

May 28, 2012

Mr. Robert Day  
Manager, Business Planning and Reporting  
Ontario Securities Commission  
20 Queen Street West  
Suite 1903  
Toronto, Ontario  
M5H 3S8

Dear Mr. Day:

**RE: ONTARIO SECURITIES COMMISSION NOTICE 11-766 -- STATEMENT OF PRIORITIES  
REQUEST FOR COMMENTS REGARDING STATEMENT OF PRIORITIES FOR FINANCIAL YEAR  
TO END MARCH 31, 2013**

This submission is made by Computershare Trust Company of Canada, Computershare Investor Services Inc. and Georgeson Shareholder Communications Canada Inc., (collectively referred to as "we" throughout) is in response to your request for comments on the above -noted Statement of Priorities.

Computershare, Ltd. (ASX: CPU) is a global market leader in transfer agency and share registration, employee equity plans, proxy solicitation and other specialized financial, governance and communication services. As a leading transfer agent in Canada, Computershare provides complete securities transfer processing, securityholder record keeping, mailing, meeting, and internet based services for over 60% of the corporations listed on the TMX.

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

In our capacity as a Transfer Agent, Registrar and Proxy Solicitor, our comments set out below are in response to your first two goals.

**Goal #1 -- Deliver Responsive Regulation** – The OSC has stated that it wishes to *"facilitate shareholder empowerment in director elections by advocating for the elimination of slate voting, adoption of majority voting policies for director elections and enhance disclosure of voting results for shareholder meetings."*

We note that The Toronto Stock Exchange (TMX) has recently proposed an amendment to the Company Rules that would require individual election of directors in a contested director election.

We are in favour of Majority Voting as a positive step in the evolution in Corporate Governance currently underway in Canada. We leave it to the TMX and to the CSA to determine whether Majority, Individual Voting or Slate Voting should be mandatory or left to the Issuer to *comply or explain* in the Management Information Circular distributed to security holders as to why the issuer is not complying.

In our experience, recent contested director proxy contests in Canada have resulted in uncertainty as to the director election outcome at the time of the actual Annual General Meeting of Shareholders due to:

- The number of director nominees exceeding the number of director positions available to be elected.
- The form and content of the Proxy or Voting Instruction Form (VIF) used by both sides in a proxy contest being overly complicated and confusing to shareholders.
- A large number of Proxies or Voting Instruction Form (VIF) need to be cured due to an invalid number of director nominees selected or other irregularities on the face of the proxy or VIF.
- Difficulty in reconciling a large number of proxies, VIF's and votes cast in person at the shareholder meeting in a timely manner to eliminate overvoting.

These types of *proxy plumbing* issues speak to the need for the OSC to work with the Canadian Securities Administrators (CSA) to develop:

- A universal form of Proxy
- A standard set of rules for proxy contests
- An educational program to educate security holders about the steps required to vote their securities whether held directly or hold in nominee name

We note that the OSC has proposed improving the proxy voting system by:

- **“Conducting an empirical analysis to review concerns raised about the accountability, transparency and efficiency of the voting system.**
- **Facilitating discussions amongst market participants on improving the functioning of the proxy system, taking into account the needs and concerns of retail investors”**

While we believe that it is necessary to improve the proxy voting system, we question the effectiveness of the OSC undertaking a fact-finding exercise and statistical analysis, as described above, when Canadian transfer agents, registrars, proxy solicitation firms and other participants are currently engaged in a similar process. See, for example, the Canadian Society of Corporate Secretaries (CSCS) *Shareholder Democracy Summit* held October 11, 2011 in Toronto. We believe that this OSC proposal will consume resources that the industry has committed to the proxy reform process.

## Accountability, Transparency and Efficiency of the Voting System

Shareholders and issuers demand full confidence in the accuracy of the votes that are being cast at shareholder meetings. We agree that improvements in the proxy voting system are required to achieve this goal.

Computershare facilitates the proxy processing, tabulation and registration for over 2,000 shareholder meetings in Canada each year.

Computershare has concerns with the deteriorating quality of the beneficially owned shareholder votes it receives for tabulation at meetings of publicly traded companies. Under *National Instrument 54-101* the indirect holding regime has resulted in a majority of issuers' beneficial security holders being categorized as *Objecting Beneficial Owners* ("OBOs"). As the trend to hold securities beneficially increases, this indirect system will increasingly prevent issuers from communicating with their investors, and determining the identity of investors who owns their securities on a specific record date.

