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March 31, 2011

John Stevenson, Secretary
Ontario Securities Commission
20 Queen Street West
19th Floor, Box 55
Toronto, Ontario M5H 3S8
E-mail: jstevenson@osc.gov.on.ca

Dear Sirs:

RE: OSC STAFF NOTICE 54-701
REGULATORY DEVELOPMENTS REGARDING SHAREHOLDER DEMOCRACY ISSUES

This submission is made by Computershare Trust Company of Canada ("Computershare") and Georgeson Shareholder Communications Canada Inc. ("Georgeson"), in response to the above noted Staff Notice. We appreciate that the Ontario Securities Commission ("OSC") has provided us with the opportunity to provide comments.

Computershare is a global market leader in transfer agency and share registration, employee equity plans, proxy solicitation and stakeholder communications. As a leading transfer agent in Canada, Computershare provides complete securities transfer processing, securityholder record keeping, mailing and meeting services, and issuer web self-service for approximately 2,200 listed issuers.

Georgeson, a Computershare company, has over 70 years experience in North America and is a world provider of strategic shareholder consulting services to corporations and shareholder groups working to influence corporate strategy. They offer unsurpassed advice and representation in mergers and acquisitions, proxy contests and other extraordinary transactions.

The industry has moved from shareholder records being kept in a very simple fashion, with all shareholders on the register maintained by the issuer's transfer agent, to a very layered and complicated system, with beneficial shareholder records being kept on file with various intermediaries behind the Canadian Depository for Securities ("CDS"). One of the most significant underlying issues of the current system is that it allows for a fundamental lack of good governance by any public company. One of our goals as an organization is to help ensure that Canadian capital markets work to allow Canadian public companies to practice governance that meets and exceeds global best practices. In tackling this very broad issue, we feel that any changes that are considered must be done so with good governance being top of mind.

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Our comments on the specific items raised are as follows:

Slate voting and majority voting for uncontested director elections

Georgeson represents, as proxy solicitor, on average over 100 Canadian issuers a year who are electing a Board of Directors. In our experience, it has become apparent over the last 3 years that in an effort to practise the highest level of good governance it is incumbent on issuers to have individual voting on the election of directors, as opposed to a slate, on their proxy. This does not mean that a majority number is necessarily required for each directors, although that would be an obvious next step, but as long as issuers are at least presenting board members as individuals and not as a slate the opportunity for shareholders to evaluate directors individually exists and we expect that directors who do not receive high voting results compared to their peers will understand what that means and address their actions and behaviours accordingly. Again, majority voting might help ensure that happens more readily, but such a step for routine meetings may not be necessary.

Mandated shareholder advisory votes on executive compensation

Approximately 42 issuers in Canada have adopted say-on-pay policies and approximately 28 have held votes. Approval ranges from 86% to 99% and this leads one to ask if this is just a routine event in the life of a Canadian issuer now. While conceptually say-on-pay is a good corporate governance initiative, there is some thought that not all shareholders of a company understand it – large institutions may, but some smaller/retail shareholders may not. The smaller shareholders may appreciate the opportunity to cast a vote on this matter, but few shareholders of any size seem to question the policies that are being put in front of them.

In Canada there seems to be 3 schools of thought at this time:

1. It is a routine event with little impact.
2. It is not a shareholder issue, but instead a board decision.
3. It leads to shareholder engagement and good corporate governance by companies as they outline and discuss their compensation policies.

All three positions are fair based on the 28 votes, but say-on-pay, from a corporate governance perspective, is an important piece of the company disclosure process. It would seem that the more issuers can disclose, and if a system is in place to keep shareholders informed, good governance would be practiced each time there is a vote.

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Effectiveness of proxy voting system

There has been a great deal of focus on the effectiveness of the proxy voting system since the publications of the Securities and Exchange Commission "Concept Release on the U.S. Proxy System" on July 14, 2010, and "The Quality of the Shareholder Vote in Canada" discussion paper by Davies Ward Phillips & Vineberg LLP on October 22, 2010. Given the focus on this topic in North America, and the increasing number of issuers that are listing their securities on both sides of the border, we feel that it is increasingly important for Canadian and U.S. regulations and policies to be harmonized, and respectfully suggest that the continuing discussions in the U.S. be closely monitored by the OSC.

Focusing on the current Canadian proxy system, we feel that "The Quality of the Shareholder Vote in Canada" did an admirable job of providing a comprehensive overview of the current system, including the areas that are flawed and some potential solutions to correct them. We feel that some of the key areas that require additional review by the securities regulators are as follows:

- Reconciliation of voting files

  We believe that it is necessary to enhance section 4.3 in NI 54-101CP to require annually from all intermediaries' compliance departments, confirmation that that the intermediary has reconciled their beneficial holder file to ensure that only those securityholders entitled to vote are mailed a VIF as per the current requirements in 54-101CP section 4.3. Currently, section 4.3 of 54-101CP requires the intermediary to reconcile its records prior to the mailing and provide accurate response to the request for beneficial ownership information. We believe this is an essential, but overlooked requirement of NI 54-101CP, as a Voting Instruction Form ("VIF") should be sent only to the legitimate beneficial owners.

  This simple requirement for an annual confirmation from the intermediaries' compliance departments will greatly assist in ensuring that only those securityholders entitled to vote receive a VIF and will also facilitate the reduction, or possibly full elimination, of the occurrences of over-voting.

