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September 21, 2012

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New Brunswick Securities Commission  
Registrar of Securities, Prince Edward Island  
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Registrar of Securities, Government of Yukon  
Registrar of Securities, Department of Justice, Government of the Northwest Territories  
Registrar of Securities, Legal Registries Division, Department of Justice, Government of Nunavut

c/o Me Anne-Marie Beaudoin, Corporate Secretary  
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c/o Mr. John Stevenson, Secretary  
Ontario Securities Commission  
20 Queen Street West  
Suite 1900, Box 55  
Toronto, Ontario M5H 3S8

**Sent via e-mail**

Dear Sirs and Mesdames:

**RE: RESPONSE TO CONSULTATION PAPER 25-401 – POTENTIAL REGULATION OF PROXY ADVISORS**

Thank you for the opportunity to provide comments to the Canadian Securities Administrators (the “CSA”) in response to the CSA's Consultation Paper 25-401 – Potential Regulation of Proxy Advisors released for comment on June 21, 2012 (the “Consultation Paper”). We hope that you find our comments thoughtful and relevant.

With more than \$117.1 billion in assets as of December 31, 2011, the Ontario Teachers' Pension Plan (“Teachers’”) is the largest single-profession pension plan in Canada. An independent organization, it invests the pension fund's assets and administers the pensions of 300,000 active and retired teachers in Ontario. We take the responsibility of voting the securities we hold very

seriously. Our objective is to vote every share of every company we own at every meeting of that company's shareholders. To that end, we devote significant resources to our internal proxy voting process and to our involvement in general corporate governance issues.

As a user of proxy advisory services, we certainly appreciate the importance of the concerns set forth in the Consultation Paper. We make use of analyses generated by independent advisory services, and we agree that conflicts of interest and lack of transparency in the industry could be cause for concern. That being said, while potential conflicts do arise, it has been our experience that proxy advisory firms consistently disclose the facts underlying the potential conflict and focus on ensuring delivery of an independent opinion. With respect to consultancy services, the nature of the potential conflicts are such that the advisory firm's clients, largely institutional investors, are capable of assessing the risks. Generally, the opinions generated by proxy advisory firms are used and evaluated by sophisticated investors capable of digesting the disclosed information and forming a view on whether it impacts the quality of the opinion.

After making use of these services for more than 15 years, we believe that the advisory firms appreciate the importance of independence and have developed sufficient controls to address the concerns set forth in the Consultation Paper. With respect to transparency, proxy advisory firms currently disclose the general principles which underlay their decisions and have stated guidelines on correction of errors within reports. With the foregoing in mind, we fear that the proposed regulations could prove both ineffective and potentially damaging for the reasons set forth herein.

As noted in the Consultation Paper, Glass, Lewis & Co. LLC ("Glass Lewis") is a subsidiary of Teachers'. Our responses herein are provided from our perspective as a user of proxy advisory services, not as an owner.

Following are our responses to the questions posed in the Consultation Paper.

## **General Comments**

**1. Do you agree, or disagree, with each of the concerns identified in the Consultation Paper, namely: (i) potential conflicts of interest, (ii) perceived lack of transparency, (iii) potential inaccuracies and limited engagement with issuers, (iv) potentially inappropriate influence on corporate governance practices, and (v) the extent of reliance by institutional investors on the advice of such firms? Please explain and, if you disagree, please provide specific reasons for your position.**

While we understand that perceptions regarding conflicts of interest within and the influence of advisory firms are important, we believe that each of the identified concerns is sufficiently managed and that direct regulation of proxy service providers is unnecessary. These concerns are currently managed either through the policies and actions of the advisory firms themselves or due to the nature of their clients. We provide further details of our reasoning below.

### **(i) potential conflicts of interest**

The Consultation Paper identifies a number of potential conflicts of interest with respect to proxy advisors. We believe these potential conflicts are already being effectively mitigated for the reasons described below.

### *Conflicts of interest when a proxy advisor also provides consulting services*

Of the two predominant advisory firms, only Institutional Investor Services Inc. (“ISS”) provides stand-alone consultancy services along with proxy advisory services. While the provision of consulting and advisory services does raise a potential for conflicts of interest, we understand that ISS has implemented ethical walls between its consultants and analysts so that analysts are not aware of or influenced by consultancy engagements. We note that under ISS’ recently published “Engaging with ISS”,<sup>1</sup> ISS states that pursuant to the terms of its consultancy engagements, clients may not disclose publicly or to an ISS analyst that they have acquired products or services from the consulting division. ISS also emphasizes that its analysts are only permitted to use publicly available information when making their recommendations.

