

September 21, 2012

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British Columbia Securities Commission  
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Saskatchewan Financial Services Commission  
Manitoba Securities Commission  
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Autorité des marchés financiers  
New Brunswick Securities Commission  
Registrar of Securities, Prince Edward Island  
Nova Scotia Securities Commission  
Office of the Attorney General, Prince Edward  
Island  
Superintendent of Securities, Newfoundland  
and Labrador  
Superintendent of Securities, Northwest  
Territories  
Superintendent of Securities, Yukon  
Superintendent of Securities, Nunavut

Attention:  
Me Anne-Marie Beaudoin  
Corporate Secretary  
Autorité des marchés financiers  
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John Stevenson, Secretary  
Ontario Securities Commission  
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Toronto, Ontario M5H 3S8  
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RE: **Canadian Securities Administrators Consultation Paper 25-401: Potential  
Regulation of Proxy Advisory Firms**

Ladies and Gentlemen:

I am writing with respect to the above-captioned matter in my capacity as a securities lawyer representing small-cap issuers and investors in Canadian capital markets and as a corporate director. The following are my own personal views after careful consideration of the discussion paper and in light of my experience with respect to the needs of investors.

I have carefully read The Consultation Paper and consider it a thoughtful overview of the framework of regulation that exists in other jurisdictions.

While the issue of conflicts of interest are of some concern, I would submit that the discussion focus on the role of securities regulation with respect to the registration of securities and the registration of dealers and advisers. In each case these matters are adequately dealt with in the Consultation Paper.

Disclosure

The policy imperative of securities regulation has been and continues to be the protection of the public and by public we generally mean those people (and their money) that need to be protected. The key tool for protection is disclosure.

This is a scheme of regulation that is consistent and reasonable. Disclose so that people can be informed and protect themselves.

Sophisticated Market Participants

One of the derivative aspects of these regulations is that there are some market participants that are experienced and knowledgeable enough that they do not need the protection of securities regulation.

This too is fair.

The role of proxy advisory services is to analyze the qualitative aspects of management and governance and they sell this analysis to the sophisticated market participants. Why regulate this?

The clients of proxy advisory services can figure out the risks of this advice. They are deemed to be able to figure out everything else, they can certainly figure out the risks of proxy advisory services.

Discussion

You can discuss all the other facets for the reasons to regulate proxy advisors, but in light of the principle that sophisticated investors don't need this protection, it is a discussion similar to one about the number of angels that can dance on the head of a pin.

What perhaps should be considered is simply outlawing this activity all together. The analysis of the qualitative aspects of a company's management is a key element of analyzing an investment - the major investment management firms that have been created to agglomerate the funds of the people and they should just do their job. As a jurist, since this activity is not contrary to public order, I submit that it would not be possible to outlaw this activity.

Proxy Advisors and Investment Managers will clearly address the fact that they work with the highest ethics. I am sure that they do. As a business and securities lawyer working to help my clients do business, my bias is for the most straight-forward approach to regulation: full disclosure and let the investor make up his mind. Admittedly, this is not for the retail trade, but for investors who understand and can afford the risks involved with their funds.

Recommendation

If the investment management industry is to be allowed to use proxy advisory services the only approach to regulation is to require the investment manager

- (i) who has received the recommendation to publish a copy of the full report
- (ii) publish a copy of the invoice for the report;

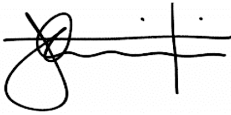
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- (iii) confirm its voting decision;
- (iv) and advise of any relationships between the investment manager, the proxy advisory firm and the investee.

This route to regulation fits into the model of disclosure that has been espoused by securities regulators traditionally and that the market needs. This approach uses the modern tools of open data to allow the market to make a decision as to the validity and value of the recommendations and the utility that their investment manager decides to spend its capital on this as opposed to relying on internal support of the highly qualified portfolio managers that it has on staff.

Any greater regulation fits into a willingness to regulate something just because it is there.

Respectfully submitted.



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