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British Columbia Securities Commission
Alberta Securities Commission
Saskatchewan Securities Commission
Manitoba Securities Commission
Ontario Securities Commission
Autorite des marches financiers
New Brunswick Securities Commission
Registrar of Securities, Prince Edward Island
Nova Scotia Securities Commission
Superintendent of Securities, Newfoundland and Labrador
Superintendent of Securities, Northwest Territories
Superintendent of Securities, Yukon
Superintendent of Securities, Nunavut

Dear Sirs:

Re: Canadian Securities Administrators (the "CSA") Consultation Paper 25-401 *Potential Regulation of Proxy Advisory Firms* (the "Consultation Paper")

This submission is made on behalf of The North West Company Inc. in response to the request for comments by the CSA in the Consultation Paper. We thank the CSA for providing a forum for the discussion of views and concerns regarding proxy advisory firms and their impact on Canadian capital markets. While we recognize that institutional investors have legitimate reasons for retaining the services of proxy advisory firms, we share many of the concerns identified in the Consultation Paper and have experienced firsthand the negative impact unregulated proxy advisory firms can have on issuers and shareholder votes in Canada. For the reasons set out below, we strongly urge the CSA to implement a system of regulations and regulatory oversight for proxy advisory firms.

Potential conflicts of interest

While we appreciate that proxy advisory firms may have in place internal structures, policies and procedures to mitigate against potential conflicts of interest, we believe that external regulation establishing universal standards for such policies and procedures will benefit Canadian capital markets. As the role and influence of proxy advisory firms continues to rapidly expand in Canada, the potential consequences of unchecked and undisclosed conflicts of interest increase as well. Accordingly, we support all four possible requirements outlined in the Consultation Paper to address conflicts of interest.

Lack of transparency and corporate governance

At this time, there is limited substantive disclosure of the processes, assumptions, criteria and methodologies applied by proxy advisory firms in formulating their voting recommendations. This lack of transparency raises at least three concerns from our vantage point as an issuer. Firstly, we are concerned that our shareholders, and in particular our retail base, do not have access to the requisite background information that would enable them to critically assess the reports and recommendations issued by proxy advisory firms and in doing so may have the consequence of encouraging shareholders to make a poorly-informed voting decision. Additionally, we, as the issuer, do not have access to sufficient information either thereby denying us the opportunity to proactively implement appropriate changes to satisfy potential concerns or to properly respond to reports.

In light of the lack of transparency and our observations of the activities of proxy advisory firms, we are also becoming increasingly concerned with the apparent application by proxy advisory firms of a "one-size-fits-all" approach in their analyses. Undoubtedly, many principles of good governance are of universal application, however imposing governance requirements absent the benefit of an understanding of the broader context is not in the best interests of any shareholder, institutional or otherwise. In this regard, we believe that increased transparency would assist shareholders and issuers in arriving at a thoughtful response to, or voting decision in respect of, recommendations that are predicated on a "one-size-fits-all" approach, which may be inappropriate in the particular circumstances. In addition, proxy advisory firms rarely, if ever, disclose the relative weighting of the factors considered when issuing their voting recommendations. Detailed disclosure regarding the relative importance of each factor would not only allow investors to critically assess the recommendations, but it could serve as basis for engagement between issuers and proxy advisory firms (as discussed in more detail below).

Finally, another important reason for notice to the issuer-and for greater disclosure of their criteria and their reasons for making a recommendation-is so that the issuer can interact with the institutional shareholders before they make a decision on how to vote. One of the big problems with the current system is that issuers do not have time to deal with and interact with its shareholders in advance of the issuer's general or special meeting of shareholders, if the issuer feels the recommendation is flawed. This will also help encourage shareholders to do a better job of assessing the reports they receive, which is essential.

While we are acutely aware of the desire to balance the protection of proprietary information with the benefits possible by requiring proxy advisory firms to provide detailed disclosure, we firmly believe that the current lack of transparency is detrimental to Canadian issuers, shareholders and shareholder votes generally. Accordingly, we would support regulations that would require proxy advisory firms, at a minimum, to (i) make available to the public (on their website or otherwise) full details of the criteria and methodologies they apply in their analyses and voting recommendations; and (ii) include detailed disclosure in their voting recommendation reports explaining the reasons underlying their voting recommendation and their assessment of the consistency of those reasons with their published voting policies.

