



July 12, 2023

Alberta Securities Commission
Autorité des marchés financiers
British Columbia Securities Commission
Financial and Consumer Services Commission, New Brunswick
Financial and Consumer Affairs Authority of Saskatchewan
Manitoba Securities Commission
Nova Scotia Securities Commission
Nunavut Securities Office
Office of the Superintendent of Securities, Newfoundland and Labrador
Ontario Securities Commission
Office of the Superintendent of Securities, Northwest Territories
Office of the Yukon Superintendent of Securities
Superintendent of Securities, Department of Justice and Public Safety, Prince Edward Island
Via email: comment@osc.gov.on.ca; consultation-en-cours@lautorite.qc.ca

RE: Consultation – Proposed Amendments to Form 58-101FI *Corporate Governance Disclosure* of National Instrument 58-101 *Disclosure of Corporate Governance Practices* and Proposed Changes to National Policy 58-201 *Corporate Governance Guidelines*

To whom it may concern:

Alberta Investment Management Corporation (AIMCo) welcomes this opportunity to provide commentary to the Consultation on the Proposed Amendments to Form 58-101FI *Corporate Governance Disclosure* of National Instrument 58-101 *Disclosure of Corporate Governance Practices* and Proposed Changes to National Policy 58-201 *Corporate Governance Guidelines*.

AIMCo is a Crown Corporation that invests over \$158 billion on behalf of 17 pension, endowment and government fund clients in the Province of Alberta. AIMCo manages more than 30 pools of capital on behalf of these clients and is an active participant in Canada's equity markets, regularly advocating for best practices at public companies in our portfolios. We thank the Canadian Securities Administrators (CSA) for its efforts in amending Form 58-101FI and changing National Policy 58-201 and offering stakeholders an opportunity to provide feedback. The approach to diversity disclosure has evolved not only within Canada but internationally, with other securities regulators such as the Financial Conduct Authority of the United Kingdom and the U.S. Securities and Exchange Commission implementing or exploring similar initiatives.

We are supportive of the Proposed Amendments requiring meaningful disclosure on aspects of diversity beyond the representation of women, and the Proposed Changes that provide guidelines related to board nominations and the introduction of guidelines on board renewal and board diversity. This year, AIMCo updated its Proxy Voting Guidelines to include where an issuer exhibits no directors from another underrepresented group as a condition that may trigger an against or withhold vote from the chair and/or members of the nominating committee

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or another relevant board director.¹ Without enhanced disclosure from issuers on the underrepresented groups that comprise their boards and executive officer roles, we lack key information to help us evaluate issuers' progress on diversity. We are confident that the Proposed Amendments and Changes will deliver clear, comprehensive, standardized and comparable information we need to make informed investment and proxy voting decisions. Moreover, we value the alignment of the Proposed Amendments and Changes to AIMCo's existing commitments to the 30% Club Canada Chapter, Canadian Investor Statement on Diversity & Inclusion, CFA DEI Code and the Investor Leadership Network.

Please find our considered responses with respect to the two alternatives (Form A 58-101FI/Policy A NP58-201 vs. Form B 58-101FI/Policy B NP58-201) presented, along with our feedback on the specific questions posed:

AIMCo Endorses Form B/Policy B

AIMCo supports the approach presented in Form B/Policy B. Although both approaches are designed to increase transparency on diversity, Form B/Policy B better aligns investors' needs for clear, comprehensive, standardized and comparable information on the representation of women and historically underrepresented groups on boards and in executive officer positions.

Form A/Policy A, on the other hand, appears to support the status quo as issuers would not be mandated to disclose diversity-related information and data beyond women, unless an issuer chooses to collect data on those groups. We believe this alternative would not result in meaningful advancement on disclosure or action by issuers on the representation of historically underrepresented groups, as some may opt to simply consider these groups as not being part of their diversity strategy.

Although Form A/Policy A may be considered more flexible and less prescriptive for issuers, Form B/Policy B does not appear to be prescriptive either, despite adopting five defined "designated groups" similar to the ones adopted under the *Canada Business Corporations Act* (CBCA). The designated groups in Form B reflect the characteristics of Canadian society and allows for diversity considerations to evolve over time, as issuers can choose to voluntarily provide disclosure in respect of other groups beyond the designated ones that are considered part of its diversity strategy. Moreover, both alternatives still operate under a "comply or explain" approach, offering issuers with unique circumstances the opportunity to explain further.

One of the essential functions of capital markets is to enable informed, efficient capital allocation decisions. Similar to how the Task Force on Climate-related Financial Disclosures (TCFD) enabled market transparency and became an integral part of companies' risk management and strategic planning processes, Form B/Policy B will give issuers the appropriate guidance needed to more efficiently disclose the information that investors require. Form A/Policy A may offer too much flexibility, which can introduce uncertainty to issuers' reporting process, potentially resulting in a larger time and cost burden over the long term.

¹ https://assets.ctfassets.net/lyt4cjmejno/Lal6WL1d2jpuWqqlVYL6j/955597ef1ac07e7132d06e631b62f7f5/Proxy_Voting_Guidelines_Feb_2023.pdf



The Form B/Policy B approach asks issuers to describe their written policies and strategies relating to diversity. This approach is important given that transparent, tangible articulation of diversity approaches and desired objectives underscores to all stakeholders the company's institutionalized commitment to diversity, equity and inclusion (DEI).