The fact that ISS provides both consultancy and advisory services is well known among its client base of institutional investors. Generally, these investors have the understanding and resources to evaluate the inherent potential conflicts and assess ISS’ published advice in that light. Those investors also have the ability to access the views of either Glass Lewis or one of the less predominant advisory firms for a second opinion.

### *Conflicts of interest due to ownership structure*

Parent-subsidiary relationships are common in business and we recognize that such ownership structures present a potential for conflicts of interests. However, we also note that organizations develop internal structures and ethical or business practice guidelines which address potential conflicts that can occur through related party transactions. For example, ISS and Glass Lewis have developed such structures and guidelines and descriptions of these controls are publicly available on their respective web sites. During the time we have actively used proxy advisory services, we have not identified any instances, and are not aware of any having been raised by other institutional investors, where a firm’s analysis appears to have been tainted through undue influence by its owner, or which would imply that a firm’s internal controls have failed.<sup>2</sup>

### *Conflicts of interest arising from client relationships*

On an annual basis, Teachers’ reads and considers over 1,200 proxy advisor reports and to date we have uncovered no evidence or trends that would suggest that proxy advisors give preferential

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<sup>1</sup> [www.issgovernance.com/policy/EngagingWithISS](http://www.issgovernance.com/policy/EngagingWithISS)

<sup>2</sup> We do note the assertion of the Center for Capital Markets Competitiveness, an advocacy arm of the U.S. Chamber of Commerce, that the disclosure of Teachers’ voting intentions appears to have influenced the analysis undertaken by Glass Lewis in certain situations. (See page 8 of the comment letter dated August 14, 2012 submitted by the Center for Capital Markets Competitiveness.) Teachers’ normal course practice is to disclose its voting intentions well in advance of the relevant company meeting. While this disclosure usually occurs after the release of proxy adviser recommendations, in instances where a meeting date is drawing near and/or Teachers’ determines it has sufficient data to make its determination, our disclosure may be released prior to a Glass Lewis recommendation. There is no coordination between Teachers’ and Glass Lewis with respect to public disclosure dates. Please see Response 1(v) below for a description of Teachers’ analytic inputs and the following link for Glass Lewis’ Conflict of Interest Statement: <http://www.glasslewis.com/about-glass-lewis/disclosure-of-conflict/>. We note that the Center for Capital Markets Competitiveness neglected to cite the multiple instances where Glass Lewis has recommended a course of action which runs counter to Teachers’ voting intentions or expressed views, including the LSE bid for TMX in 2011.

treatment when providing recommendations on shareholder proposals submitted by their clients. Instead, what we have found is that when a client has a shareholder proposal on a ballot there is full disclosure provided in the proxy paper. In addition, we have consistently found that the vote recommendation is based on the application of the proxy advisor's published policies and guidelines. This view is further validated as we have found a number of cases where the vote recommendation is not in support of the client's shareholder proposal. Therefore, we believe that the proxy advisors have demonstrated the ability to effectively recognize and manage these concerns.

We agree that potential conflicts of interest may compromise the independence of vote recommendations, but only if these potential conflicts are not identified and managed. Given the current practices employed by the proxy advisors, the sophisticated nature of institutional investors generally, and the fact that our experience as a client has not resulted in any specific situations where we believe conflicts may have impacted recommendations, we do not believe regulatory intervention is warranted.

### **(ii) perceived lack of transparency**

The Consultation Paper identifies two areas of concern with respect to lack of transparency – (i) the lack of disclosure about how proxy advisory firms arrive at their voting recommendations and (ii) the lack of public disclosure of the actual report.

#### *Lack of disclosure of how proxy advisory firms arrive at their vote recommendations*

The approach used by proxy advisors to develop opinions is readily available to the public. Specifically, the proxy voting guidelines and policies used to evaluate the proposals on a ballot and generate vote recommendations are published on the proxy advisors' respective web sites.

