committee considers the level of representation of women on the board in identifying and nominating candidates for election or re-election to the board. If the issuer does not consider the level of representation of women on the board in identifying and nominating candidates for election or re-election to the board, disclose the issuer's reasons for not doing so.~~

13. [Repealed]

~~**Consideration Given to the Representation of Women in Executive Officer Appointments (Alberta, Manitoba, New Brunswick, Newfoundland and Labrador, Northwest Territories, Nova Scotia, Nunavut, Ontario, Québec, Saskatchewan and Yukon only)**~~

Disclose whether and, if so, how the issuer considers the level of representation of women in executive officer positions when making executive officer appointments. If the issuer does not consider the level of representation of women in executive officer positions when making executive officer appointments, disclose the issuer's reasons for not doing so.

14. **[Repealed]**

~~**Issuer's Targets Regarding the Representation of Women on the Board and in Executive Officer Positions (Alberta, Manitoba, New Brunswick, Newfoundland and Labrador, Northwest Territories, Nova Scotia, Nunavut, Ontario, Québec, Saskatchewan and Yukon only)**~~

- (a) — For purposes of this Item, a "target" means a number or percentage, or a range of numbers or percentages, adopted by the issuer of women on the issuer's board or in executive officer positions of the issuer by a specific date.
- (b) — Disclose whether the issuer has adopted a target regarding women on the issuer's board. If the issuer has not adopted a target, disclose why it has not done so.
- (c) — Disclose whether the issuer has adopted a target regarding women in executive officer positions of the issuer. If the issuer has not adopted a target, disclose why it has not done so.
- (d) — If the issuer has adopted a target referred to in either (b) or (c), disclose:
 - (i) — the target, and
 - (ii) — the annual and cumulative progress of the issuer in achieving the target.

15. **[Repealed]**

~~**Number of Women on the Board and in Executive Officer Positions (Alberta, Manitoba, New Brunswick, Newfoundland and Labrador, Northwest Territories, Nova Scotia, Nunavut, Ontario, Québec, Saskatchewan and Yukon only)**~~

- (a) — Disclose the number and proportion (in percentage terms) of directors on the issuer's board who are women.
- (b) — Disclose the number and proportion (in percentage terms) of executive officers of the issuer, including all major subsidiaries of the issuer, who are women.

INSTRUCTION:

- (1) *This Form applies to both corporate and non-corporate entities. Reference to a particular corporate characteristic, such as a board, includes any equivalent characteristic of a non-corporate entity.*

Income trust issuers must provide disclosure in a manner which recognizes that certain functions of a corporate issuer, its board and its management may be performed by any or all of the trustees, the board or management of a subsidiary of the trust, or the board, management or employees of a management company. In the case of an income trust, references to "the issuer" refer to both the trust and any underlying entities, including the operating entity.
- (2) *If the disclosure required by Item 1 is included in a management information circular distributed to security holders of the issuer for the purpose of electing directors to the issuer's board of directors, provide disclosure regarding the existing directors and any proposed directors.*
- (3) *Disclosure regarding board committees made under Item 8 of this Form may include the existence and summary content of any committee charter.*
- (3.1) *Issuers may incorporate disclosure regarding compensation made under Item 7 of this Form by reference to the information required to be included in Form 51-102F6 Statement of Executive Compensation. Clearly identify the information that is incorporated by reference into this Form.*
- (4) **[Repealed]**

~~*An issuer may disclose any additional information that is relevant in order to understand the context of the information disclosed by the issuer under Item 15(a) or (b) of this Form.*~~

(5) **[Repealed]**

~~An issuer may incorporate information required to be disclosed under Items 10 to 15 by reference to another document. The issuer must clearly identify the reference document or any excerpt of it that the issuer incorporates into the disclosure provided under Items 10 to 15. Unless the issuer has already filed the reference document or excerpt under its SEDAR profile, the issuer must file it at the same time as it files the document containing the disclosure required under this Form.~~

(6) ~~The information reported in item 6.4 must be based on voluntary disclosure (i.e., self-identification) by board members and executive officers. This information is reported in the aggregate and, as such, does not require disclosure about how any one individual self-identifies. Issuers are responsible for compliance with all applicable privacy laws.~~

ANNEX J

ANNOTATED NATIONAL POLICY 58-201
(COMPATIBLE WITH FORM A)

Legend of proposed changes to policy

Underline text → disclosure item changed or added

~~Strikethrough text~~ → disclosure item removed

Plain text → no change to disclosure item

Part 1 Purpose and Application

1.1 **Purpose of this Policy** — This Policy provides guidance on corporate governance practices which have been formulated to:

- achieve a balance between providing protection to investors and fostering fair and efficient capital markets and confidence in capital markets;
- be sensitive to the realities of the greater numbers of small companies and controlled companies in the Canadian corporate landscape;
- take into account the impact of corporate governance developments in the U.S. and around the world; and
- recognize that corporate governance is evolving.

The guidelines in this Policy are not intended to be prescriptive. We encourage issuers to consider the guidelines in developing their own corporate governance practices and to apply and adapt these guidelines based on their individual circumstances as they evolve.

~~We do, however, understand that some parties have concerns about how this Policy and National Instrument 58-101 *Disclosure of Corporate Governance Practices* affect controlled companies. Accordingly, we intend, over the next year, to carefully consider these concerns in the context of a study to examine the governance of controlled companies. We will consult market participants in conducting the study. After completing the study, we will consider whether to change how this Policy and National Instrument 58-101 treat controlled companies.~~

1.2 **Application** — This Policy applies to all reporting issuers, other than investment funds. Consequently, it applies to both corporate and non-corporate entities. Reference to a particular corporate characteristic, such as a board of directors (the board), includes any equivalent characteristic of a non-corporate entity. For example, in the case of a limited partnership, we recommend that a majority of the directors of the general partner should be independent of the limited partnership (including the general partner).

Income trust issuers should, in applying these guidelines, recognize that certain functions of a corporate issuer, its board and its management may be performed by any or all of the trustees, the board or management of a subsidiary of the trust, or the board, management or employees of a management company. For this purpose, references to “the issuer” refer to both the trust and any underlying entities, including the operating entity.

Part 2 Meaning of Independence

2.1 **Meaning of Independence** — For the purposes of this Policy, a director is independent if ~~he or she~~ the director would be independent for the purposes of National Instrument 58-101 *Disclosure of Corporate Governance Practices*.

Part 3 Corporate Governance Guidelines

Composition of the Board

3.1 The board should have a majority of independent directors.

3.2 The chair of the board should be an independent director. Where this is not appropriate, an independent director should be appointed to act as “lead director”. However, either an independent chair or an independent lead director should act as the effective leader of the board and ensure that the board's agenda will enable it to successfully carry out its duties.

Meetings of Independent Directors

- 3.3 The independent directors should hold regularly scheduled meetings at which non-independent directors and members of management are not in attendance.

Board Mandate

- 3.4 The board should adopt a written mandate in which it explicitly acknowledges responsibility for the stewardship of the issuer, including responsibility for:
- (a) to the extent feasible, satisfying itself as to the integrity of the chief executive officer (the CEO) and other executive officers and that the CEO and other executive officers create a culture of integrity throughout the organization;
 - (b) adopting a strategic planning process and approving, on at least an annual basis, a strategic plan which takes into account, among other things, the opportunities and risks of the business;
 - (c) the identification of the principal risks of the issuer's business, and ensuring the implementation of appropriate systems to manage these risks;
 - (d) succession planning (including appointing, training and monitoring senior management);
 - (e) adopting a communication policy for the issuer;
 - (f) the issuer's internal control and management information systems; and
 - (g) developing the issuer's approach to corporate governance, including developing a set of corporate governance principles and guidelines that are specifically applicable to the issuer.¹

The written mandate of the board should also set out:

- (i) measures for receiving feedback from stakeholders (e.g., the board may wish to establish a process to permit stakeholders to directly contact the independent directors), and
- (ii) expectations and responsibilities of directors, including basic duties and responsibilities with respect to attendance at board meetings and advance review of meeting materials.

In developing an effective communication policy for the issuer, issuers should refer to the guidance set out in National Policy 51-201 *Disclosure Standards*.

For purposes of this Policy, "executive officer" has the same meaning as in National Instrument 51-102 *Continuous Disclosure Obligations*.

Position Descriptions

- 3.5 The board should develop clear position descriptions for the chair of the board and the chair of each board committee. In addition, the board, together with the CEO, should develop a clear position description for the CEO, which includes delineating management's responsibilities. The board should also develop or approve the corporate goals and objectives that the CEO is responsible for meeting.

