

August 22, 2012

British Columbia Securities Commission  
Alberta Securities Commission  
Saskatchewan Financial Services Commission  
Manitoba Securities Commission  
Ontario Securities Commission  
Autorité des marchés 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

Me Anne-Marie Beaudoin, Corporate Secretary  
Autorité des marchés financiers  
800, square Victoria, 22e étage  
C.P. 246, Tour de la Bourse  
Montréal, Québec H4Z 1G3

-and-

John Stevenson, Secretary  
Ontario Securities Commission  
20 Queen Street West  
Suite 1900, Box 55  
Toronto, Ontario M5H 3S8

Dear Sirs/Madames,

**Re: Consultation Paper 25-401: *Potential Regulation of Proxy Advisory Firms***

The Shareholder Association for Research and Education (SHARE) is an advisor to Canadian institutional investors. Since its creation in 2000, SHARE has provided proxy voting and shareholder engagement services as well as education, policy advocacy and practical research on emerging responsible investment issues.

We begin by noting that globally, the term *active investor* is not limited to the meaning set out in Consultation Paper 25-401: “that institutional investors should vote all of their shares and should do so on an informed basis.” For a growing number of institutional investors, voting the shares in their portfolios is but one aspect of their ongoing efforts to oversee investments in the best long-term interests of their ultimate beneficiaries.

### **Institutional Investors as Responsible Investors**

In large part, heightened activity by institutional investors is a product of their own initiatives.

As signatories to the United Nation Principles for Responsible Investment (the PRI), 918 institutional investors from around the world, 39 of which are Canadian and include several very large institutions, have committed to fulfilling their fiduciary (or analogous) duties by giving appropriate consideration to environmental, social and corporate governance issues in their investment decision-making.

Launched in 2006 by UNEP Finance Initiative and the UN Global Compact, the PRI Initiative is a network for investors, and encourages them to deepen their commitments to responsible ownership and long-term, sustainable returns. The goal of the PRI Initiative is “to grow investor interest in ESG issues, support signatories in their fulfilment of the six PRI Principles, and contribute to the debate about the role of the investor in the creation of a sustainable financial system that rewards long-term responsible investment and benefits the environment and society as a whole.” ([PRI 2012 Annual Report](#), p 1).

One of the [6 PRI Principles](#), Principle 2, is an express assertion of each signatories’ intention to be “active owners and incorporate ESG issues into our ownership policies and practices”. Each Principle is accompanied by a list of possible actions. With respect to Principle 2, these include:

- Develop and disclose an active ownership policy consistent with the Principles
- Exercise voting rights or monitor compliance with voting policy (if outsourced)

- Develop an engagement capability (either directly or through outsourcing)
- Participate in the development of policy, regulation, and standard setting (such as promoting and protecting shareholder rights)
- File shareholder resolutions consistent with long-term ESG considerations
- Engage with companies on ESG issues
- Participate in collaborative engagement initiatives
- Ask investment managers to undertake and report on ESG-related engagement

Of particular note in the context of this consultation is that under the auspices of the PRI, an active investor is one that exercises voting rights, but that also may file shareholder resolutions and engage with companies either individually or in collaboration with other investors, all in accordance with a stated active ownership policy.

We also note that service providers are also invited to become PRI signatories. Among the 1099 signatories to the PRI are 181 service providers. Among the 181 service providers are 5 firms from Canada: Corporate Knights Research Group, Groupe Investissement Responsable, Les Actuaire-Conseils Bergeron & Associés inc., RRSE and SHARE. Proxy voting services are available from two of the firms, Groupe Investissement Responsable and SHARE.

The PRI Initiative provides annual public reports about the activities of signatories as they relate to the PRI. In the 2012 PRI Annual Report, examples of engagement with companies by signatories that are in keeping with such initiatives as one of the possible actions of signatories. The engagements in the PRI report can therefore be viewed as appropriate, and indeed desirable, initiatives for PRI signatories. Examples include: i) letters from 10 investors to 57 companies in the US, Canada, Brazil, Sweden, UK and Italy to encourage the increased representation of women on boards of directors and in senior management; ii) 16 PRI investors engaged with 16 global consumer electronics companies in the US, Europe, and Japan about managing the reputational risks of sourcing from the Eastern Congo, an area in conflict; iii) group of 11 PRI signatories held detailed dialogues with five companies regarding linkages of ESG metrics to executive compensation, and published a set of recommendations on how to identify ESG

metrics, how to link them to executive remuneration and how to improve disclosure of company practices; and iv) coalition of 11 investors has been encouraging 10 companies, 3 of which are Canadian, from the extractive industry to adopt better policies for managing indigenous rights risks. ([PRI 2012 Annual Report](#), pp. 10-11).

The UNPRI is an aspirational framework, not a compliance regime, but after a one-year grace period, all asset owner and investment manager signatories must report annually on their responsible investment activities. Investors are very aware that transparency is a two-way street, so that as they demand more of it from the entities in which they invest, they also recognize that they are obliged to provide increasingly detailed disclosure about their investment activities to the market generally, and the ultimate beneficiaries of the funds they invest in particular.

Well prior to the PRI, investors formed coalitions in order to work together to promote dialogue with companies in which their members invest on issues around which member consensus exists. Such organizations typically conduct research and develop best practices for use by their members. A shortlist of these organizations includes the International Corporate Governance Network, the Interfaith Center on Corporate Responsibility, Ceres, the Asian Corporate Governance Association, the National Association of Pension Funds, the Council of Institutional Investors and of course the Canadian Coalition for Good Governance. In addition, investors frequently come together on an ad hoc basis to pursue dialogue with companies on matters of their common interest.