However, we understand that the details relating to certain proprietary analytical techniques, particularly on issues such as equity compensation and say-on-pay are not disclosed. We fear that a mandate to disclose proprietary information could destroy the proxy advisory market, which as a user of proxy advisory services causes us great concern.

#### *Lack of public disclosure of the actual report*

We do not believe that full public disclosure of the actual report is advisable. We subscribe to the proxy reports produced by proxy advisory firms to provide us with a valuable input in our proxy voting decision process, and the reports are available to all subscribers. As noted above, requiring public dissemination of the reports would put the commercial viability of the industry at risk which in turn could ultimately eliminate an important input into our proxy voting decision making. We are concerned with the negative effects on informed proxy voting that could occur should proxy reports be eliminated from our voting process.

### **(iii) potential inaccuracies and limited engagement with issuers**

The business of a proxy advisory firm is to provide to its clients opinions which are based on an analysis of the facts presented through an issuer's public disclosure. From our experience, the majority of complaints of inaccuracies raised by issuers are related to proxy advisors' recommendations on issues such as compensation and mergers and acquisitions. Proxy advisors analyze these issues by applying their own published methodologies to the facts presented in public documents. We believe that where a proxy advisor has made a recommendation at odds

with an issuer's position, this primarily reflects that fact that reasonable parties can come to differing conclusions based on their own perspectives and analysis. A difference in opinion does not necessarily reflect "inaccuracies" or a "flawed analysis" on the part of a proxy advisor.<sup>3</sup> Quite the opposite, different opinions allow sophisticated parties to carefully consider and make informed decisions based on an independent analysis.

The Consultation Paper makes reference to this concern being more acute in close vote or complex, controversial voting matters. We do not see this issue as a problem but rather as an advantage. These differences of opinion are healthy and instrumental in creating a debate on the issues, in the end allowing for more informed vote decisions. Having these differences of opinions available for our consideration is particularly valuable when the issues are complex and controversial.

The Consultation Paper indicates that as of July 2012, ISS and Glass Lewis have updated their processes to facilitate engagement with companies. We have reviewed these processes and believe that both ISS and Glass Lewis have in place appropriate processes to address errors and to engage with companies. We believe that an engagement process between issuers and proxy advisors should exist to address factual errors and not differences in interpretation or for issuers to lobby the advisor to provide a specific and biased vote recommendation. We believe that the most appropriate method for issuers to address differing points of view is by way of public disclosure and direct shareholder engagement, as set forth in ISS' and Glass Lewis' amended procedures.

We encourage the CSA to analyze the proxy advisors' revised engagement policies to assess whether these policies sufficiently address the anecdotal concerns raised with respect to error correction and issuer engagement.

#### **(iv) potentially inappropriate influence over corporate governance practices**

Proxy advisory firms develop their proxy voting guidelines through an annual process which includes input from their clients, recognized corporate governance experts and other corporate governance constituents designed to uncover emerging corporate governance best practice. ISS has recently initiated their annual open comment period which solicits input from a number of sources: "The open comment period is designed to elicit objective, specific feedback from investors, corporate issuers and industry constituents on the practical implementation of proposed policies."<sup>4</sup> Glass Lewis has established a Research Advisory Council<sup>5</sup> which consists of individuals with global expertise in corporate governance, accounting, financial transparency and the legal and regulatory environment to guide the development of their proxy voting guidelines.

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<sup>3</sup> We note that the Consultation Paper refers to a 2010 survey conducted by the Center on Executive Compensation (the "Center") to support the view that proxy advisors are prone to make a number of mistakes in their analysis. We have reviewed this survey and the Center's analysis, and we question whether the survey should be relied on for purposes of the CSA's review of these issues. In particular, we note that the survey was conducted on U.S., not Canadian, issuers, and the survey does not indicate how many issuers responded. Without an idea of how representative the survey base is, it is difficult to assess how significant a caveat it is when the Center says "*if [our] data is representative of large companies generally, then proxy advisory firms are negatively impacting the compensation programs at a meaningful number of companies...*" [Section 4.3 of the Consultation Paper, emphasis added.]

<sup>4</sup> <http://www.issgovernance.com/press/policysurvey>

<sup>5</sup> For more information, including membership of the Research Advisory Council, please see <http://www.glasslewis.com/about-glass-lewis/research-advisory-council/>

We view the consultative processes used by the proxy advisors to be inclusive (note that the ISS process includes issuers) and comprehensive. It is our view that the processes used to develop these proxy voting guidelines have been effective in channelling emerging trends and best practices in corporate governance.