Form B could be further improved with respect to Items 6.2, 6.3 and 6.4, where 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"*. This appears to be incongruent with the overall goal of Form B/Policy B in enhancing transparency and comparability of diversity information. This granular disclosure is beneficial for investors, allowing them to understand if designated groups beyond women are being considered in executive officer appointments. The reporting burden for issuers would likely not increase as the core principles and processes behind considering the representation women in executive officer appointments could translate to other historically underrepresented groups as well.

Board Nominations

The Canadian Coalition for Good Governance (CCGG), of which AIMCo is a member, encourages issuers' disclosure of definitions of the skills and competencies used in the board skills matrix, as stated in their *2022 Best Practices for Proxy Circular Disclosure*.² This disclosure allows readers to better understand the relevance of these skills to the business. There are issuers already disclosing this information to investors in a way that balances transparency with the need to respect confidentiality/competitively sensitive information. Therefore, it is reasonable for the Proposed Amendments to require this type of disclosure from issuers.

Diversity Approach and Objectives of Issuers

Information on the diversity approach and objectives of issuers with respect to executive officer positions is useful for investors because it demonstrates an active commitment to DEI. This way, investors can discern whether an organization is just "box ticking" or if they've truly embraced the business case for DEI. Linking progress to measurable objectives holds organizations accountable, with some organizations even aligning executive compensation to the achievement of diversity-related objectives. Many issuers are already providing this information and it was also highlighted as a 2022 Best Practice for Proxy Circular Disclosure by the CCGG.³

Data Disclosure

The designated groups consistent with the approach in Form B are inclusive enough to capture the composition of most organizations and are consistent with the demographics of Canadian society and labour market availability. So long as a clear definition of the designated groups is provided, this approach will standardize information, making it more comparable and consistent for investors and reduce the reporting burden for issuers. In finalizing the definitions for these designated groups, the CSA should examine results from other national

² <https://cgg.ca/research-insights/best-practices/>

³ <https://cgg.ca/research-insights/best-practices/>



consultations that are related to terminology or definitions for historically underrepresented groups such as the Employment Equity Act Review Consultation.

Issuers may cite concerns with the disclosure of sensitive executive and board member diversity data by these designated groups; however, the designated groups are broad enough and the information is presented in an aggregated manner to protect confidentiality. Since the data collected is through self-identified means, the onus rests on the collecting entity (the issuer and any associated service providers) to create the culture of psychological safety and enact robust data confidentiality processes to ensure this sensitive information is handled appropriately. The benefits of additional transparency on diversity outweigh the potential costs or risks that can be adequately mitigated.

Tabular Format

A common tabular format consistent with Form B would enhance data presentation and quality, promoting consistency and comparability. By using the tabular format, the issuer is given clear guidelines on *what* to disclose and *how* to disclose the data, which we've learned from engagements with issuers is useful so they can streamline their reporting processes. Proxy research providers are currently presenting this information in a similar tabular format to streamline user interpretation.

CBCA Issuers

No issues or challenges are expected for CBCA-incorporated issuers in providing both CBCA disclosures and the disclosures proposed in Form A or B. Especially if the Form B approach is adopted, these are the same designated groups under the CBCA with the addition of LGBTQ2SI+ persons. Approximately 29% of TSX-listed issuers are incorporated under the CBCA and are currently required to provide the broader diversity disclosures required by the CBCA. This alignment would reduce regulatory fragmentation and limit the burden of reporting on issuers.

Application to Venture Issuers

Recognizing that venture issuers and their investors have unique needs, the CSA historically has struck a balance between investors' need for enhanced disclosure, and venture issuers' needs for a streamlined, cost-efficient disclosure system. Therefore, it would be reasonable to consider developing similar disclosure requirements for venture issuers in the second phase of the project. Given that the Proposed Amendments and Changes are still based on a "comply or explain" approach and are not prescriptive, no material changes are expected to be made to reflect the different stages of development and circumstances of venture issuers.



In closing, AIMCo again commends the CSA's efforts to better understand the needs and perspectives of a variety of stakeholders with respect to diversity, including diversity beyond women. Without the CSA's initial efforts in 2014, we would not have surpassed several important diversity milestones, such as 34% of all board seats among S&P & TSX Composite Index companies are now held by women, up from just 18% in 2015⁴. With these Proposed Amendments and Changes, together we will accelerate progress on the representation of women and other historically underrepresented groups on boards and in executive officer positions.

Sincerely,

A handwritten signature in black ink, appearing to read "E. Siddall". The signature is fluid and cursive, with a prominent initial "E" and a long, sweeping tail.

Evan Siddall
Chief Executive Officer

Sincerely,

A handwritten signature in black ink, appearing to read "C. Velasquez". The signature is cursive and somewhat stylized, with a large, looped initial "C" and a long, sweeping tail.

Carmen Velasquez
Managing Director, Sustainable Investing

⁴ <https://30percentclub.org/chapters/canada/>