### **Institutional Investors as Stewards of Investments**

The [UK Stewardship Code](#) (the Code) was introduced by the Financial Reporting Council (FRC) in July 2010 with the aim of encouraging a greater level of responsible share ownership among institutional investors. The Code is based very closely on the Institutional Shareholders' Committee Principles published in 2007 and authored by organizations that represent institutional investors.

The key driver of increasing responsible ownership, as set out in the Code's Preface, is enhancement of "the quality of engagement between institutional investors and companies to help improve long-term returns to shareholders and the efficient exercise of governance responsibilities." In the context of the Code, engagement "includes pursuing purposeful dialogue [with companies] on strategy, performance and the management of risk, as well as on issues that are the immediate subject of votes at general meetings".

Like the PRI, the Code encourages institutional investors to increase the level of dialogue with the entities in which they invest for the purpose of enhancing sustainable returns over the long-term.

### **SHARE's Position on the Potential Regulation of Proxy Advisory Firms**

Around the world, institutional investors are subject to the growing expectation that they will develop an active ownership policy, execute it and report on their progress. These efforts have only very recently begun to find regulatory support in the shape of the UK Stewardship Code, but the Code looks set to be a precedent rather than a one-off, as other European countries are considering whether to follow suit.

A key component of the responsibilities of active institutional investors in the PRI Principles and the UK Code is effective monitoring of the growing variety of service providers that they retain to assist them in the execution of their investment policies. SHARE's position with respect to the issue raised by the CSA in its Consultation Paper is therefore that regulatory support for investor stewardship is more likely to achieve the objective of ensuring high quality services to institutional investors than setting up novel regulatory regimes for service providers.

### **Data from the SHARE Key Proxy Vote Survey**

Finally, we note that the annual SHARE Key Proxy Vote Survey contains data which is highly relevant to the CSA's queries about the extent to which institutional investors rely on the services provided by proxy advisory firms. We have aggregated this data in the attached Appendix.

Should you have any questions about the materials included in this letter, do not hesitate to contact the writer.

Sincerely,



Laura O'Neill  
Director of Law and Policy

## Data from the SHARE Key Proxy Vote Survey

Since 2002, SHARE has conducted an annual survey of investment firms that manage money for Canadian private sector pension funds. Participation in the SHARE Key Proxy Vote Survey (the Survey) is of course voluntary, but it is typically very good, at approximately 50% of firms. The table below provides aggregated data about the firms that have responded to the Survey over the past 7 years.

Information about Survey Respondents							
Year	2011	2010	2009	2008	2007	2006	2005
Number of participating firms	32	36	35	32	31	34	35
Response rate	52%	60%	56%	52%	47%	52%	52%
Total <u>pension</u> AUM of participating firms (\$billions)	1143.4	227.1	353.7	452.7	553.7	371.6	320.12

Full details with respect to Survey participants and their responses is available for each year included in this chart at: <http://www.share.ca/research-reports/proxy-voting/annual-key-proxy-vote-survey/>.

Most of the questions that we send to firms asks them to disclose their voting decisions on specific ballot items, we also inquire as to the process the firms follow in order to decide how to vote. We are also interested in understanding how firms process the proxy workflow.

One of the questions included in the Survey is: “At your firm, who is responsible for voting proxies attached to Canadian equities? Please check all that apply.” The chart below sets out the options provided to the respondents, along with the percentage of those firms that selected each option(s) in each year:

<b>Proxy Voting Systems Employed by Investment Managers Responding to the Survey<sup>†</sup></b>							
	<b>2011</b>	<b>2010</b>	<b>2009</b>	<b>2008</b>	<b>2007</b>	<b>2006</b>	<b>2005</b>
<b>Delegated to or took recommendations from a proxy voting service</b>	19%	23%	29%	25%	16%	15%	18%
<b>Relied on an in-house proxy voting staff person</b>	31%	29%	37%	34%	35%	47%	50%
<b>Relied on individual portfolio managers</b>	31%	11%	23%	9%	23%	29%	36%
<b>Relied on an internal proxy voting committee</b>	31%	26%	20%	34%	19%	12%	11%
<b>Other</b>	19%	29%	14%	15%	23%	15%	7%
<i><sup>†</sup>Results total more than 100% because some firms use more than one system</i>							

Our data indicates that the wide variety of decision-makers, both internal and external, that firms participating in our Survey use to reach voting decisions.

We also ask firms about whether they have developed proxy voting guidelines to assist those responsible in making vote decisions. We request a “yes” or “no” answer to the following questions about proxy voting guidelines from firms:

- (i) Does your firm have its own proxy-voting guidelines?
- (ii) Does your firm disclose its guidelines publicly (e.g. on its website)?
- (iii) Does your firm consult clients in the development and review of its guidelines?
- (iv) Does your firm review its proxy-voting guidelines at least annually?

The percentage of responding firms that answered “yes” to each of these questions is set out in the table that follows:



Investment Managers' Proxy Voting Guidelines							
	2011	2010	2009	2008	2007	2006	2005
<b>Firms with proxy voting guidelines</b>	97%	94%	94%	94%	97%	91%	94%
<b>Firms that review their guidelines at least annually</b>	97%	91%	89%	84%	90%	88%	94%
<b>Firms that consult with clients in developing their guidelines</b>	42%	46%	49%	39%	55%	53%	40%
<b>Firms that disclose their guidelines publicly</b>	61%	51%	40%	29%	42%	35%	20%

We hope that the data we have collected for the Survey will be useful to the CSA as it gives further consideration to the potential regulation of proxy advisory firms operating in Canada.