The Consultation Paper raises the concern that issuers feel compelled to adopt a “one-size-fits-all” standard for corporate governance in response to firms’ guidelines. We believe that Teachers’, and the majority of other Canadian institutional investors, have consistently stated that we do not subscribe to a “one-size-fits-all” standard for corporate governance and will not base our proxy voting decisions on such a standard. The Canadian market, as reflected in our “comply or explain” disclosure regime, recognizes that the specific circumstances of individual issuers may necessitate divergence from generally accepted best practices. However, the recognition of exceptions does not vitiate the positive impacts of having clearly articulated standards developed through consultative processes.

**(v) the extent of reliance by institutional investors on the advice of such firms**

We do not believe that significant Canadian institutional investors rely inappropriately or excessively on the recommendations of proxy advisory firms.

At Teachers’ proxy advisory firms provide us with just one of the many inputs in our proxy voting decision making process. Other factors we consider are our own proxy voting guidelines, the individual circumstances of the issuer, information provided by third party research firms, as well as the expertise, knowledge and judgement of our staff. After giving due consideration to all the information at our disposal, we cast our vote. We do not believe we are dissimilar from other Canadian institutional investors in this regard.

At Teachers’, we take our voting activity seriously and expend a significant amount of resources to ensure we make the most informed vote we can. It must be noted that as a result of our due diligence in the proxy voting process, there are a number of occasions where our vote decision has been contrary to the recommendation of our proxy advisor.

**2. Are there any other material concerns with proxy advisory firms that have not been identified? Please explain.**

We do not have any other material concerns with proxy advisory firms at this time.

**3. Are there specific gaps in the current practices of proxy advisory firms which justify regulatory intervention? Is there a concern that future gaps could be created as a result of new entrants or changes in business practices or other practices?**

We do not see any significant gaps in current practices, nor do we have any concerns about potential future gaps, that would necessitate regulatory intervention.

**4. Do you believe that the activities of proxy advisory firms should be regulated in some respects and, if so, why and how?**

For the reasons stated above, we do not believe that regulation of proxy advisory firms is necessary to address the concerns set forth in the Consultation Paper.

## **Potential conflicts of interest**

**5. To what extent do you consider proxy advisory firms to: (i) be subject to conflicts of interest in practice, (ii) already have in place appropriate conflicts mitigation practices, and (iii) be sufficiently transparent regarding the potential conflicts of interest they may face? If you are of the view that current disclosure by proxy advisory firms regarding potential conflicts of interest is not sufficient, please provide specific examples of such insufficient conflicts of interest disclosure and suggestions as to how such disclosure could be improved.**

Like any business, we recognize that proxy advisors are subject to conflicts of interest. As set forth under Response 1(i) above, we believe that these inherent conflicts are being effectively mitigated through the internal structures and policies established by the advisors, their disclosure with respect to specific potential conflicts, and the nature of the advisors' client base of institutional investors. We do not believe that subjecting the proxy advisors to a regulatory regime would provide a materially greater degree of comfort to clients or issuers than is already present.

**6. If you are of the view that there are conflicts of interest within proxy advisory firms that have not been appropriately mitigated, which of these are the most serious in terms of the potential (negative) impact on development of their voting recommendations and why?**

We are of the view that conflicts have been appropriately recognized and mitigated as stated in Response 5 above.

**7. Should we propose an amendment to NI 51-102 to require reporting issuers to disclose consulting services from proxy advisors in their proxy circular? Or would such disclosure undermine the existing controls and procedures (i.e. "ethical wall") in place which currently may prevent proxy advisory firms research staff who review an issuer's disclosure from being made aware of the identity of their firm's consulting clients?**

We do not see the benefit derived from reporting such arrangements as it would have no impact on the analysis of the corporate governance practices of the issuer or on our voting decision. As set forth under Response 1(i) above, ISS' published guidance indicates that they believe analysts should not be made aware of consultancy engagements in order to respect the ethical walls between the two divisions.