- Beneficial shareholder transparency

  Computershare strongly suggests consideration be made to enable agents of the issuer to obtain access to the OBO data. The agent of the issuer could be tasked with providing the same level of security and confidentiality of the OBO information as the intermediary and their agent are currently. We believe that the issuer would experience a greater ability to provide consistent communications to their securityholders if this option was available as they would have the option to select a single service provider to mail to all holders. The securityholders would have one website to visit and vote their shares, there would be an enhanced ability for consolidating mailings to holders, and issuers' agents would have the ability to verify all attendees who are holders at the registration desk for any securityholder meeting, providing them with the ability to vote at the meeting.

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Within the current system, we are also concerned about potential disenfranchisement of OBO holders when an issuer enacts their right under NI 54-101 to not pay for delivery of material to OBOs. The issuer still has the obligation to provide the requisite number of sets of material to the intermediary or their mailing agent, however we believe that not all intermediaries have the mechanisms in place to either pay their agent for the mailing themselves, or pass the cost of the mailing onto the OBO holder. We respectfully suggest that there be a review of the methodology by which the various intermediaries are handling this situation in order to ensure that a beneficial shareholder opting to be an OBO holder is not penalized by potential non-receipt of meeting material.

Issuers that have a regulatory requirement to monitor their foreign ownership to ensure they do not exceed certain thresholds would also benefit from more transparency than is currently available. The reality is that no public issuer in Canada can say with 100% certainty that they know what their foreign ownership holdings are at a specific point in time. The lack of direct access to full beneficial ownership information means that it is impossible to know the exact share amounts held in each jurisdiction. The government has an expectation that foreign ownership rules be followed, but issuers have no reliable or credible methodology to complete this monitoring. We expect that companies practice good governance that includes following these regulations, but they are not provided the means to do so.

- Over-voting

Over-voting and empty voting are two areas of serious concern when considering shareholder rights and corporate governance. All shareholders have a right to cast a vote in connection with the shares that they hold on record date, however this right is being diminished by the lack of focus on, and enforcement of, the requirement under NI 54-101 for an intermediary to reconcile their beneficial shareholder file to the position they hold in any depository, registered or nominee positions.

The large majority of an issuer's issued and outstanding shares are held within depository positions, making it impossible for the transfer agent to reconcile votes beyond the intermediary position. Because there is no transparency behind the voted proxies received from intermediaries, the transfer agent could inadvertently be voting the same beneficial shareholdings more than once. If proxies are received from intermediaries that are in excess of the total intermediary position, this will result in the issuer or Chairman of the meeting being required to make a decision about how the over-vote will be handled. As a result of the lack of transparency to the beneficial shareholder positions, and despite the choices available for managing the over-vote, this will almost certainly result in legitimate shareholder votes being diluted or discarded in their entirety, and improper or double votes being tabulated, through no direct fault of the issuer or their scrutineer. The difficulty lies in the inability of the issuer or their agents to work backwards through the process to the source of the actual vote that has been received from the beneficial shareholder.

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For most shareholder meetings, only a portion of the beneficial shareholders will receive proxy material due to the material delivery options on the Form 54-101F1 available to a beneficial shareholder at the time of setting up their brokerage account. This fact, and the lack of transparency in the current system, increases the concern regarding the over voting situations. If only a percentage of the beneficial holders identified by the intermediaries on the beneficial ownership determination date receive material, there should always be a block of shares that will never be voted, as there are holders who don't receive material. This would not seem to be the case based on instances of over-voting, however without the transparency, there is no way to confirm this.

While there are ways to handle over-votes, such as through mini-omnibus proxies or guidelines on options available to manage for these votes, these are make-shift solutions, not covered in any securities legislation, but created by the players in the industry, based on the system we work in. They are not solutions that work in their entirety. Voting results are accurate based on the current system, but the current system does not allow for the most accurate results.

Computershare and Georgeson have a unique perspective on the current system in that we see the proxy voting process end-to-end. We see governance and processes from many different vantage points and work with issuers that want to ensure they are practicing the highest degree of good governance. We are also critical to the issuer in their tabulation and scrutineering process. There is an opportunity to raise the bar on corporate governance for public companies in Canada by reforming the system and we believe that the key areas we have outlined address that. There are various decisions made by both the issuer and investor that affect the rest of the process and if an issuer cannot see and understand those decisions in their entirety the integrity of the system is flawed from the beginning. Over-votes occur and it is not a question of the accuracy of what has been submitted to be voted – it is a question of the accuracy of who voted. This lack of visibility also affects the foreign content regulations that the government imposes on issuers and that the regulators expect issuers to comply with.

We feel that transparency is the key to the solutions. Issuers should know who their shareholders are as "good governance" by definition is a goal to improve board, company, and shareholder relations. These concepts are not mutually exclusive.

We also note that there are rules that allow regulators to enforce the existing policies and levy fines to those that do not comply. It is our belief that this is not occurring and that the fundamental lack of understanding of what is actually occurring causes some of the problems issuers face today. We encourage the regulators to take up the cause and fight with the options they have at their disposal while the system is reviewed.

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The end goal for any changes should be in the interest of increased good governance for all public companies in Canada. This can be achieved.

Computershare and Georgeson respectfully submit these comments, and wishes again to extend our appreciation to the OSC for providing this opportunity.

Sincerely,

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