July 10th, 2023

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

The **LGBTQ+ Corporate Directors Canada Association** (LGBTQ Association) respectfully submits this comment and recommendation on the director nomination process, board renewal, and diversity, pursuant to the call issued.

We note that the proposed changes relate to many forms of diversity including gender, racialized persons, persons with disability, Indigenous people, and 2SLGBTQ+ people. Whereas many of our comments refer specifically to 2SLGBTQ+ people as being our expertise, we believe they apply equally to other diversity groups.

Our comments focus on the importance of Boards and management to report, and be accountable, to all stakeholders of the organization. We include shareholders, employees, customers, the environment, and community as stakeholders.

The Issue

We understand the Canadian Securities Administrators (CSA) are considering proposed changes to corporate governance policy that would enhance the existing corporate governance guidelines relating to the director nomination process and introduce guidelines regarding board renewal and diversity. Diversity measures are intended to go beyond gender to include Indigenous people, racialized persons, persons with disabilities, and 2SLGBTQ+ people.

The two proposals being considered by CSA are:

1. Require companies to describe their chosen diversity objectives and how they would measure progress. If an issuer collects data on specific groups "relevant to its approach to

diversity," the data would need to be disclosed, but no specific table or format would be required by regulators. No diversity numbers will be required to be disclosed. This is referenced as Proposal A.

2. Require companies to report on the number of members of each of the four designated groups, as well as women, on their boards and in executive officer positions. The rule would require companies to use a standardized table so investors could compare numbers. And companies would need to disclose any written strategy, policies and measurable objectives relating to diversity on their board. This is referenced Proposal B.

The CSA has stated that the main objectives of the 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.

Recommendation of the LGBTQ Association

The LGBTQ Association supports and recommends the adoption of Proposal B, with the additional reporting extended to Executive Officer positions, requiring companies to report on the number of members of each of the four designated groups, as well as women, on their boards and in executive positions, along with written strategy, policies, and measurable objectives. Companies will be required to use a standardized table.

The LGBTQ Association believes that information on the diversity approach and objectives of issuers with respect to Executive Officer positions is useful for investors and all stakeholders and should be included in the mandated form. The comments we make in this submission apply equally to Board and Executive Officer positions.

For the reasons stated below, we recommend that data be presented in a common tabular format.

We advocate for similar disclosure requirements for venture issuers in a second phase of this project. This will provide additional comparative analysis for investors and other stakeholders to assess the complete engagement and progress on the diversity approach and objective of issues with respect to Board and Executive Officer positions.

Rationale:

Support for this position is based on the following:

- It is a well-known fact that specific industries hold tight to standing biases. Sectors like education, transportation, energy, mining and manufacturing, and industrial product industries have been historically slower to welcome 2SLGBTQ+ talent. As a result, progress in board representation of 2SLGBTQ+ professionals has been more concentrated in tech, media, financial, professional services, and similar service industries. These standing biases can best be confronted and resolved by management and stakeholders through detailed and directed disclosure requirements requiring **written strategies, policies, reporting, and measurable objectives.**

- The consistent lack of progress in director diversity can be attributed to the Network Gap. For the majority of Corporate Boards, appointments are almost entirely based on existing relationships, which tend to be homogeneous in nature. Whether intentional or not, the effect is to create a “Network Gap” between an organization’s existing and maximum potential networks. This Network Gap effect is significant when it comes to the process of filling board seats. Informal networks centered in largely exclusionary groups, locales, and activities have historically excluded diversity in its many forms, including 2SLGBTQ+ people. Requiring detailed written and directed policies accompanied by disclosure requirements will create transparency and accountability for management and stakeholders to reveal and counter the Network Gap to create more diverse boards and increase value for all stakeholder groups.

- Written policies with regular updates and measurable objectives will provide **transparency** to all stakeholders. Stakeholders can respond with their own commentary, recommendations, and initiatives. This provides accountability to management and directly connects them to their stakeholders.

- Written policies, procedures and measurable objectives will aid in **continuous improvement** in Board oversight for the organization. A record of change and improvement will be publicly available to assist in stakeholder participation, organization oversight, and accountability. Improvement can be tied to organization and shareholder returns.

- Written policies, procedures and measurable objectives will help Boards identify gaps in competencies and networks, gather data, analyze them, and reach a solution and conclusion.

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- A transparent and written policy with required reporting updates will confront sub-standard recruitment behaviour. It will ensure the transition of the selection process to Board Committees supported by human resources professionals with a long-term view of what is best for the organization and its stakeholders. Professional management will incorporate the process into the organization's operating planning, business planning, and strategic planning processes.

- A transparent and written policy with required reporting updates will objectively show performance against established metrics and where more effort is required to enhance diversity and therefore improve corporate performance.

- Written policies, procedures, and measurable objectives accompanied by regular reporting provides **accountability** of management to stakeholders. They present and reinforce **expectations** of management and provide a framework for the Board to fulfill their oversight responsibilities. Proposal B will ensure the Board can drive change and improvement through objective accountability.

- Written policies, procedures, and measurable objectives provide **consistency** and **comparability** of recruiting behaviour and outcomes. This is valuable information for all stakeholders.

- Written policies and directives accompanied by updated reporting will ensure **continuous adaptation** to any changing environment for the organization. Changing perceptions and practices of diversity, equity and inclusion is a long-term proposition that involves learning the system, continuous effort, expansion of networks, gaining credibility, and driving change over time. This commitment to long-term improvement requires a structured and transparent process, and hence our advocacy for Proposal B.

