

September 27, 2023

VIA email

comment@osc.gov.on.ca

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

Re: Proposed amendments to Form 58-101F1 Corporate Governance Disclosure

Thank you for the opportunity to provide our comments on the proposed amendments to National Instrument 58-101. We are encouraged that the Canadian Securities Administrators has reached out to obtain direct feedback on these very important matters.

Canoe Financial (“Canoe”) is an employee owned, independent investment fund management company, with a significant presence across Canada, including offices in Calgary, Toronto and Montreal. Today, we manage over \$13.5 billion in assets across a diversified range of investment solutions.

While National Instrument 58-101 does not directly apply to Canoe as we are not a reporting issuer, Canoe is an investment fund manager and therefore a shareholder in a number of reporting issuers that these rule changes would apply to.

Specifically, we wish to provide comments with respect to the “Approach to Diversity” questions (i.e., questions 2 to 5).

[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.

Canoe's Comments:

We believe that the Form A approach best meets the needs of investors for making investing and voting decisions while meeting the principles based approach of Canadian securities law. The Form A approach best allows issuers to have the flexibility to tailor a diversity strategy that is best for their business and shareholders while taking into account the issuers industry and circumstances. In addition, the requirements in "Form A" allow for meaningful disclosure by reporting issuers of their approach to diversity from both a board and executive level, not just the board level, which we believe will be valuable to investors.

We believe the Form B approach is not the ideal approach for the following reasons:

- The prescriptive approach proposed in Form B would be too restrictive. The definition of diversity is ever expanding and we believe it is best to leave it in the hands of the issuers to provide that definition in a way that is consistent with their diversity strategy. It is our opinion that it is not the role of the securities regulators to be defining what diversity categories are most important for a given issuer. One size does not fit all with diversity.
- The Form B approach will result in negative long-term impact for issuers, which would not be in the best interests of investors. Issuers will be viewing the selection of board members as a checkmark exercise to increase diversity as opposed to choosing candidates that would be the most competent for the position, thereby harming investor interests.
- While we understand the appeal of a prescriptive list of what is an "identified group", we believe it will be likely that issuers will only provide disclosure based on what is mandated (i.e., the five designated groups) as opposed to Form A, where disclosure is more flexible based on what is meaningful to the issuer's diversity strategy.
- Form B's information would be of limited use as it will always be backward looking. Information on diversity is provided at the end of the year using the Form B approach, which does not necessarily reflect what an investor would be looking for in the future.
- Form B's omission of any required disclosure on approach to diversity from an executive level provides a gap to investors concerned about this matter as executive management is critical to the success of an issuer.

[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.

Canoe's Comments:

As noted previously, it is our belief that a diversity approach and objectives with respect to executive officers is useful for investors. Executive officers are just as important as directors of an issuer with respect to the success of a business. We believe that Form A's approach of providing investors with the issuer's strategy to achieving or maintaining diversity with respect to executive officers and directors would be valuable for an investor that uses diversity as a part of their investment decision making.

[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, consistent with the approach in Form A? Please explain.

Canoe's Comments

For the reasons noted in our response to question two, we believe the Form A is the better approach. The approach of Form A allows for disclosure in a way that is meaningful to the issuer taking into account the issuer's industry, strategy and circumstances, which would provide investors with valuable insight into the priorities of the issuer with respect to diversity.

[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.

Canoe's Comments

Consistent with Canoe's favored approach (Form A) and our comments herein, we believe the flexible narrative approach is the better approach for investors rather than the prescriptive approach of Form B. For reasons outlined already, we believe disclosure in a form that best suits the issuer's diversity strategy is much more useful to an investor than having disclosure based on the definition of diversity prescribed by securities regulators. We worry that tabular form reporting will encourage misleading 'window dressing' of results rather than leading to true diversity of Board composition. Indeed, even with the reporting of statistics of women on Boards, we worry that in some cases it has just lead to privileged women joining the privileged men on the Boards and has not lead to meaningful diversity.

We also worry about the increasing influence of proxy voting services and their potential use of the tabular information. In many cases Canoe is very knowledgeable about the proposed

directors of the companies it invests in, but in some cases we note that a strong candidate was not supported by proxy voting services due to concerns about the gender make up of the board. We worry that a tabular form approach may encourage a statistical endorsement of directorship candidates, rather than a substantive based evaluation exercise.

We once again thank the Canadian Securities Administrators for the opportunity to comment on this proposal. We welcome all opportunities for further consultations, in writing or in person.

Sincerely,



Darcy M. Lake
SVP General Counsel & Chief Compliance Officer