



CANADIAN ASSOCIATION
OF PETROLEUM PRODUCERS

Canada's Oil and Natural Gas Producers

April 16, 2014

The Secretary
Ontario Securities Commission
20 Queens Street West
22nd Floor
Toronto, Ontario M5H 3S8

Dear Sir/Madam:

**Re: Proposed Ontario Securities Commission (OSC) amendments to Form 58-101F1
*Corporate Governance Disclosure of National Instrument 58-101 Disclosure of Corporate
Governance Practices***

The Canadian Association of Petroleum Producers (CAPP) represents companies, large and small, that explore for, develop and produce natural gas and crude oil throughout Canada. CAPP's member companies produce about 90 per cent of Canada's natural gas and crude oil. CAPP's associate members provide a wide range of services that support the upstream crude oil and natural gas industry. Together CAPP's members and associate members are an important part of a national industry with revenues of about \$110 billion a year. CAPP's mission is to advocate for and enable economic competitiveness and ensure safe, environmentally and socially responsible performance. This means achieving competitiveness, in North America and globally, so as to attract the capital necessary to grow production and expand markets and to deliver value to the Canadian public and to our investors. As well as gaining social license from governments, aboriginal peoples, the public, stakeholders and the communities in which we operate; this will be determined by our collective performance, as measured by continuous improvement and comparison to world class benchmarks and the effectiveness of our communications outreach. NTD – Mission has been revised

CAPP appreciates the opportunity to provide comments to the OSC on the Proposed Amendments to Form 58-101F1 regarding the representation of women on boards and in senior management. Forty one of CAPP's member companies are non-venture issuers and, hence, will be obliged to meet the OSC reporting requirements. The market capitalization of the issuers on the Toronto Stock Exchange ranges from \$35 million to \$56 billion.

CAPP recognizes the importance of gender diversity and its role in strengthening economic competitiveness. Research suggests that gender diversity is an important contributor to corporate

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performance in terms of return on equity, stock performance, and income growth,¹ and is positively linked to employee retention, innovation and performance in non-financial indicators such as corporate social responsibility.

Although gender diversity is an important consideration, it is only one component of a broader suite of economic competitiveness factors that companies must take into consideration. Board composition policies will vary depending on the sector, jurisdictions of operation and overall business strategy of the organization. As such, it is important to ensure companies retain sufficient flexibility to determine their own board composition policies based on their specific needs and interests. In fact, one of the principles under *OECD Principles of Corporate Governance* states that “the corporate governance framework should be developed with a view to its impact on overall economic performance, market integrity and the incentives it creates for market participants and the promotion of transparent and efficient markets”².

In this regard, CAPP supports the “comply or explain” approach proposed by the OSC to encourage gender diversity on corporate boards and in senior management. Self-determination of targets and policies regarding the representation of women on boards and in executive management will provide companies with sufficient flexibility to review and develop diversity policies and talent management strategies that meet their specific circumstances, while at the same time encouraging them to consciously consider strengthening gender diversity in board and senior management positions.

CAPP believes that once this regulation is enacted, it is important to monitor and report the progress towards gender diversity on boards and in senior executive positions in order to evaluate companies’ responses to changing policy direction and overall policy effectiveness.

In addition, the OSC could consider updating National Policy 58-201 *Corporate Governance Guideline* to include recommended policies on gender diversity which would provide a resource for companies to develop their policies and benchmark their progress.

A balanced and flexible regulatory approach to gender diversity on corporate boards and in senior management positions can enable improved corporate performance and competitiveness in Canada’s upstream oil and gas industry. CAPP’s ongoing focus will be on policy and regulatory initiatives in this area and on supporting efforts by our members to strengthen board diversity in Canada’s energy sector.

¹ Nancy M. Carter, Harvey M. Wagner, *The Bottom Line: Corporate Performance and Women’s Representation on Boards*, Catalyst. Online <http://www.catalyst.org/knowledge/bottom-line-corporate-performance-and-womens-representation-boards>; McKinsey & Co, *Women Matter*. Online http://www.mckinsey.com/features/women_matter

² *OECD Principles of Corporate Governance*, p.17. Online <http://www.oecd.org/daf/ca/corporategovernanceprinciples/31557724.pdf>

We welcome the opportunity to further discussion with OSC on this important topic. Enclosed is our response to OSCs formal discussion questions.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Collyer", written in a cursive style.

Dave Collyer
President
Canadian Association of Petroleum Producers

/attachment

Attachment

Response to Question #1:

Are the scope and content of the Proposed Amendments appropriate? Are there additional or different disclosure requirements that should be considered? Please explain.

The scope is appropriate. No comments on this.

Response to Question #2:

Should the Proposed Amendments be phased in, with only larger non-venture issuers being required to comply with them initially? If so, which issuers should be required to comply with the Proposed Amendments initially? Should the test be based on an issuer's market capitalization or index membership? When should smaller non-venture issuers be required to comply with the Proposed Amendments?

All non-venture issuers should be required to comply with the Proposed Amendments without distinguishing the companies based on the market capitalization. It will create a level playing field for all the companies within each sector.

Response to Question #3:

Do you agree that the Proposed Amendments requiring non-venture issuers to provide disclosure regarding term limits will encourage an appropriate level of board renewal?

The Proposed Amendments requiring non-venture issuers to provide disclosure regarding term limits may encourage an appropriate level of board renewal. Enhanced transparency in the director term limits will incent companies to actively consider their board renewal policies, which may enhance the strategic approach to board turnover and renewal.

Some companies have director tenure systems that consider the age of the director when he or she enters the board and the age of the director when it is mandatory to leave the board. Such tenure policies may also be disclosed.

Response to Question #4:

In support of disclosure regarding director term limits, should there be greater transparency regarding the number of new directors appointed to an issuer's board and whether those new appointees are women? Specifically, should there be an additional disclosure requirement that non-venture issuers disclose: (i) the number of new directors appointed to the issuer's board at its last annual general meeting and (ii) of these new appointments, how many were women?

CAPP supports the disclosure of (i) the number of new directors appointed to the issuer's board at its last annual general meeting and (ii) of these new appointments, how many were women as these statistics will help in measuring progress. However, consideration should be given to adding these disclosure requirements in a potential future amendment to the regulation.

Response to Question #5:

Item 11 of the Proposed Amendments requires disclosure of policies regarding the representation of women on the board or an explanation for the absence of such policies. The term "policy" can be interpreted broadly. Should the proposed disclosure item explicitly indicate that the term "policy" can include both formal written policies and informal unwritten policies? What are the challenges for non-venture issuers reporting publicly on informal unwritten policies adopted by their boards?

Only written policies that are formally endorsed by the board should be disclosed. Interpreting informal unwritten policies for the purpose of this disclosure risks providing misinformation and inaccuracies about a company within the public realm, potentially compromising reputation and shareholder value. However, this proposed requirement will likely encourage boards to formalize their current decision making mechanisms and/or to develop new policies in this area for disclosure.