Douglas Reeson

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By email

Me Anne-Marie Beaudoin
Corporate Secretary
Autorite des marches financiers
800, square Victoria, 22e etage
C.P. 246, Tour de la Bourse
Montreal, Quebec
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and

John Stevenson, Secretary
Ontario Securities Commission
20 Queen Street West
Suite 1900, Box 55
Toronto, Ontario
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Re: Comments on CSA Consultation Paper 25-401 - Proxy Advisory Services

Dear Me Beaudoin and Mr. Stevenson,

Although I clearly missed the deadline for receipt of comments on Consultation Paper 25-401, I felt a strong need to communicate some of my thoughts about proxy advisory services.

Since 1985, I have been a director or officer of a number of smaller public companies with market capitalizations of under $1 billion, often in the resource sector. Previous thereto, I was an executive of the Toronto Stock Exchange responsible for the Listings & Distributions Division. I have always held a keen interest in corporate governance.

Proxy advisory firms have a very strong influence on proxy voting and on corporate governance policies. Although this has undoubtedly created some good outcomes generally, the purveyors of proxy voting advice rely on mechanical, black box decision-making with a notable lack of oversight. Recommendations by proxy advisory firms do contain mistakes. On some occasions, it is not readily apparent that the proxy advisory firm actual read – with the human eye – an issuers management information circular. Advising institutions on the voting of proxies should be a serious business where it is not possible to scrimp on judgement and oversight to earn excess profits.

It is apparent that institutions regularly just follow the recommendations of proxy advisory firms with little or no thought. However, institutions regularly give considerable thought – even dialogue and debate - when considering dissident information circulars where there is considerable regulation to insure fair and balanced disclosure providing protection to all parties. It appears evident that some of these protections need to be extended to regulate the proxy advisory industry.

I can best summarize my overall thoughts on your specific requests for comment by supporting the letter on this matter by the Canadian Investor Relations Institute dated September 12, 2012.

I would like to make four additional comments regarding: the one-size-fits-all approach; the pressure placed upon the members of Compensation Committees; the limitations on the number of boards for directors and CEO's; and the blind, devout reliance of many institutions on the recommendations of their proxy advisors, often without any capacity to override.

The "one-size-fits-all approach" that proxy advisors take on compensation and corporate governance standards do not fit the diversity of public companies in Canada. Clearly, large capitalization companies comprising the TSX60 who have operated for decades and who have consistent revenue streams and earning capabilities are in a different class and situation than the mineral exploration sector where a company may be solely focused on the development of one project with one commodity in a foreign jurisdiction and therefore subject to much different business conditions, risks and variability. Surely if securities regulation itself recognizes corporate diversity and focuses disclosure on comparative peer groups, it does not make sense that proxy advisors should be allowed to use a mechanical one-size-fits-all approach.

Compensation is a Board decision normally made by all directors. Although a Compensation Committee may be delegated to investigate the details of compensation and make recommendations to the Board, decisions made about executive and director compensation are made by the full Board. The Board is not a rubber stamp and the Board may approve compensation that is not in agreement with the Compensation Committee's recommendations. It is not appropriate that proxy advisors can recommend withholding or threaten to withhold voting for directors who are members of Compensation Committees. This is in essence intimidation bordering on extortion. The threat and focus on withholding voting on Compensation Committee members who are not responsible for the outcome of decisions by the full Board is unfair and it is highly detrimental to recruiting appropriate members to Compensation Committees. This does not make for good corporate governance nor good compensation decisions.

Due to the increasing complexity of business, securities regulation and corporate governance, it is extremely important that directors have experience with other boards. This helps directors maintain independent views based on their other board experiences. Proxy advisory firms have fixed rules on how many boards that a director or a CEO may sit on. Clearly it is undesirable to have absentee directors; however, the proxy advisory's fixed rules place no value on effectiveness. Although directors can play important roles outside of board meetings, it would be preferable if proxy advisors used a measure of global attendance on all of an individuals boards rather than set a fixed limit to the number of boards. Many directors are capable and competent and make the appropriate time available to properly conduct their responsibilities as a member of a number of boards.

Institutions increasingly control voting at shareholder meetings. Diversity in decision-making in shareholder voting makes for good outcomes. Institutions all use corporate governance as part of their marketing efforts. Regrettably corporate governance is not cheap. If an institution is going to outsource its role in corporate governance, they should have to disclose that this is their practice. More importantly, it should not be possible for an institution to abdicate its responsibilities as a shareholder by blindly voting in accordance with a proxy advisory service with no ability to override their recommendation. It is not good governance when an institution agrees with an issuer that they should change their initial vote on a shareholder resolution but they cannot as they are totally mandated to follow the recommendations of their proxy advisor. This mandating practice can lead to undesirable, unintended outcomes in shareholder voting.

I would like to remind the Canadian Securities Administrators that their decision to regulate, or not, proxy advisory firms should not be considered in isolation of other regulation and, in particular, another current corporate governance initiative – majority voting for the election of directors. Without serious thought and care being given to the interaction of these two initiatives, there could be serious ramifications on corporate governance and a reluctance of the best board candidates to accept nominations as directors in the future.

In concluding I would like to thank the Canadian Securities Administrators for releasing Consultation Paper 25-401 and providing the opportunity to comment. I strongly urge you to act to limit those occasions when herd voting by institutions based upon black box proxy advisory recommendations, made with little oversight, can result in poor corporate governance outcomes and cause harm to our capital markets.

Yours truly,

Douglas Reeson

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