Orientation and Continuing Education

- 3.6 The board should ensure that all new directors receive a comprehensive orientation. All new directors should fully understand the role of the board and its committees, as well as the contribution individual directors are expected to make (including, in particular, the commitment of time and resources that the issuer expects from its directors). All new directors should also understand the nature and operation of the issuer's business.
- 3.7 The board should provide continuing education opportunities for all directors, so that individuals may maintain or enhance their skills and abilities as directors, as well as to ensure their knowledge and understanding of the issuer's business remains current.

¹ Issuers may consider appointing a corporate governance committee to consider these issues. A corporate governance committee should have a majority of independent directors, with the remaining members being "non-management" directors.

Code of Business Conduct and Ethics

3.8 The board should adopt a written code of business conduct and ethics (a code). The code should be applicable to directors, officers and employees of the issuer. The code should constitute written standards that are reasonably designed to promote integrity and to deter wrongdoing. In particular, it should address the following issues:

- (a) conflicts of interest, including transactions and agreements in respect of which a director or executive officer has a material interest;
- (b) protection and proper use of corporate assets and opportunities;
- (c) confidentiality of corporate information;
- (d) fair dealing with the issuer's security holders, customers, suppliers, competitors and employees;
- (e) compliance with laws, rules and regulations; and
- (f) reporting of any illegal or unethical behaviour.

3.9 The board should be responsible for monitoring compliance with the code. Any waivers from the code that are granted for the benefit of the issuer's directors or executive officers should be granted by the board (or a board committee) only.

Although issuers must exercise their own judgement in making materiality determinations, the Canadian securities regulatory authorities consider that conduct by a director or executive officer which constitutes a material departure from the code will likely constitute a "material change" within the meaning of National Instrument 51-102 *Continuous Disclosure Obligations*. National Instrument 51-102 requires every material change report to include a full description of the material change. Where a material departure from the code constitutes a material change to the issuer, we expect that the material change report will disclose, among other things:

- the date of the departure(s),
- the party(ies) involved in the departure(s),
- the reason why the board has or has not sanctioned the departure(s), and
- any measures the board has taken to address or remedy the departure(s).

Nomination of Directors Board Nominations

3.10 The board should appoint a nominating committee composed entirely of independent directors.

3.11 The nominating committee should have a written charter that clearly establishes the committee's purpose, responsibilities, member qualifications, member appointment and removal, structure and operations (including any authority to delegate to individual members and subcommittees), and manner of reporting to the board. In addition, the nominating committee should be given authority to engage and compensate any outside advisor that it determines to be necessary to permit it to carry out its duties. If an issuer is legally required by contract or otherwise to provide third parties with the right to nominate directors, the selection and nomination of those directors need not involve the approval of an independent nominating committee.

3.11.1 The nominating committee should be responsible for reviewing and making recommendations to the board in relation to:

- (a) the appropriate size of the board, with a view to effective decision-making;
- (b) board succession planning;
- (c) orientation and continuing education for directors;
- (d) the development and implementation of a process for assessing the effectiveness of the board, its committees and directors; and
- (e) the process for director recruitment.

3.11.2 A board should have a composition matrix setting out the mix of skills, knowledge, experience, competencies, attributes and independence that the board currently has or is looking to achieve in its membership. In order for the board to effectively fulfill its mandate and address existing and emerging business and governance issues relevant to the issuer, the board should regularly review the composition matrix and use this review process to recruit new directors or provide continuing education opportunities to existing directors.

B.6: Request for Comments

3.11.3 The board should adopt a written policy respecting the director nomination process that sets out the process used in relation to director appointments and the board's approach to succession planning.

3.11.4 Recommendations for appointments to the board should be based on objective criteria. In making its recommendations, the nominating committee should consider the skills, knowledge, experience, competencies, attributes and level of independence that:

- (a) are necessary for the board, as a whole, to function effectively; and
- (b) are held by each existing director and each new nominee.

The nominating committee should also consider whether or not each new nominee can devote sufficient time and resources to their duties as a board member.

Board Renewal

3.11.5 The board should maintain an effective succession plan for directors, which:

- (a) provides a transparent process and timeline for replacing board members so as to ensure that necessary skills, knowledge, experience, competencies and attributes are maintained;
- (b) maintains a mix of longer-serving directors with a deep understanding of the issuer and its business and newer directors with fresh ideas and perspective; and
- (c) maintains the board's independence from management.

3.11.6 The board should adopt mechanisms of board renewal that are appropriate to its circumstances. These mechanisms may include:

- (a) establishing director term limits;
- (b) assessing the effectiveness of an individual director when proposing the director as a candidate for re-election to the board; and
- (c) using a composition matrix to identify gaps in the board's collective skills, knowledge, experience, competencies, attributes and independence.

3.11.7 If an issuer establishes term limits, factors that may be considered include:

- (a) the board's current size and composition, and the board's composition matrix;
- (b) the board's independence from management and the issuer's ownership structure;
- (c) characteristics of the issuer, including its industry, size and stage of development; and
- (d) the existence of other mechanisms, such as regular assessments, to ensure the effectiveness of board members.

Diversity and Targets

3.11.8 A board should consider adopting a written diversity policy or process to ensure that recruitment of directors is appropriately structured to promote a broad range of perspectives and experiences on the board.

3.11.9 A board should set objectives for achieving diversity in the composition of its board and executive officer positions. Mechanisms to achieve these objectives may include setting targets, establishing a diversity council, implementing training and leadership programs, and expanding strategic outreach directed at developing a diverse pipeline of candidates for director and executive officer positions.

3.11.10 For purposes of this Policy, a "target" has the same meaning as in Form 58-101F1 under National Instrument 58-101 *Disclosure of Corporate Governance Practices*. If a board sets targets for the representation of any of the groups referenced in paragraph 6.2(g) of Form 58-101F1, the board should review and assess the appropriateness of the targets on an annual basis. When considering an appropriate target, a board should consider various factors, including:

- (a) the board's current size and composition, and the boards' composition matrix; and
- (b) characteristics of the issuer, including its industry, size and stage of development, investors, stakeholders, and location of its operations.

B.6: Request for Comments

3.12 ~~[Deleted] Prior to nominating or appointing individuals as directors, the board should adopt a process involving the following steps:~~

~~(A) Consider what competencies and skills the board, as a whole, should possess. In doing so, the board should recognize that the particular competencies and skills required for one issuer may not be the same as those required for another.~~

~~(B) Assess what competencies and skills each existing director possesses. It is unlikely that any one director will have all the competencies and skills required by the board. Instead, the board should be considered as a group, with each individual making his or her own contribution. Attention should also be paid to the personality and other qualities of each director, as these may ultimately determine the boardroom dynamic.~~

~~The board should also consider the appropriate size of the board, with a view to facilitating effective decision-making.~~

~~In carrying out each of these functions, the board should consider the advice and input of the nominating committee.~~

3.13 ~~[Deleted] The nominating committee should be responsible for identifying individuals qualified to become new board members and recommending to the board the new director nominees for the next annual meeting of shareholders.~~

3.14 ~~[Deleted] In making its recommendations, the nominating committee should consider:~~

~~(a) the competencies and skills that the board considers to be necessary for the board, as a whole, to possess;~~

~~(b) the competencies and skills that the board considers each existing director to possess; and~~

~~(c) the competencies and skills each new nominee will bring to the boardroom.~~

~~The nominating committee should also consider whether or not each new nominee can devote sufficient time and resources to his or her duties as a board member.~~

Compensation

3.15 The board should appoint a compensation committee composed entirely of independent directors.

3.16 The compensation committee should have a written charter that establishes the committee's purpose, responsibilities, member qualifications, member appointment and removal, structure and operations (including any authority to delegate to individual members or subcommittees), and the manner of reporting to the board. In addition, the compensation committee should be given authority to engage and compensate any outside advisor that it determines to be necessary to permit it to carry out its duties.

3.17 The compensation committee should be responsible for:

(a) reviewing and approving corporate goals and objectives relevant to CEO compensation, evaluating the CEO's performance in light of those corporate goals and objectives, and determining (or making recommendations to the board with respect to) the CEO's compensation level based on this evaluation;

(b) making recommendations to the board with respect to non-CEO officer and director compensation, incentive-compensation plans and equity-based plans; and

(c) reviewing executive compensation disclosure before the issuer publicly discloses this information.