## **Perceived lack of transparency**

**8. Could disclosure of underlying methodologies and analysis provide beneficial information to the market or would the commercial costs be too significant?**

As set forth under Response 1(ii) above, we do not believe that the disclosure of the proprietary analytical techniques would provide a benefit to clients sufficient to justify undermining the continued viability of the industry. Furthermore, general methodologies are available on proxy advisory websites.

## **Issuer engagement**

**9. To what extent could there be an improvement in the dialogue with issuers during the vote recommendation process?**

As set forth under Response 1(iii) above, we encourage the CSA to analyze the proxy advisors' revised engagement policies to assess whether the CSA agrees that these policies sufficiently address the anecdotal concerns raised with respect to error correction and issuer engagement.

**10. During proxy season, is it appropriate for a proxy advisory firm to engage with issuers in all circumstances or are there legitimate business and policy reasons why it should not be required to do so? Are there certain special types of situations where it is more important that issuers are able to engage with proxy advisory firms?**

We believe that the decision to engage or not engage with issuers should be left to the proxy advisory firm to decide on a case-by-case basis.

We do not support the proposition that firms should be required to engage with issuers in all circumstances. Pre-publication issuer review may undermine the independence of the opinions. Also, proxy advisory firms deal with a very large volume of meetings on an annual basis. During peak proxy season, advisors are under a significant time pressure to meet production deadlines as the volume of meetings increases substantially. Adding an additional review step to the process would needlessly delay delivery of the recommendations to the institutional investor clients (thereby shortening the investors' time to consider all the relevant factors in their proxy voting decisions process) and increase the cost of these services. As set forth under Responses 1(ii) and (v) above, proxy advisor recommendations are valuable inputs in our proxy voting decision making process. A material delay in receiving these recommendations may have a material impact on our internal review and assessment.

**11. If a proxy advisory firm, as a matter of policy, believes that there are certain circumstances where it is not appropriate to give issuers an opportunity to review its reports, would it be sufficient to only require in these circumstances that the underlying rationale for such policy be disclosed? Please explain. Or, alternatively should proxy advisory firms be required to provide issuers with an opportunity to review their reports in all circumstances?**

As a client, we expect that proxy advisory reports are the opinion of the proxy advisor based on their independent analysis of the facts presented by the issuer in its public filings. We believe that it should be left to the proxy advisor to determine if it is appropriate to include issuers in the report publication process, depending on the particular circumstances at hand.

As set forth under Response 1(iii) and 10 above, we believe that an engagement process between issuers and proxy advisors should be there to address factual errors and not differences in interpretation or for issuers to lobby the advisor to provide a specific vote recommendation. Requiring issuer review of reports in advance of publication could also have a negative impact on the internal proxy voting decision making process of institutional investors.

**12. Should we prescribe the details of the processes that proxy advisory firms implement to engage with issuers? If so, what do you suggest the requirements should be?**

For the reasons stated above, we believe that the decision to engage with issuers should be left with the proxy advisory firms.



## **Potentially inappropriate influence on corporate governance practices**

**13. To what extent should there be a more fair and transparent dialogue between proxy advisors and market participants on the development of voting policies and guidelines? Is it sufficient for proxy advisors to address governance matters by soliciting comments from clients?**

As set forth under Response 1(v) above, both Glass Lewis and ISS employ a consultative process in the development of their respective proxy voting guidelines, which we believe to be a fair process which includes stakeholders other than clients.

## **Proposed regulatory responses and framework(s)**

**14. Do you think a securities regulatory response is warranted in connection with each of the concerns identified above? Please explain why or why not.**

As set forth under Response 1 above, we do not believe the concerns raised in the Consultation Draft necessitate a regulatory response.

**15. Do you agree with the suggested securities regulatory responses to each of the concerns raised? If not, what alternatives do you suggest?**

As previously stated, we do not believe that regulatory intervention will further address the concerns raised.

## *Conflicts of interest*

As set forth under Response 1(i) above, we believe that inherent conflicts are being effectively mitigated through the internal structures and policies established by the advisors, their disclosure with respect to specific potential conflicts, and the nature of the advisors' client base of institutional investors. We do not believe that subjecting the proxy advisors to a regulatory regime would provide a materially greater degree of comfort to clients or issuers than is already present.

## *Lack of transparency*

As set forth under Response 1(ii) above, we do not believe that the disclosure of the proprietary analytical techniques would provide a benefit to clients which would outweigh the potential extinction of the industry.