While technology has allowed the Capital Markets in Canada to operate with the speed and efficiency that modern trading demands, the communication process between issuer and investor, with multiple layers of ownership and fungible recordkeeping, fails to accurately connect investors with the issuers in which they hold securities. Problems are compounded by the layers of ownership whereby securities are held through brokerage accounts and in nominee names at *Canadian Depositary for Securities* (CDS) and trading practices, such as security lending, in which both the lender and the borrower attempt to exercise concurrent voting entitlement over the same shares.

### Our Analysis of Over Voting in Canada

The Computershare analysis of voting discrepancies over the past three years shows that unresolved over-voting occurs in at least 17% of public company meetings held in Canada for which we act as Transfer Agent (see chart below). For most shareholder meetings, only a fraction of the beneficial shareholders will receive proxy materials due inefficiencies in the delivery options available to a beneficial owner on *Form 54-101F1*.

There should always be a large number of shares that are never voted at any particular shareholder meeting since only a fraction of the beneficial holders identified by the intermediaries receive proxy voting materials and return a VIF. However, our experience is that in fact the reverse is true. There are many situations where there is the potential for over-voting of shares. Statistics on potential over-voting among our client base over the past three years are as follows:

Year	Meetings	Meetings with unresolved over-vote positions	Percentage	Total Over-Voted Shares
<b>2011</b>	<b>2,409</b>	410	17.02%	523,419,071
<b>2010</b>	<b>2,466</b>	481	19.51%	499,131,316
<b>2009</b>	<b>2,457</b>	427	17.38%	462,902,984
<b>Total</b>	<b>7,332</b>	<b>1,318</b>	<b>17.98%</b>	<b>1,485,453,371</b>

Such over-voting arises due to the accuracy of the identity and positions of the underlying beneficial security holders and whether they have exercised their vote. This lack of transparency also affects federally regulated issuers such as financial institutions and airlines who are required to comply with Canadian foreign ownership rules.

We feel that transparency is the key to the solution. Issuers should know who their shareholders are. Good corporate governance demands that these direct lines of sight be established to improve board, company and shareholder relations.

## **Goal #2 – Deliver Effective Enforcement and Compliance**

We note that, although *NI 54-101* requires various parties to comply with the Instrument, there is no specific enforcement mechanism or consequences for non-compliance contained therein. The proposed goal of delivering effective enforcement and compliance is best served by preventing non-compliance as opposed to identifying and dealing with such non-compliance after the fact. The focus on compliance should be expanded to include other participants in the end-to-end proxy distribution and voting processes as set out in *NI 54-101*.

While there may be general provisions under the relevant Securities legislation that allow the Canadian Securities Administrators and individual Securities Commissions to enforce the existing policies and levy fines on participants that do not comply, it is our observation that this has not historically occurred in Canada. We believe that it is the fundamental lack of understanding of the end-to-end proxy voting system in Canada by security holders and other participants in the system that causes some of the problems issuers face today. We encourage the OSC to take this opportunity to improve the accountability, transparency and efficiency of the voting system.

## **Computershare and Georeson Proposed Solution**

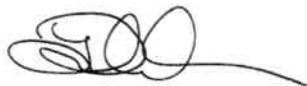
We are of the opinion that a valid proxy process must demonstrate the three key elements:

- **Accuracy of the Record Date Files** - The requirement for an accurate and balanced record date file of those holders entitled to vote can be achieved by amending *NI 54-101* and the *Companion Policy* to require intermediary firms, such as brokers, to provide an annual compliance report to their regulator confirming that they have reconciled their beneficial owner files to their depository record date positions as of the Record Date provided by the Issuer and have submitted files containing only the positions of holders entitled to vote as of Record Date thereby eliminating over-voting and overlapping securities lending voting as described above.
- **Transparency** - *NI 54-101* and the *Companion Policy* should be amended to allow for the meeting tabulator to identify and validate all record date holders entitled to vote. This would enable end-to-end vote confirmation, increasing investors' confidence that their vote is being cast and their voice is being heard.
- **Engagement** – Connect issuers and investors through the use of technology by permitting the investor to provide consent for the electronic delivery of proxy material by the issuer through a limited number of service providers and the ability for the investor to vote all of their holdings, whether registered or beneficially owned or held by more than one intermediary, from a **single** web-based location or URL.

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

Yours truly,

**COMPUTERSHARE TRUST COMPANY OF  
CANADA**



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