Regular Board Assessments

3.18 The board, its committees and each individual director should be regularly assessed regarding ~~his, her~~ their or its effectiveness and contribution. An assessment should consider

(a) in the case of the board or a board committee, its mandate or charter, composition and how effectively directors work together to achieve the objectives of the issuer; and

(b) in the case of an individual director, the applicable position description(s), as well as the ~~competencies and skills~~ skills, knowledge, experience, competencies and attributes each individual director is expected to bring to the board.

ANNEX K

ANNOTATED NATIONAL POLICY 58-201
(COMPATIBLE WITH FORM B)

Legend of proposed changes to policy

Underline text → disclosure item changed or added

Strikethrough text → disclosure item removed

Plain text → no change to disclosure item

Part 1 Purpose and Application

1.1 Purpose of this Policy — This Policy provides guidance on corporate governance practices which have been formulated to:

- achieve a balance between providing protection to investors and fostering fair and efficient capital markets and confidence in capital markets;
- be sensitive to the realities of the greater numbers of small companies and controlled companies in the Canadian corporate landscape;
- take into account the impact of corporate governance developments in the U.S. and around the world; and
- recognize that corporate governance is evolving.

The guidelines in this Policy are not intended to be prescriptive. We encourage issuers to consider the guidelines in developing their own corporate governance practices and to apply and adapt these guidelines based on their individual circumstances as they evolve.

~~We do, however, understand that some parties have concerns about how this Policy and National Instrument 58-101 Disclosure of Corporate Governance Practices affect controlled companies. Accordingly, we intend, over the next year, to carefully consider these concerns in the context of a study to examine the governance of controlled companies. We will consult market participants in conducting the study. After completing the study, we will consider whether to change how this Policy and National Instrument 58-101 treat controlled companies.~~

1.2 Application — This Policy applies to all reporting issuers, other than investment funds. Consequently, it applies to both corporate and non-corporate entities. Reference to a particular corporate characteristic, such as a board of directors (the board), includes any equivalent characteristic of a non-corporate entity. For example, in the case of a limited partnership, we recommend that a majority of the directors of the general partner should be independent of the limited partnership (including the general partner).

Income trust issuers should, in applying these guidelines, recognize that certain functions of a corporate issuer, its board and its management may be performed by any or all of the trustees, the board or management of a subsidiary of the trust, or the board, management or employees of a management company. For this purpose, references to “the issuer” refer to both the trust and any underlying entities, including the operating entity.

Part 2 Meaning of Independence

2.1 Meaning of Independence — For the purposes of this Policy, a director is independent if ~~he or she~~ the director would be independent for the purposes of National Instrument 58-101 *Disclosure of Corporate Governance Practices*.

Part 3 Corporate Governance Guidelines

Composition of the Board

3.1 The board should have a majority of independent directors.

3.2 The chair of the board should be an independent director. Where this is not appropriate, an independent director should be appointed to act as “lead director”. However, either an independent chair or an independent lead director should act as the effective leader of the board and ensure that the board's agenda will enable it to successfully carry out its duties.

Meetings of Independent Directors

- 3.3** The independent directors should hold regularly scheduled meetings at which non-independent directors and members of management are not in attendance.

Board Mandate

- 3.4** The board should adopt a written mandate in which it explicitly acknowledges responsibility for the stewardship of the issuer, including responsibility for:
- (a) to the extent feasible, satisfying itself as to the integrity of the chief executive officer (the CEO) and other executive officers and that the CEO and other executive officers create a culture of integrity throughout the organization;
 - (b) adopting a strategic planning process and approving, on at least an annual basis, a strategic plan which takes into account, among other things, the opportunities and risks of the business;
 - (c) the identification of the principal risks of the issuer's business, and ensuring the implementation of appropriate systems to manage these risks;
 - (d) succession planning (including appointing, training and monitoring senior management);
 - (e) adopting a communication policy for the issuer;
 - (f) the issuer's internal control and management information systems; and
 - (g) developing the issuer's approach to corporate governance, including developing a set of corporate governance principles and guidelines that are specifically applicable to the issuer.¹

The written mandate of the board should also set out:

- (i) measures for receiving feedback from stakeholders (e.g., the board may wish to establish a process to permit stakeholders to directly contact the independent directors), and
- (ii) expectations and responsibilities of directors, including basic duties and responsibilities with respect to attendance at board meetings and advance review of meeting materials.

In developing an effective communication policy for the issuer, issuers should refer to the guidance set out in National Policy 51-201 *Disclosure Standards*.

For purposes of this Policy, "executive officer" has the same meaning as in National Instrument 51-102 *Continuous Disclosure Obligations*.

Position Descriptions

- 3.5** The board should develop clear position descriptions for the chair of the board and the chair of each board committee. In addition, the board, together with the CEO, should develop a clear position description for the CEO, which includes delineating management's responsibilities. The board should also develop or approve the corporate goals and objectives that the CEO is responsible for meeting.

Orientation and Continuing Education

- 3.6** The board should ensure that all new directors receive a comprehensive orientation. All new directors should fully understand the role of the board and its committees, as well as the contribution individual directors are expected to make (including, in particular, the commitment of time and resources that the issuer expects from its directors). All new directors should also understand the nature and operation of the issuer's business.
- 3.7** The board should provide continuing education opportunities for all directors, so that individuals may maintain or enhance their skills and abilities as directors, as well as to ensure their knowledge and understanding of the issuer's business remains current.

¹ Issuers may consider appointing a corporate governance committee to consider these issues. A corporate governance committee should have a majority of independent directors, with the remaining members being "non-management" directors.

Code of Business Conduct and Ethics

3.8 The board should adopt a written code of business conduct and ethics (a code). The code should be applicable to directors, officers and employees of the issuer. The code should constitute written standards that are reasonably designed to promote integrity and to deter wrongdoing. In particular, it should address the following issues:

- (a) conflicts of interest, including transactions and agreements in respect of which a director or executive officer has a material interest;
- (b) protection and proper use of corporate assets and opportunities;
- (c) confidentiality of corporate information;
- (d) fair dealing with the issuer's security holders, customers, suppliers, competitors and employees;
- (e) compliance with laws, rules and regulations; and
- (f) reporting of any illegal or unethical behaviour.

3.9 The board should be responsible for monitoring compliance with the code. Any waivers from the code that are granted for the benefit of the issuer's directors or executive officers should be granted by the board (or a board committee) only.

Although issuers must exercise their own judgement in making materiality determinations, the Canadian securities regulatory authorities consider that conduct by a director or executive officer which constitutes a material departure from the code will likely constitute a "material change" within the meaning of National Instrument 51-102 *Continuous Disclosure Obligations*. National Instrument 51-102 requires every material change report to include a full description of the material change. Where a material departure from the code constitutes a material change to the issuer, we expect that the material change report will disclose, among other things:

- the date of the departure(s),
- the party(ies) involved in the departure(s),
- the reason why the board has or has not sanctioned the departure(s), and
- any measures the board has taken to address or remedy the departure(s).

Board Nominations

3.10 The board should appoint a nominating committee composed entirely of independent directors.

3.11 The nominating committee should have a written charter that clearly establishes the committee's purpose, responsibilities, member qualifications, member appointment and removal, structure and operations (including any authority to delegate to individual members and subcommittees), and manner of reporting to the board. In addition, the nominating committee should be given authority to engage and compensate any outside advisor that it determines to be necessary to permit it to carry out its duties. If an issuer is legally required by contract or otherwise to provide third parties with the right to nominate directors, the selection and nomination of those directors need not involve the approval of an independent nominating committee.

3.11.1 The nominating committee should be responsible for reviewing and making recommendations to the board in relation to:

- (a) the appropriate size of the board, with a view to effective decision-making;
- (b) board succession planning;
- (c) orientation and continuing education for directors;
- (d) the development and implementation of a process for assessing the effectiveness of the board, its committees and directors; and
- (e) the process for director recruitment.

3.11.2 A board should have a composition matrix setting out the mix of skills, knowledge, experience, competencies, attributes and independence that the board currently has or is looking to achieve in its membership. In order for the board to effectively fulfill its mandate and address existing and emerging business and governance issues relevant to the issuer,

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the board should regularly review the composition matrix and use this review process to recruit new directors or provide continuing education opportunities to existing directors.

3.11.3 The board should adopt a written policy respecting the director nomination process that sets out the process used in relation to director appointments and the board's approach to succession planning.