- Directors of organizations have a specific responsibility to understand and oversee the risk of the organization. Written policies and directives with measurable objectives will allow directors and stakeholders to **assess the risk environment** for the organization and the organization's policies and strategies in managing that risk. This will assist stakeholders to decide whether a relationship with the organization meets their own respective risk tolerance.

- Written policies, procedures and measurable objectives will build a stronger corporate culture for the organization with respect to diversity, equity, and inclusion. They build trust and confidence, ensure efficiency, and protect against failure. As such, they strengthen the organization rather than weaken it.

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- Corporate adoption of policies and directives on diversity presents investors a view of the enhanced degree of innovation, risk-management, culture development, market knowledge, and commitment to stakeholders. Adoption creates investor confidence on the commitment of the organization to be current and relevant and aware of its changing or emerging markets.

- Written policies, procedures and measurable objectives on diversity presents relevant information to investors who are committed to social justice and equity.

- Under Proposal A, there would be less useful statistics or accumulated knowledge to assess the effectiveness of adopting diversity policies. Proposal A represents the current status quo at best, where adoption and reporting on diversity policy is at the option of the reporting issuer, or a deteriorating position at worst, where reporting issuers could actively discriminate and there would be no way of knowing this is the case. Comparability would be compromised because of the absence of standardized reporting.

- Reporting on diversity in a structured and transparent process requires the Board and Management of the organization to focus on issues of productivity, efficiency, and enhancing shareholder returns by adopting best and equitable practices. In a well-managed organization, this will offset the cost associated with the additional reporting. Organizations can find many ways to reduce costs by adopting inappropriate policies (child labour, gender-gap pay polices, and so on) but society sets rules and ethical standards of behaviour that must be followed. Canadian society has already determined that reducing costs through policies that are inequitable, discriminatory, and exclusionary is not acceptable.

- Choosing Proposal A allows organizations to discriminate against 2SLGBTQ+ individuals by omission based solely on the argument that the designated group is not identified by the issuer as being part of its strategy respecting diversity.

- Proposal B, with the additional reporting extended to Executive Officer positions, best meets the needs of investors for making investing and voting decisions. Proposal B provides more fulsome disclosure on all diversity groups and ensures accurate comparability between reporting issuers. This recommendation meets the needs of issuers in describing their approach to diversity at both the Board and the Executive Office level.

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Results of Action

The LGBTQ Association believes the following results will be achieved from the adoption of Proposal B, with the additional requirement for reporting on Executive Officer positions:

- Diversity of thought and perspective on boards and leadership teams translates to **better organization performance**[1] while lack of diversity has proven to increase risk. To put it another way, investors not demanding more diversity on boards—including with 2SLGBTQ+ candidates—are leaving money on the table and exposing themselves to blind spot risk.

- Shareholders, employees, customers, and other stakeholders to the organization will be in a better position to participate in the development, approval, and monitoring of the organization's progress toward diversity and increased stakeholder benefits. These stakeholders can make the case that cultivating and appointing 2SLGBTQ+ and other diverse candidates to the leadership and boards of companies is a win-win for society and long-term performance. In fact, stakeholders can hold these companies accountable when they tout their support for the 2SLGBTQ+ community but fail to integrate 2SLGBTQ+ talent and leadership.

- 2SLGBTQ+ directors bring their personal experience and important perspective on critical business issues and areas of opportunities and risk, whether that's related to talent development, compensation, succession planning, product roadmaps or an ad campaign. That is especially true when the 2SLGBTQ+ community is well represented among the company's customers and associates, where there is an essential need to have 2SLGBTQ+ representation among those who are delivering the brand experience. The long-term value of this perspective is hard to quantify but plays out in many different ways that benefit customers, employees and stakeholders — and wouldn't happen if there were only straight voices in the room.[2]

- Boards and organizations will benefit from the diverse viewpoints that reflect their changing customer, employee, and other stakeholder bases.

- The recruitment pool of qualified talent for organizations will be materially increased. As with all under-represented minority groups, and like all other directors, 2SLGBTQ+ individuals want to serve on boards where they feel welcomed and can have an impact.

[1] https://www.forbes.com/sites/bhaktimirchandani/2022/04/28/the-power-of-diversity-equity-and-inclusion-to-improve-risk-adjusted-returns-in-private-equity/
[2] https://www.spencerstuart.com/research-and-insight/lgbtq-directors-on-corporate-boards-making-their-perspectives-heard

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Most will choose to serve on boards with open, flexible cultures that value the unique perspective they bring.

- Board diversity confronts the tendency for Groupthink in the organization. Groupthink is a phenomenon that occurs when the desire for group consensus overrides people's common-sense desire to present alternatives, critique a position, or express an unpopular opinion. The desire for group cohesion through Groupthink effectively drives out good decision-making and problem solving. Board diversity counters this tendency.

About

The LGBTQ+ Corporate Directors Canada Association is focused on bringing diversity to Canada's Corporate Governance World through a 2SLGBTQ+ presence.

The Association is the first and only organization of its kind to provide services, support and networking on behalf of 2SLGBTQ+ existing and aspiring Board Members. The Association's Members include top-tier 2SLGBTQ+ professionals with the skills and expertise to make a difference in the Boardroom.

LGBTQ+ Corporate Directors Canada Association is affiliated with the global **Association of LGBTQ+ Corporate Directors** in the United States and the **Australian Association of LGBTQ+ Board and Executive Inclusion (ALBEI)**.

Respectfully submitted,

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