To the extent that information is non-proprietary (for example proxy voting guidelines), it should be disclosed. We understand that this is consistent with the proxy advisors' current practices.

## *Potential inaccuracies and limited opportunity for issuer engagement*

As set forth under Responses 1(iii), 10 and 11 above, we believe that the decision as to when issuer engagement is necessary must be left to the professional judgement of the proxy advisor.

We encourage the CSA to analyze the proxy advisors' revised engagement policies to assess whether the CSA agrees that these policies sufficiently address the anecdotal concerns raised with respect to error correction and issuer engagement.

### *Development of corporate governance standards*

As set forth under Response 1(iv) above, our experience is that the current process used by proxy advisors is sufficiently thorough and transparent. The process results in proxy voting guidelines that are inclusive of all governance constituents and accurately reflect current trends in corporate governance. Furthermore, these proxy voting guidelines act as an important channel to communicate emerging corporate governance best practices to the market.

### *Reliance by institutional investors*

As set forth under Response 1(v) above, we do not believe that significant Canadian institutional investors rely inappropriately or excessively on the recommendations of proxy advisory firms.

Proxy advisory firms provide us with just one of the many inputs in our proxy voting decision making process. Other factors we consider are our own proxy voting guidelines, the individual circumstances of the issuer, information provided by other third party research firms, as well as the expertise, knowledge and judgement of our staff. After giving due consideration to all the information at our disposal, in the end how we cast our vote is our decision.

**16. Do you agree or disagree with the requirements and disclosure framework set out in section 5.2.1 to address the concerns identified? If not, please indicate why. Would you prefer instead one of the other suggested securities regulatory frameworks identified above? If so, please indicate why. Do you agree or disagree with our analysis of these frameworks? Do you have suggestions for an alternative regulatory framework?**

As previously stated, we do not believe that regulatory intervention will further mitigate the concerns raised beyond the measures already in place by proxy advisory firms.

We would like to provide feedback on the sample framework provided in 5.2.1, however, should the CSA decide to implement a framework.

We have concerns with respect to the proposed regulatory framework to increase transparency in the activities of the proxy advisory firms. Our concerns are outlined in the points below:

- Regarding requirement 2(d) under 5.2.1 - In our view the framework requires the disclosure of a significant amount of proprietary information that could, for the reasons set forth under Response 1(ii) above, harm the continued viability of the industry.
- Regarding requirement 2(e) under 5.2.1 - As stated in the Consultation Draft, Glass Lewis and ISS have recently updated their engagement processes, which are disclosed on their respective web sites. As with the conflicts of interest guidelines, the proxy advisors are already providing information with respect to their issuer engagement policies.
- Regarding requirement 2(e) under 5.2.1 - For the reasons set forth under Responses 1(iii), 10 and 11, we believe that requiring proxy advisors to consult with issuers prior to publishing recommendations could have a negative impact on the independence of the opinion and on the internal proxy voting decision making processes of institutional investors. If such a consultation requirement is imposed, the costs associated with the consultation should be borne by the relevant issuer and not passed on to the adviser's customers.

- Regarding requirement 2(f) under 5.2.1 - Similar to the conflicts of interest guidelines and engagement processes, the procedures used to develop proxy voting guidelines is available from the proxy advisors' web sites.

**17. Are you of the view that we should prescribe requirements in addition to or instead of those identified above for proxy advisory firms?**

As we do not believe that regulatory intervention is warranted, we have no additions to the proposed regulatory framework.

**Additional questions for institutional investors**

**18. To what extent and in what ways do you rely on the services by proxy advisory firms? Please be as specific as possible.**

Please see Responses 1(v) and 15 above.

**19. How do you view your duty to vote and how do the vote recommendations of proxy advisory firms play a part in your decision-making process?**

Teachers' takes our duty to vote very seriously. Our approach to voting our shares is outlined in detail in our Corporate Governance Principles and Proxy Voting Guidelines which is available on our web site<sup>6</sup>:

*We take the issue of voting very seriously. Our objective is to vote every share of every company we own at every meeting of that company's shareholders. We assess every issue to be considered well in advance of the meeting date. In assessing the issues, we review all relevant company filings and other materials that we have access to, including proxy research materials provided by proxy research provider, Glass, Lewis & Co\*.<sup>7</sup>*

As set forth under Response 1(v), the vote recommendations received from proxy advisors are only one input into our proxy vote decision-making process.