3.11.4 Recommendations for appointments to the board should be based on objective criteria. In making its recommendations, the nominating committee should consider the skills, knowledge, experience, competencies, attributes and level of independence that:

(a) are necessary for the board, as a whole, to function effectively; and

(b) are held by each existing director and each new nominee.

The nominating committee should also consider whether or not each new nominee can devote sufficient time and resources to their duties as a board member.

Board Renewal

3.11.5 The board should maintain an effective succession plan for directors, which:

(a) provides a transparent process and timeline for replacing board members so as to ensure that necessary skills, knowledge, experience, competencies and attributes are maintained;

(b) maintains a mix of longer-serving directors with a deep understanding of the issuer and its business and newer directors with fresh ideas and perspective; and

(c) maintains the board's independence from management.

3.11.6 The board should adopt mechanisms of board renewal that are appropriate to its circumstances. These mechanisms may include:

(a) establishing director term limits;

(b) assessing the effectiveness of an individual director when proposing the director as a candidate for re-election to the board; and

(c) using a composition matrix to identify gaps in the board's collective skills, knowledge, experience, competencies, attributes and independence.

3.11.7 If an issuer establishes term limits, factors that may be considered include:

(a) the board's current size and composition and its composition matrix;

(b) the board's independence from management and the issuer's ownership structure;

(c) characteristics of the issuer, including its industry, size and stage of development; and

(d) the existence of other mechanisms, such as regular assessments, to ensure the effectiveness of board members.

Diversity and Targets

3.11.8 A board should adopt a written diversity policy to promote a broad range of perspectives and experiences on the board. The policy should:

(a) reflect a commitment to ensuring that recruitment of directors is appropriately structured so that a diverse range of candidates are considered;

(b) include the following as considerations for the board when identifying new candidates:

(i) qualifications, including skills, knowledge, experience, competencies and attributes the board identifies as necessary for the board to effectively fulfill its mandate and address existing and emerging business and governance issues relevant to the issuer;

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- (ii) characteristics that will foster a board culture that welcomes multiple perspectives and is free of conscious or unconscious bias and discrimination, and that contribute to board diversity;
- (iii) legal and regulatory requirements, such as those relating to residency and independence;
- (c) set out objectives regarding diversity on the board that are specific, measurable and time-bound;
- (d) discuss the ability of the board or nominating committee to engage independent advisors to assist in identifying candidates and require advisors to present a diverse slate of candidates for consideration;
- (e) set out the responsibility of the board or nominating committee to consider any changes to the policy, the board composition and recruitment process that are necessary to achieve the objectives outlined in the policy; and
- (f) consider the board and nominating committee's effectiveness at implementing the policy during regular assessments.

3.11.9 For purposes of this Policy, a "target" has the same meaning as in Form 58-101F1 under National Instrument 58-101 Disclosure of Corporate Governance Practices. A board should set measurable and time-bound objectives, such as targets, for achieving diversity in the composition of its board and executive officer positions. If a board sets targets for the representation of any of the groups referenced in Item 6.4 of Form 58-101F1, the board should review and assess the appropriateness of the targets on an annual basis. When considering an appropriate target, a board should consider various factors, including

- (a) the board's current size and composition and its composition matrix;
- (b) characteristics of the issuer, including its industry, size and stage of development, location of its operations and stakeholders;
- (c) the issuer's investors and their expectations regarding diversity on the board and executive officers; and
- (d) whether the issuer has a truth and reconciliation action plan regarding its relationship with Indigenous peoples or its business operations intersect with an Indigenous right, title, or jurisdiction.

Other mechanisms for achieving diversity in the composition of its board and executive officer positions may include establishing a diversity council, implementing training and leadership programs, and expanding strategic outreach directed at developing a diverse pipeline of candidates for director and executive officer positions.

3.12 ~~[Deleted] Prior to nominating or appointing individuals as directors, the board should adopt a process involving the following steps:~~

- ~~(A) Consider what competencies and skills the board, as a whole, should possess. In doing so, the board should recognize that the particular competencies and skills required for one issuer may not be the same as those required for another.~~
- ~~(B) Assess what competencies and skills each existing director possesses. It is unlikely that any one director will have all the competencies and skills required by the board. Instead, the board should be considered as a group, with each individual making his or her own contribution. Attention should also be paid to the personality and other qualities of each director, as these may ultimately determine the boardroom dynamic.~~

~~The board should also consider the appropriate size of the board, with a view to facilitating effective decision-making.~~

~~In carrying out each of these functions, the board should consider the advice and input of the nominating committee.~~

3.13 ~~[Deleted] The nominating committee should be responsible for identifying individuals qualified to become new board members and recommending to the board the new director nominees for the next annual meeting of shareholders.~~

3.14 ~~[Deleted] In making its recommendations, the nominating committee should consider:~~

- ~~(a) the competencies and skills that the board considers to be necessary for the board, as a whole, to possess;~~
- ~~(b) the competencies and skills that the board considers each existing director to possess; and~~
- ~~(c) the competencies and skills each new nominee will bring to the boardroom.~~

~~The nominating committee should also consider whether or not each new nominee can devote sufficient time and resources to his or her duties as a board member.~~

Compensation

- 3.15** The board should appoint a compensation committee composed entirely of independent directors.
- 3.16** The compensation committee should have a written charter that establishes the committee's purpose, responsibilities, member qualifications, member appointment and removal, structure and operations (including any authority to delegate to individual members or subcommittees), and the manner of reporting to the board. In addition, the compensation committee should be given authority to engage and compensate any outside advisor that it determines to be necessary to permit it to carry out its duties.
- 3.17** The compensation committee should be responsible for:
- (a) reviewing and approving corporate goals and objectives relevant to CEO compensation, evaluating the CEO's performance in light of those corporate goals and objectives, and determining (or making recommendations to the board with respect to) the CEO's compensation level based on this evaluation;
 - (b) making recommendations to the board with respect to non-CEO officer and director compensation, incentive-compensation plans and equity-based plans; and
 - (c) reviewing executive compensation disclosure before the issuer publicly discloses this information.

Regular Board Assessments

- 3.18** The board, its committees and each individual director should be regularly assessed regarding ~~his, her~~ their or its effectiveness and contribution. An assessment should consider
- (a) in the case of the board or a board committee, its mandate or charter, composition and how effectively directors work together to achieve the objectives of the issuer; and
 - (b) in the case of an individual director, the applicable position description(s), as well as the ~~competencies and skills~~ skills, knowledge, experience, competencies and attributes each individual director is expected to bring to the board.

ANNEX L

LOCAL MATTERS

ONTARIO SECURITIES COMMISSION

This Annex to the accompanying CSA Notice and Request for Comments (the **CSA Notice**) sets out matters required to be addressed by the *Securities Act* (Ontario) (the **Act**). The Ontario Securities Commission (the **Commission, OSC or we**) is publishing this Annex to supplement the CSA Notice.

This Annex is divided into the following sections:

1. Introduction
2. The Proposed Amendments and Changes
3. Work Completed to Inform the Proposed Amendments and Changes
4. Overview of Consultation Feedback
5. Stakeholders and Indigenous Rightsholders Impacted by the Proposed Amendments and Changes
6. Anticipated Costs and Benefits of the Proposed Amendments
7. Rule-making Authority
8. Reliance on Unpublished Studies

1. Introduction

The Canadian Securities Administrators (**CSA or we**) are publishing for a 90-day comment period:

- Proposed amendments to Form 58-101F1 *Corporate Governance Disclosure* (**Form 58-101F1**) of National Instrument 58-101 *Disclosure of Corporate Governance Practices* (**NI 58-101**) (including possible ancillary amendments to section 1.1 Definitions of NI 58-101) (the **Proposed Amendments**); and
- Proposed changes to National Policy 58-201 *Corporate Governance Guidelines* (**NP 58-201**) pertaining to board nominations, board renewal and diversity (the **Proposed Changes**).

(collectively, the **Proposed Amendments and Changes**).

Existing requirements for disclosure about the representation of women on boards and in executive officer positions and board renewal were adopted by most CSA jurisdictions in 2014 (the **2014 Requirements**). The 2014 Requirements contained in NI 58-101 have been in place for nine annual reporting periods. At the time of their publication, we committed to subsequently assessing their effectiveness in achieving the intended purpose of increasing transparency.

Over the past number of years, there has been a growing consensus of investors who view diversity disclosure as a necessary aspect of good governance, and an important factor in their investment and voting decisions. There have also been several developments, as described in the CSA Notice, that have heightened the importance of considering diversity on boards and in executive officer positions, beyond women.