Potential inaccuracies and limited opportunity for issuer engagement

Based largely on our firsthand experiences with proxy advisory firms, we are firmly of the belief that required standards, processes and procedures need to be established to ensure that issuers have the opportunity to engage with proxy advisory firms in a meaningful, flexible and open manner. Due to the current and growing influence of proxy advisory firms, we would also suggest that the CSA establish regulations aimed at minimizing the possibility that recommendations are issued based on inaccurate or incomplete information. We believe that providing issuers with a review and response process in respect of reports and voting recommendations to be issued in respect of the issuer would serve to safeguard against factual inaccuracies and provide investors with more confidence in the information they receive. The current practice of preparing and distributing voting recommendation reports with limited or no consultation with the issuer may in many cases pay prove to be reckless and potentially damaging.

In our experience, issuers receive minimal, if any, time to respond to proxy advisor voting recommendations, which leaves the issuer unable to engage in any meaningful discourse with proxy advisory firms. Furthermore, last-minute recommendation reports can been costly – in terms of time, resources and other intangibles, including the quality of the shareholder vote.

Recently, Glass Lewis & Co. ("**Glass Lewis**") issued a report in connection with our annual meeting recommending that shareholders withhold their vote with respect to the re-appointment of our auditors and the election of certain audit committee members on the basis that our non-audit fees exceeded our audit fees. From the report, it appears that on this basis alone Glass Lewis raised concerns about, among other things, the objectivity of our auditors in conducting the audit and the integrity of the financial statements and of two of our board members. By ignoring the broader context in making this recommendation, Glass Lewis failed to take into account that these fees were an anomaly and a result of a one-time transaction, which also resulted in substantial cost savings to our shareholders. In fact, Institutional Shareholder Services Inc. ("**ISS**") in recommending that shareholders vote in favour of the resolution stated that the non-audit fees were "reasonable relative to audit and audit-related fees". Not only were we unaware that Glass Lewis was preparing a report regarding our annual meeting, they failed to contact us prior to issuing their negative and potentially damaging report regarding our auditors and the election of certain audit committee members. We fail to see any value in this approach and, in this particular instance, we firmly believe that a brief discussion with Glass Lewis would – or at least should – have alleviated their concerns, which were clearly not shared by their fellow proxy advisor, ISS.

During the implementation of our deferred share unit plan and our shareholder rights plan in 2010, ISS (then RiskMetrics Group) issued a recommendation to vote "against" the resolutions in the week leading up to the meeting. Again, this was done without any prior consultation with us. While ISS agreed to discuss their concerns with us when we contacted them and we were eventually able to facilitate a resolution prior to the relevant annual meeting, the experience raised a number of concerns. First, there was no clear process for engaging with ISS following receipt of their report only days before the proxy submission deadline for the meeting. Additionally, we were surprised and disappointed to learn that ISS had was applying certain factors that were not clearly disclosed in their publicly available voting policies, they could not provide any guidance as to the relative weighting applied to various factors they consider and the only way ISS would change their recommendation was to issue a press release stating that changes were being made to the relevant matters at the request of ISS. It is this inconsistency and uncertainty (and the related costs) that we believe will only be resolved through the establishment of

regulations that require increased transparency, early engagement from the proxy advisory firms and a process for such engagement. Without a standardized process by which to engage with proxy advisors, the message to issuers seems clear - either retain a proxy advisory firm or risk receiving a last minute negative vote recommendation and the negative consequences that may follow.

Given the above, we strongly urge the CSA to adopt regulations that, at a minimum, require proxy advisory firms to submit draft reports to issuers, provide issuers with a reasonable amount of time to respond with comments and, to the extent the proxy advisor and the issuer cannot agree on a particular matter following a consultation process, the proxy advisor would be required to include the issuer's comments in the proxy advisor's final report circulated to their clients.

Perceived corporate governance implications

As noted above, we believe that the CSA should introduce regulations that require proxy advisory firms to publicly disclose the criteria, methodologies and procedures used to develop their governance standards so that they may be critically evaluated by their clients, other investors and issuers. Proxy advisory firms are also widely perceived as *de facto* corporate governance experts, which further necessitates a regulatory response to require increased transparency.

Extent of reliance by institutional investors

In addition to our support of increased transparency, we support a regulatory regime that would compel proxy advisory firms to disclose in their reports the number of shares that are subject to automatic vote execution services. This information may materially influence a shareholder's investment and voting decisions.

Our support for the regulation of proxy advisory firms is based upon our strong belief that proxy advisory firms should be held to the same high standards of governance that they themselves seek to promote. We appreciate the opportunity to respond to the Consultation Paper as we strongly support – and have for some time – initiatives to regulate proxy advisory firms. Please do not hesitate to contact me (email: phiebert@northwest.ca, phone: 204.934.1756) if you wish to discuss our response in further detail.

Yours truly

The North West Company Inc.

"Paulina Hiebert"

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Vice President, Legal and Corporate Secretary
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