**20. Do institutional investors have the ability to require changes to proxy advisory firms' practices without the need for regulatory intervention?**

We do. As in any vendor-client relationship, discussions can be initiated with the service provider as issues arise. In the end, both parties retain the right to continue or sever the relationship depending on how the issue is resolved.

**21. Assuming you share the concerns identified above, do lack of choice/competition or other market factors in the proxy advisory industry limit your ability to address these concerns directly such that regulatory intervention is warranted? Please explain.**

<sup>6</sup> [http://www.otpp.com/wps/wcm/connect/otpp\\_en/Home/Responsible+Investing/Governance/Guidelines/](http://www.otpp.com/wps/wcm/connect/otpp_en/Home/Responsible+Investing/Governance/Guidelines/)

<sup>7</sup> Page 3, Good Governance is Good Business – Corporate Governance Principles and Proxy Voting Guidelines, Ontario Teachers' Pension Plan, 2012

Our experience with proxy advisors is that the concentration of the market in two organizations does not limit the ability to address concerns directly with the proxy advisors. Generally, we believe proxy advisors have been responsive to the concerns of issuers, institutional investors and regulators as evidenced through the proxy advisor's voluntary adoption and publication of conflicts of interest guidelines as well as engagement guidelines, proxy voting guidelines and policy development processes. We do not believe that regulatory intervention would positively impact choice, competition or other market factors.

**22. Given the above-noted concerns regarding the overall quality and lack of transparency underlying the vote recommendations of proxy advisory firms, what measures do you take and, overall, how do you gain assurance that such recommendations are reliable for your voting purposes?**

As set forth under Response 1 above, we believe that each of the identified concerns is sufficiently managed and that direct regulation of proxy service providers is unnecessary. These concerns are currently managed either through the policies and actions of the advisory firms themselves or due to the nature of their clients.

**23. Do you view the policy development process and resulting proxy voting guidelines of proxy advisory firms as appropriate and reflective of your governance preferences and views? Would input from issuers further benefit or potentially hinder such process?**

We find the current development process to be consultative and comprehensive and believe it accurately reflects current corporate governance trends and issues. We note that issuers already have input into the ISS process. Generally, we are supportive of proxy advisors soliciting input from a number of sources. However, since the proxy advisors are the "owners" of their policies and guidelines, the assessment of any input and the subsequent decisions to modify policies and guidelines must remain the domain of the proxy advisors. We will always retain the right to disagree with any of their policies and proxy voting guidelines and will vote our shares based on our own independent analysis.

**Summary Comment**

While we agree that conflicts of interest and lack of transparency in the proxy advisory industry could be cause for concern, it has been our experience that proxy advisory firms consistently disclose the potential for conflicts and work to navigate the waters to ensure an independent opinion. Generally, the opinions generated by proxy advisory firms are used and evaluated by sophisticated investors capable of digesting the disclosed information and forming a view on whether it impacts the quality of the opinion. We believe that the advisory firms appreciate the importance of independence and have developed sufficient controls to address the concerns set forth in the Consultation Paper. With respect to transparency, proxy advisory firms currently disclose the general principles which underlay their decisions and have stated guidelines on correction of errors within reports. We fear that the proposed regulations could prove both ineffective and potentially damaging for the reasons we have set forth herein.

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We appreciate the opportunity to respond to your request for comment and hope that you find our feedback relevant and useful. We also encourage the CSA to continue its review of the proxy voting system and, in particular, those elements of the mechanics of the proxy voting system that

are widely acknowledged to comprise (or have the potential to comprise) the quality of the shareholder vote in Canada.<sup>8</sup> Feel free to contact us if we can be of further assistance.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Wayne Kozun". The signature is fluid and cursive, with the first name "Wayne" being more prominent than the last name "Kozun".

Wayne Kozun  
Senior Vice-President, Public Equities

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<sup>8</sup> Further details regarding those mechanical issues have been set out in “The Quality of the Shareholder Vote in Canada”, a paper produced by Davies Ward Phillips & Vineberg LLP. The paper can be accessed at [www.shareholdervoting.com](http://www.shareholdervoting.com).