As described in the CSA Notice, CSA Staff have held consultations with a variety of stakeholders, conducted research to support evidenced-based policy making, and have considered key trends arising from eight annual reviews of public disclosure regarding women on boards and in executive officer positions, since the adoption of the 2014 Requirements.¹ This has supported our understanding of how the disclosure needs of investors have evolved since 2014.

¹ Trends observed during these annual reviews are set out in CSA Multilateral Staff Notices [58-307 \(year 1\)](#), [58-308 \(year 2\)](#), [58-309 \(year 3\)](#), [58-310 \(year 4\)](#), [58-311 \(year 5\)](#), [58-312 \(year 6\)](#), [58-313 \(year 7\)](#) and [58-314 \(year 8\)](#).

2. The Proposed Amendments and Changes

The Proposed Amendments build upon the 2014 Requirements regarding the representation of women on boards and in executive officer positions and board renewal. The main objectives of the Proposed Amendments are to:

- increase transparency about diversity, including diversity beyond women, on boards and in executive officer positions;
- provide investors with more decision-useful and comparable information that enables them to better understand how diversity ties into an issuer's strategic decisions;
- ensure investors have the information they need to help them make informed investment and voting decisions; and
- provide guidance to issuers on corporate governance practices pertaining to diversity.

Two proposals of each of Form 58-101F1 (**Form A** and **Form B**) and NP 58-201 (**Policy A** and **Policy B**) are presented for comment. The CSA recognizes the importance of ensuring transparency for investors on issuers' practices with respect to board and executive-level diversity. Form A and Form B are generally aligned with respect to disclosure requirements related to board nominations and board renewal, but they reflect different concepts related to disclosure regarding the representation of members from diverse groups. Policy A is aligned with Form A and Policy B is aligned with Form B.

Form A and Form B substantially maintain the existing disclosure requirements with respect to women on boards and in executive officer positions under the 2014 Requirements. Under both forms, the current "comply or explain" disclosure model would continue to apply with respect to policies for women on boards and targets for women on boards and in executive officer positions. Both Form A and Form B also contemplate maintaining existing disclosures of data for women on boards and in executive officer positions. It is important that any new proposed disclosure requirements pertaining to diversity do not affect the substance of the 2014 Requirements that have been in use for over nine years as they have provided valuable information to stakeholders.

While all participating jurisdictions are consulting on both Form A and Form B, certain jurisdictions have expressed their preferences for one proposal over the other. The Commission supports Form B and Policy B.

Given the Commission's support for Form B, this Annex focuses on the potential impact of Form B. Form B would have the effect of expanding the existing disclosure requirements on the representation of women to members of "designated groups". Conversely, Form A may be viewed as a status quo approach, since it would not require an issuer to disclose diversity-related information and data beyond women unless an issuer chooses to collect data on those groups. Section 6 below compares the costs and benefits between Form B and Form A.

Proposed Amendments to Form 58-101F1 (Form B)

The disclosure framework in Form B recognizes investors' needs for information that is clear, comprehensive, standardized and comparable regarding the representation of historically under-represented groups on boards and in executive officer positions, as well as information regarding an issuer's approach to diversity, including any written strategies, written policies, targets and other measurable objectives.

Form B is based on the view that the designated groups have abiding characteristics that reflect Canadian society, while recognizing that issuers may choose to add other now or in the future. Similar to Form A, Form B does not mandate any particular corporate governance practices relating to diversity and follows a "comply or explain" model of disclosure. At the same time, an issuer is free to include some data on any other group it considers appropriate. The objective is to capture how an issuer embraces diversity in its culture and incorporates diversity into its strategic considerations.

The approach in Form B extends the current disclosure framework as it applies to women to historically under-represented groups called "designated groups". This approach is similar to the one adopted under the *Canada Business Corporations Act (CBCA)*, under which approximately 29% of TSX-listed issuers report.² As such, Form B contemplates reporting on the representation of five designated groups, being women, Indigenous peoples, racialized persons, persons with disabilities and LGBTQ2SI+ persons, on boards and in executive officer positions.

However, there is a recognition that diversity considerations will evolve over time. As such, an issuer may also choose to voluntarily provide disclosure in respect of other groups, beyond the designated groups, considered as part of its diversity strategy such that

² Staff reviewed the statute of incorporation as listed in public documents filed on SEDAR (generally the AIF) for:

a. The 625 non-venture issuers who were included in the review sample for CSA Multilateral Staff Notice 58-314 *Review of Disclosure Regarding Women on Boards and in Executive Officer Positions (SN 58-314)*, and

b. 113 additional non-venture issuers who were subject to the 2014 Requirements but were not included in the review sample for SN 58-314.

In aggregate, approximately 29% of the issuers reviewed were incorporated under the CBCA.

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a complete picture of the issuer's diversity on boards and in executive officers is provided. Information reported on either a mandatory or voluntary basis must be based on voluntary self-disclosure by directors and executive officers and comply with applicable privacy law requirements. Directors and executive officers may choose to not disclose how they self-identify. To further protect individual privacy, the information would only be reported in the aggregate.

Form B contemplates reporting data on the designated groups in a standardized tabular format to promote consistency, clarity and comparability of disclosures for investors and other stakeholders. An issuer may choose to disclose any additional information that is relevant in order to understand the context of the data.

Consistent with the existing disclosure regime in Form 58-101F1, Form B contemplates a combination of disclosure regarding diversity-related corporate governance practices and data, which would demonstrate the effectiveness of those practices. Form B is intended to address investor calls for diversity-related information that is material to their investment-related decisions, while also providing clarity to issuers on disclosure expectations and aligning with existing reporting frameworks to enhance comparability across the market.

Proposed Changes to NP 58-201 (Policy B)

The Proposed Changes would provide enhanced guidelines related to board nominations and would introduce guidelines on board renewal and board diversity in NP 58-201, to complement the disclosure requirements contained in Form B.

Although these guidelines are not intended to be prescriptive, we would encourage issuers to consider them in developing their own corporate governance practices and to apply and adapt these guidelines based on their individual circumstances as they evolve. These corporate governance guidelines have been formulated to achieve a balance between providing protection to investors and fostering fair and efficient capital markets, while recognizing that corporate governance is evolving.

The proposed guidelines would address the following:

- the responsibilities of the nominating committee;
- the written policy respecting the director nomination process;
- the use of a composition matrix;
- effective succession planning and the mechanisms of board renewal, including term limits;
- the written diversity policy; and
- targets for achieving diversity on the board and in executive officer positions.

3. Work Completed to Inform the Proposed Amendments and Changes

To inform both the development of the Proposed Amendments and Changes and the cost benefit analysis discussed in section 6, significant work has been completed, including the following:

Disclosure Reviews	<p>We have considered issuer disclosure practices and key trends arising from eight annual reviews of public disclosure regarding women on boards and in executive officer positions conducted by several CSA jurisdictions since the adoption of the 2014 Requirements. Most recently, CSA Multilateral Staff Notice 58-314 <i>Review of Disclosure Regarding Women on Boards and in Executive Officer Positions</i> reports that the proportion of board seats held by women has increased from 11% to 24% during the eight-year period since the 2014 Requirements came into effect.</p> <p>We also looked at the disclosure of a sample of 100 issuers incorporated under the CBCA. The sample of issuers selected had (i) year ends between December 31 and March 31 and (ii) filed information circulars before August 15, 2020. The sample was stratified across the different jurisdictions, industries and market capitalizations. Our focus was the prescribed diversity disclosure under the CBCA with respect to women, Indigenous peoples (First Nation, Inuit and Métis), persons with disabilities and racialized persons.</p>
Consultations	<p>On October 24, 2017, we hosted a public roundtable related to women on boards and in executive officer positions.</p> <p>In 2018, we held 44 consultations with stakeholders representing advisory committees, stock exchanges, investors, issuers, directors, advocacy groups, governance and diversity experts</p>

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	<p>(including legal and accounting firms) and academics. The consultations occurred through a variety of forums, including consultation papers, roundtables and other meetings with stakeholders.</p> <p>In 2021, we conducted 43 individual consultations with a wide range of issuers, investors and other industry stakeholders. We also hosted a public roundtable on October 13, 2021. These consultations focused on the consideration of broader diversity on boards and in executive officer positions. This work has helped us assess whether and how disclosure needs and practices have evolved since the adoption of the 2014 Requirements. The individuals consulted represented investors and investor advocacy groups, issuers, directors, governance and diversity experts, stock exchanges, advocacy groups, advisory committees and academics.</p>
Research	<p>We conducted additional research regarding:</p> <ul style="list-style-type: none"> • approaches to broader diversity outside of Canada, including in the U.S, the U.K., the European Union, Australia and certain jurisdictions in Asia. • diversity targets, • director term limits, and • shareholder proxy voting guidelines relating to diversity. <p>The research included consideration of the diversity disclosure regime under the CBCA and the federal Department of Finance’s consultation regarding seeking disclosure of diversity matters from federal financial institutions.</p> <p>We considered various developments relating to diversity, such as the <i>Canadian Investor Statement on Diversity & Inclusion</i> (October 2020) and the BlackNorth Initiative.</p> <p>We also reviewed the update to the 1994 Dey Report titled <i>3600 Governance: Where are the Directors in a World of Crisis?</i> (February 2021), as well as <i>Charting the Future of Canadian Governance: A Principled Approach to Navigating Rising Expectations for Board of Directors, Report of the Committee on the Future of Corporate Governance in Canada</i> (December 2022). Both reports set out recommendations relating board diversity and renewal.</p>

4. Overview of Consultation Feedback

During the OSC’s consultations in both 2018 and 2021, most stakeholders consulted indicated that it was time for the 2014 Requirements to evolve.

2018 Consultations

While stakeholders acknowledged that there had been some momentum in improving the representation of women on boards and in executive officer roles, progress has been slow and stakeholders were generally supportive that more needs to be done. Below is a high-level summary of feedback received from Ontario stakeholders during our 2018 consultations.

Topic	Summary of Feedback
Other measures or further regulatory action	<p>There was general support for setting guidelines regarding gender diversity-related governance practices, such as board policies regarding the representation of women, targets and board renewal mechanisms including board evaluations and term limits.</p> <p>A smaller number of stakeholders requested the implementation of quotas. Many stakeholders, however, expressed concern about quotas.</p> <p>Stakeholders were generally supportive of providing more specific corporate governance guidelines on the nomination process including guidelines on succession planning, assessing the skills and competencies of directors as part of the director nomination process.</p>
Disclosure Requirements	<p>Stakeholders supported changes to the Disclosure Requirements, including:</p> <ul style="list-style-type: none"> • Board fill rate – There was general support for requiring issuers to disclose the board fill rate. • Executive officer definition – Many of the stakeholders noted that the definition of “executive officer” is very broad and suggested reporting on the representation of women in a more targeted

Topic	Summary of Feedback
	<p>group (for example, the CEO and executives who report to the CEO) or tiered disclosure (for example reporting on the representation of women in the C-suite and separately reporting on the representation of women in larger group of executive officers).</p> <ul style="list-style-type: none"> • Policies regarding the representation of women – Some stakeholders suggested considering requiring disclosure of an issuer’s diversity policy either on the issuer’s website or in its information circular. • Consideration of the representation of women – Some stakeholders suggested considering requiring more disclosure on how the representation of women is considered when identifying board candidates or making executive officer appointments. Other stakeholders noted that the existing disclosure requirements relating to the consideration of the representation of women did not yield decision-useful information. • Three-year trend – Some stakeholders suggested expanding the disclosure requirements to require disclosure over a three-year period, similar to executive compensation. This would allow trend analysis and recognize that the representation of women on boards and in executive officer positions would fluctuate over time.
Board policies and other aspects of diversity	Generally, stakeholders acknowledged that other aspects of diversity are important; however, the majority at the time suggested that securities regulators should maintain their focus on gender diversity at the present time given the slow progress. We note that this feedback was provided in 2018. In light of significant events in spring 2020, the focus on the issue of racial diversity on corporate boards and in executive leadership has intensified. Please see the feedback from the 2021 consultations below for more detail.
Format of disclosure	There was general support for providing the disclosure in a tabular or standardized format to improve the consistency and comparability of disclosures. This would be in addition to allowing for narrative disclosure. Some stakeholders supported reporting issuers submitting the data by e-form in addition to including it in their information circulars. An e-form would result in a database where issuer diversity data could be compiled and potentially become publicly available in spreadsheet format (which would lead to more straight forward comparability amongst issuers).

2021 Consultations

During the OSC’s consultations, stakeholders overwhelmingly supported expanding the current 2014 Requirements to include other underrepresented groups beyond women. Stakeholders noted that investors are actively seeking information about the representation of other diverse groups on boards and in executive officer positions, which many believe should be consistent with the CBCA and human rights legislation. Below is a high-level summary of feedback received from Ontario stakeholders during our 2021 consultations.

Topic	Summary of Feedback
Broader diversity data	Stakeholders support the public disclosure of different types of diversity information. This may include disclosure about the representation of racialized persons, Indigenous peoples and persons with disabilities on boards and in executive officer positions. This information may be particularly useful for internal benchmarking and for determining the effectiveness of policy measures.
Standardized disclosure	There was strong support for standardization of diversity-related disclosure. Tabular or standardized disclosure presentation, or reporting of diversity data in a searchable format, may assist with the consistency and comparability of diversity-related data amongst issuers.
Targets	Stakeholders support a corporate governance guideline for targets, which would direct issuers to discuss the factors they considered when setting targets for women and for other diverse groups. Stakeholders also generally believe that issuers should have the flexibility to set their own targets, with guidelines being provided by regulators on what aspirational targets and timelines might look like. There was a general consensus amongst stakeholders that targets should not be set by regulators.

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Topic	Summary of Feedback
Board renewal	The majority of stakeholders support a corporate governance guideline related to term limits, which would direct issuers to disclose any factors they considered in setting a director term limit. Stakeholders also believe that issuers should have the flexibility to set their own term limits and that they should not be mandated by regulators.
Director nomination process	A majority of stakeholders noted that they have a diversity policy in place or are currently in the process of developing one. Several stakeholders mentioned that their recruitment practices have changed and are constantly evolving to be more encompassing of diversity.

Overall, Ontario stakeholders noted that diversity is an important element of investment and voting decisions. They noted that there is an expectation in the market that issuers should have a diverse pool of candidates in the recruitment process. Currently, there is limited information available regarding the representation of diverse groups, other than women, and Ontario stakeholders generally recognized the need for such information moving forward.

5. **Stakeholders and Indigenous Rightsholders Impacted by the Proposed Amendments and Changes**

The major stakeholders include investors and TSX-listed and other non-venture issuers that would be required to comply with the Proposed Amendments.

Investors

The Proposed Amendments and Changes outlined in Form B and Policy B are expected to be beneficial to investors. They are intended to foster streamlined reporting and are expected to enhance the presentation and quality of the information disclosed. This is expected to result in disclosure that is more comparable across issuers, and which provides information investors need to make informed investment and voting decisions.

Data are not available on the amount of money managed for investors that are specifically concerned about diversity. However, recent investor survey results suggest that a sizable number of investors would benefit from more information on diverse representation.³

TSX-listed and other non-venture issuers

In 2022, approximately 1,779 issuers were listed on the TSX, of which approximately 792 issuers were subject to the 2014 Requirements.⁴ We anticipate one-time incremental costs for reporting issuers on adoption of the Proposed Amendments, and to a lesser extent, certain ongoing costs that are outlined in further detail below. Reporting issuers are also expected to benefit from the Proposed Amendments as they are intended to streamline and clarify certain 2014 Requirements.

Indigenous Rightsholders

The Proposed Amendments in Form B contemplate certain disclosures in respect of Indigenous peoples:

- Non-venture issuers would be required to disclose the representation of Indigenous peoples on boards and in executive officer positions.
- Non-venture issuers would also be required to disclose targets in respect of the designated groups (which include Indigenous peoples).

The Proposed Changes in Policy B include guidance regarding setting targets. The guidance notes that a board should consider various factors, including whether the issuer has a truth and reconciliation action plan regarding its relationship with Indigenous peoples or its business operations intersect with an Indigenous right, title, or jurisdiction.

As part of our efforts to develop an action plan for truth and reconciliation, the Commission will continue to advance cooperation with Indigenous peoples and communities. In that regard, we will work to integrate their perspectives and interests, as appropriate,

³ For example, a 2020 survey of retail investors commissioned by the Responsible Investment Association found that 73% of those surveyed said they would like a portion of their investment portfolio to be invested in organizations providing opportunities for the advancement of women and diverse groups. See: <https://www.riacanada.ca/research/2020-ria-investor-opinion-survey/>. 10% of global institutional investors responding to a 2022 survey by RBC GAM considered board diversity within their top 3 ESG priorities. In addition, and while based on a small sample of Canadian respondents, 42% of Canadian investment organizations responding to the RBC GAM supported minority diversity targets for boards: <https://www.rbcgam.com/documents/en/other/esg-executive-summary.pdf> and <https://www.rbcgam.com/documents/en/other/esg-key-findings.pdf>.

⁴ Reporting Issuers listed on the TSX that are not subject to the disclosure requirements include investment funds and other issuers such as designated foreign issuers and SEC foreign issuers.

in relevant areas of securities regulation and policy work, and improve engagement with Indigenous groups. The Commission is committed to engaging with Indigenous peoples and organizations as part of our work on this initiative and will continue to broaden our engagement as we advance our understanding of how to best approach this work.

Other Stakeholders

In addition, other stakeholders that are not investors that seek disclosure regarding diversity on boards and executive positions are likely to benefit from the additional information provided by issuers in Form B.

6. Anticipated Costs and Benefits of the Proposed Amendments

The following section analyzes the anticipated costs and benefits of the Proposed Amendments to the affected stakeholders noted above. Cost-benefit considerations have been informed by internal consultation, as well as publicly available information. A guiding consideration is the OSC's mandate relating to protecting investors, promoting fair, efficient and competitive markets, fostering capital formation, and promoting financial system stability.

As noted in the CSA Notice, the Commission supports the Proposed Amendments under Form B. The analysis is focused on the incremental costs and benefits to the affected stakeholders from the Proposed Amendments under Form B as compared to the existing requirements.

The quantitative estimates below focus on the compliance costs on issuers. While there is some uncertainty in the assumptions underlying these estimates, we view the estimates as a broad guide of the impact on issuers and provide a basis to compare against the anticipated benefits. Only the qualitative benefits of the Proposed Amendments in Form B are considered below due to the significant uncertainty and lack of data needed to quantify the benefits.

On balance, we consider that the benefits of the Proposed Amendments are proportionate to the costs. Below, a comparison of the net impact of Form B and Form A is provided. Overall, in our view, the net benefits of implementing Form B outweigh those from Form A.

Benefits of Form B

The following are specific benefits of the Proposed Amendments in Form B relative to the existing requirements:

Benefits to Investors

Facilitates informed investment decision making

Currently, there is limited information available about the representation of diverse groups, other than women. While disclosure provided as a result of current CBCA requirements does provide information on diverse representation, as noted above, the CBCA requirements only apply to approximately 29% of TSX-listed issuers that will be subject to the Proposed Amendments.

In our consultations, stakeholders noted that diversity is an important element of investment and voting decisions. They noted that there is an expectation in the market that issuers should have a diverse pool of candidates in the recruitment process. A clear majority of stakeholders also expressed support for standardization of diversity-related disclosure. Form B recognizes investors' needs for information that is clear, comprehensive, standardized and comparable.

Improves consistency and comparability of disclosures

Corporate disclosure is critical for the functioning of an efficient capital market. The availability of information may contribute to the efficient allocation of resources, which in turn may facilitate capital formation and economic efficiency. Moreover, the ability of investors to make informed decisions supports competitive markets.

Investors benefit from access to consistent and comparable information to accurately assess the different objectives and practical approaches on diversity across issuers. The Proposed Amendments under Form B contemplate reporting on the representation of five specific designated groups. This disclosure would be standardized across issuers, as Form B would require data to be presented in a standardized tabular format, which is intended to promote consistency and comparability of disclosures.

We also note that institutional investors and proxy advisory firms are developing diversity-related policies which have resulted in multiple diversity-related practices and voting guidelines. Stakeholders have expressed a desire for a single disclosure framework which provides consistent transparency across issuers, about representation for specific under-represented groups, in order to reduce information asymmetry.

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Increased transparency and availability of standardized diversity representation data may also contribute to changes in representation from diverse groups on boards and in executive officer positions that better aligns with investors' preferences.⁵ The 2014 Requirements relating to women on boards have coincided with an increase in proportion of board seats occupied by women from 11% at the time the requirements were adopted, to 24% during our most recent annual review.

Benefits to Issuers

Reduced regulatory fragmentation

The Proposed Amendments under Form B are generally consistent with the CBCA, except that the CBCA does not require disclosure of diversity data for persons distinguished by sexual orientation at this time, although that expansion is under consideration in federal legislation. As noted above, approximately 29% of TSX-listed issuers are incorporated under the CBCA and currently are required to provide the broader diversity disclosures required by the CBCA. The general alignment between Form B and the CBCA requirements would facilitate a reduction of regulatory fragmentation, limiting the burden on issuers.

Lower cost of capital for some issuers

Better informed decision-making by investors can have flow on effects for issuers' cost of capital. Investors can more accurately assess an issuer's diversity policies and compare them to other issuers. As a result, some issuers with diversity policies that are aligned with investors' preferences may see a lower cost of raising capital under the Proposed Amendments. However, issuers with diversity policies that are misaligned with investors' preferences may see their costs increase.

Despite the varying impact on different issuers, capital markets will benefit from improved capital formation and economic efficiency as capital is allocated.

Benefits to other stakeholders

Some stakeholders may have views on diversity on boards and in executive officer positions that are not directly related to any investment decisions. Better information can help these stakeholders make decisions about investments that better align with their preferences around diversity.

Overall, expanding diversity disclosure requirements facilitates informed investment decision making which aligns with the Commission's mandate to improve market efficiency and promote capital formation. Diversity is a critical component of good corporate governance as diverse boards and executive management teams are more likely to achieve better outcomes for investors and other stakeholders by introducing a broader spectrum of perspectives, skills and experience⁶.

Costs of Form B

The cost of adopting Form B consist primarily of the labour costs needed to transition processes so that issuers can meet the disclosure requirements (initial costs). There would also be ongoing labour costs associated with ongoing reporting post adoption, which includes the expected benefit from streamlining the 2014 Requirements (annual reporting cost). We assume no significant system changes will be needed as all issuers subject to the Proposed Amendments have processes to meet the current disclosure requirements relating to women in boards and executive positions.

The quantitative cost estimates below specifically measure the incremental labour cost created by Form B when compared to the cost of the 2014 Requirements.⁷ Our approach to quantifying costs was informed by the UK FCA's⁸ and Canadian Government's cost benefit analyses⁹ for their respective diversity-related policies. Our approach was also informed by the Commission's internal processes for collecting information on diversity.

⁵ For example, see: Lu, Shirley (2019), *Quota or Disclosure? Evidence from Corporate Board Gender Diversity Policies*. <https://ssrn.com/abstract=3493375> or <http://dx.doi.org/10.2139/ssrn.3493375>

⁶ 30% Club Canada (2022) *30% Club Canadian Investor Group: Updated Statement of Intent March 2022*. <https://30percentclub.org/wp-content/uploads/2022/03/30-Club-Canadian-Investor-Statement-of-Intent-Update-2022-FINAL.pdf>

⁷ Specifically, the labour cost is calculated as number of staff hours multiplied by the hourly wage rate. Hourly wages are based on salary projections in Robert Half (2022), *2023 Salary Guide*: <https://www.roberthalf.ca/en/salary-guide>. Salaries are increased by 25% to account for overheads, adjusted for an 1800-hour workweek, and inflated by 3.5% to give an hourly wage estimate for 2024, which is the projected year that the proposals will take effect. 3.5% is the average annual growth rate in full-time weekly employee wages over 2016-2021 for the 'Finance, insurance, real estate, rental and leasing' category. See <https://www150.statcan.gc.ca/t1/tbl1/en/tv.action?pid=1410006401>.

⁸ The UK FCA's cost benefit analysis is in Annex 3 of FCA (2021) 'Diversity and inclusion on company boards and executive committees', CP21/24, <https://www.fca.org.uk/publication/consultation/cp21-24.pdf>.

⁹ The Canadian Government's cost benefit analysis is at <https://www.gazette.gc.ca/rp-pr/p2/2019/2019-07-10/html/sor-dors258-eng.html>.

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Our estimates separate issuers subject to the CBCA (estimated to be 231 issuers) from those that are not (561 issuers)¹⁰. As noted, several of the requirements under Form B overlap with the CBCA requirements. As a result, the initial cost for issuers already subject to the CBCA disclosure requirements is assumed to be lower.

In practice, the cost paid by an issuer within these categorizations will vary depending on issuer characteristics, including their size and the type of information that they already collect. The per-issuer estimates below represent an average of the costs faced by issuers within these categories.

Transition-Year Compliance Costs

The initial cost of adopting the Proposed Amendments and Changes is estimated to be \$2,891 per CBCA issuer and \$3,607 per non-CBCA issuer (Table 1). The resulting total incremental cost on the industry is estimated to be \$2.7 million. This estimate of initial costs assumes issuers will incur familiarization and review costs¹¹ and transition costs¹². Familiarization costs relate to issuers reading and understanding the Proposed Amendments and Changes, identifying gaps when compared to current practices, and clarifying the changes than an issuer must make. Transition costs result from actions the issuer must take to meet the new requirements. This may include collecting missing information, setting up processes to collect information from new appointments, and storing the information so it is available for reporting.

Ongoing Compliance Costs

Issuers are assumed to spend five hours each year on reporting. This is estimated to cost \$512 annually per issuer, or \$405,359 for the industry during the first year of reporting (projected to be 2024) and on an ongoing basis thereafter.¹³

Total Costs

Combining the initial and annual reporting costs, the cost of the Proposed Amendments under Form B is estimated to be \$3.1 million for the industry in the year the Proposed Amendments and Changes take effect. The cost for a CBCA issuer is estimated to be \$3,403 and \$4,119 for a non-CBCA issuer.

The present value of costs on the industry over the first 10 years from when the Proposed Amendments and Changes take effect is estimated to be \$6.2 million (in 2024 dollars), or an average of \$620,243 per year over the period.¹⁴ For a CBCA issuer, this translates to a total cost over 10 years of \$7,325 in 2024 dollars, or \$732 per year, on average. The total cost is estimated to be \$8,040 per non-CBCA issuer over the period or \$804 per year.¹⁵

¹⁰ As noted, estimates on the number of issuers subject to the CBCA is based on the number of issuers reporting under the current disclosure requirements for women on boards and executive positions, and a past review by staff that found that approximately 29% of issuers covered under the Proposed Amendments are likely subject to the CBCA.

¹¹ We assume all issuers subject to the requirements will go through this process and will each require, on average, 12 hours from staff. Assumes the following hours by position (or similar position if specified position is not at issuer): Compliance Officer (2hrs @ \$89/hr); in-house counsel (8hrs @ \$118/hr); Chief Compliance Officer (1hr @ \$154/hr); General Counsel (1hr @ \$180/hr).

¹² Issuers subject to the CBCA are expected to already collect some of the information required under Form B and are assumed to spend 16 hours transitioning, whereas other issuers are assumed to spend 24 hours. Assumes work carried out by Compliance Officer or equivalent (\$89/hr).

¹³ Assumes the following hours by position (or similar position if specified position is not at the issuer): Compliance Officer (4hrs @ \$89/hr); Chief Compliance Officer (1hr @ \$154/hr).

¹⁴ Wages are assumed to grow at 3.5% per year. Future cash flows are discounted at 7%.

¹⁵ To test the sensitivity of the estimates to assumptions, a low and high scenario were looked at. The low scenario assumed 50% of the hours applied in the main scenario described in the document, and a 10% discount rate. The high scenario assumed two times the hours in the main scenario and a 3% discount rate. Under the low scenario, the present value in 2024 of the cost over the first 10 years was \$2.9M for the industry, or \$3,424 for each CBCA issuer and \$3,782 for each non-CBCA issuer. Under the high scenario, the cost on the industry was \$13.7M, or \$16,262 for each CBCA issuer and \$17,693 for each non-CBCA issuer.

Table 1: Estimated Incremental Cost on Issuers from Form B

	Per Issuer Cost		Total Industry Cost ¹⁶
	CBCA issuer	Non-CBCA issuer	
Familiarization and Review Costs	\$1,460	\$1,460	\$1,156,682
Transition Cost	\$1,431	\$2,146	\$1,534,573
Initial Cost	\$2,891	\$3,607	\$2,691,254
Annual Reporting Cost	\$512	\$512	\$405,359
Total Cost in First Year (in 2024)	\$3,403	\$4,119	\$3,096,613
Total Over First 10 Years (Present Value at 2024)	\$7,325	\$8,040	\$6,202,431
- Annual average over 10-year period	\$732	\$804	\$620,243

Comparison of Form B and Form A

Form A does not specify groups of individuals that an issuer must consider when making disclosure about diversity, other than women. Under Form A, if an issuer collects data on the number and proportion of directors on its board and executive officers who are from identified groups, the issuer is required to disclose this information. Please refer to the CSA Notice for further details on Form A.

The cost of Form A is not expected to differ between CBCA and non-CBCA issuers. As issuers are only required to provide disclosure of information they collect, the cost of transition is assumed to be similar for both CBCA and non-CBCA issuers.

If Form A were adopted, the initial cost is estimated to be \$2,176 per issuer in 2024 (Table 2).¹⁷ The resulting total incremental cost on the industry is estimated to be \$1.7 million. Annual reporting costs are expected to be \$333 per issuer and \$263,706 for the industry in the first year of reporting.¹⁸ The total cost of the Proposed Amendments under Form A is estimated to be \$2,509 per issuer and \$2.0 million for the industry in the first year that the Proposed Amendments take effect. The present value of costs on the industry over the first 10 years from when the Proposed Amendments take effect is estimated to be \$4.0 million (in 2024 dollars), or an average of \$400,749 per year over the period or \$506 per issuer.¹⁹

Table 2: Estimated Incremental Cost of Form A (2024 dollars)

	Per Issuer Cost	Total Industry Cost
Familiarization and Review Costs	\$1,460	\$1,156,682
Transition Cost	\$715	\$566,611
Initial Cost	\$2,176	\$1,723,293
Annual Reporting Cost	\$333	\$263,706
Total Cost in First Year (in 2024)	\$2,509	\$1,986,999
Total Over First 10 Years (Present Value at 2024)	\$5,060	\$4,007,487
- Average annual over 10-year period	\$506	\$400,749

As discussed above, while Form B imposes a marginally higher cost on an issuer, we consider that it provides investors with more clear, consistent and comparable information on the representation to historically under-represented groups called “designated groups”, which will support investment and voting decisions and better addresses stakeholders’ preferences. Clearer information may also improve economic efficiency and promote capital formation in Canada including by attracting investors who may not have otherwise invested in Canada. As a result, the OSC believes that the benefits of Form B exceed those of Form A. While Form B will provide stakeholders with comparable and mandatory diversity data to facilitate their investing and voting decisions, Form A may be seen as a status quo approach since it does not require disclosure of diversity data beyond women.

¹⁶ Industry refers to all 792 issuers. The total industry cost is calculated by multiplying the per issuer cost by the number of issuers by type.

¹⁷ Assumes the following hours for familiarization and review by position (or similar position if specified position is not at issuer): Compliance Officer (2hrs @ \$89/hr); in-house counsel (8hrs @ \$118/hr); Chief Compliance Officer (1hr @ \$154/hr); General Counsel (1hr @ \$180/hr). Assumes all issuers spend 8 hours transitioning, with work carried out by Compliance Officer or equivalent (\$89/hr).

¹⁸ Assumes the following hours by position (or similar position if specified position is not at issuer): Compliance Officer (2hrs @ \$89/hr); Chief Compliance Officer (1hr @ \$154/hr).

¹⁹ Wages are assumed to grow at 3.5% per year. Future cash flows are discounted at 7%.

7. Rule-making Authority

The following provisions of the Act provide the Commission with the authority to adopt the Proposed Amendments.

- Paragraph 143(1)(22) of the Act authorizes the Commission to make rules prescribing requirements in respect of the preparation and dissemination and other use, by reporting issuers, of documents providing for continuous disclosure that are in addition to the requirements under the Act, including requirements in respect of, (i) an annual report, (ii) an annual information form, and (iii) supplemental analysis of financial statements.
- Paragraph 143(1)(39) of the Act authorizes the Commission to make rules requiring or respecting the media, format, preparation, form, content, execution, certification, dissemination and other use, filing and review of all documents required under or governed by the Act, the regulations or the rules, all applications to the Commission under the *Business Corporations Act* and all documents determined by the regulations or the rules to be ancillary to the documents, including, (i) applications for registration and other purposes, (ii) preliminary prospectuses and prospectuses, (iii) interim financial statements and financial statements, (iv) proxies and information, and (v) take-over bid circulars, issuer bid circulars and director's circulars.

8. Reliance on Unpublished Studies

The Commission is not relying on any unpublished study, report or other written material in proposing the Proposed Amendments.