

April 16, 2014

DELIVERED BY EMAIL

Mr. John Stevenson,
Secretary
Ontario Securities Commission
20 Queen Street West
19th Floor, Box 55
Toronto, Ontario M5H 3S8
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Dear Sirs/Mesdames:

Re: Request for Comment – Proposed Amendments to Form 58-101F1 Corporate Governance Disclosure of National Instrument 58-101 Disclosure of Corporate Governance Practices

TMX Group Limited welcomes the opportunity to comment on behalf of Toronto Stock Exchange (“**TSX**” or the “**Exchange**”) on the Ontario Securities Commission’s Request for Comment – Proposed Amendments to Form 58-101F1 Corporate Governance Disclosure of National Instrument 58-101 Disclosure of Corporate Governance Practices (the “**Request for Comment**”) published by the Ontario Securities Commission (“**OSC**”) on January 16, 2014.

All capitalized terms have the same meanings as defined in the Request for Comment unless otherwise defined in this letter.

As an exchange operator in Canada, TSX continues to have an active role in corporate governance matters. The Exchange strongly believes that the Canadian capital markets benefit from a world class corporate governance regime for its listed issuers.

The lack of diversity and, in particular, gender diversity on Canadian boards has become a prominent topic in corporate governance discussions. Research conducted by TSX confirms the documented underrepresentation of women on boards of directors set out in the Request for Comment. During 2013 TSX reviewed 200 listed issuers for compliance with TSX’s director election requirements (the “**2013 Review**”). In the course of the 2013 Review, TSX looked at publicly available information in the proxy circulars of these randomly chosen issuers from a broad range of industries, stages of development and market capitalization. The 2013 Review indicated that women represented 7.6% of the directors on the boards of the surveyed issuers and that issuers with a market capitalization of \$1 billion or less had fewer female directors than larger issuers.

Many jurisdictions around the world have addressed diversity and gender diversity disclosure issues through guidance, disclosure requirements or quotas for listed issuers. Canada's corporate governance regime lags behind its global peers in this regard.

The Exchange supports the OSC's initiative to implement the Proposed Amendments for non-venture issuers. TSX believes that the Proposed Amendments reflect a balanced approach that supports gender diversity while promoting the principles of meritocracy. TSX is of the view that the Proposed Amendments may encourage boards of directors to consider a broader pool of candidates while giving them the freedom to propose the most qualified candidates. In addition, the "comply or explain" model of disclosure opens up an important dialogue among market participants about the representation of women on boards. The Proposed Amendments will narrow the gap in Canadian board diversity disclosure practices and help support the reputation and integrity of the Canadian capital markets.

The Exchange does have some concern that the proposed disclosure requirements about female executive officers at the issuer and subsidiary levels may exceed the scope of the current corporate governance disclosure regime. In addition, the imposition of new requirements on issuers raises concern about costs and regulatory burden. As your research indicated, few issuers currently have gender diversity policies. To help mitigate the costs that issuers may incur to draft and to adopt such policies, the OSC may wish to provide flexible and scaled guidance about the content of typical policies and how issuers can cost effectively implement and monitor compliance with them. TSX also encourages the OSC to offer guidance to issuers about how they can provide concise and meaningful disclosure for the Proposed Amendments.

Attached as Appendix A to this letter are responses to the specific questions set out in the Request for Comment.

Thank you for the opportunity to comment on the Request for Comment. Should you wish to discuss any of the comments with us in more detail, we would be pleased to respond.

Yours truly,

A handwritten signature in black ink that reads "Kevan Cowan". The signature is written in a cursive, flowing style.

Kevan Cowan
President, TSX Markets and Group Head of Equities

APPENDIX A RESPONSES TO CERTAIN QUESTIONS IN REQUEST FOR COMMENT

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

TSX supports the Proposed Amendments and the OSC's approach in targeting gender diversity. TSX believes that encouraging and promoting diversity, including gender diversity, may further strengthen corporate boards in Canada.

We believe that the "comply or explain" model is appropriate for gender diversity disclosure and works well within the existing framework of corporate governance disclosure.

For the disclosure required in item 11 of the Proposed Amendments – Policies regarding the representation of women on boards - we believe that requiring disclosure about such policies can serve to encourage important discussion. While we believe that this is useful disclosure, we suggest simplifying the proposed disclosure and requiring issuers to provide only a short summary of the key objectives and provisions of their policies for item 11.

Corporate governance disclosure in 58-101F1 – *Corporate Governance Disclosure ("58-101F1")* focuses on the roles and responsibilities of the board of directors. The Chief Executive Officer typically has oversight and responsibility for senior management. Therefore, TSX believes the OSC should consider whether the disclosure about female executive officers in items 13 and 14 of the Proposed Amendments fits within the scope of the current corporate governance disclosure regime.

TSX agrees with using a consistent definition of "executive officer" but questions whether the cost and time to generate annual, reliable data on the number and proportion of executive officers who are women for each of the issuer's subsidiary entities may outweigh its benefit, especially for larger issuers. TSX encourages the OSC to restrict the disclosure regarding female executive officers to the issuer level, if it determines to require female executive officer disclosure.

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 small non-venture issuers be required to comply with the Proposed Amendments?*

As an exchange operator, TSX generally believes that it is important for all issuers listed on a senior market to comply with the same disclosure requirements, regardless of the issuer's size and resources. TSX is sensitive to the challenging market conditions. However, as the Proposed Amendments require either compliance with or explanation of each issuer's stance on the diversity-related issues set out in the amendments, TSX believes the obligations are reasonable and should apply to all non-venture listed issuers

for the benefit of investors and the Canadian capital markets. TSX reiterates that guidance from the OSC to issuers about how to provide concise and meaningful disclosure may be an important factor in avoiding unnecessarily lengthy disclosure that is costly for issuers and not useful to investors. In addition, issuers will incur expenses to adopt policies and monitor compliance with them. Issuers may find flexible and scaled guidance about the content of typical policies and how they can be easily implemented and monitored, to be helpful.

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?

TSX supports board renewal and considers term limits as one effective way to accomplish this goal. Some issuers may, however, have adopted other mechanisms to support board renewal. TSX suggests that issuers be required to disclose any mechanisms that support board renewal and not necessarily restrict the disclosure to term limits.

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?

TSX supports issuers disclosing new appointees as well as the number of new appointees to the board who are women.

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?

Because disclosure forms an integral part of investor protection and issuer accountability, TSX generally prefers only formal written policies to be disclosed and described in connection with the Proposed Amendments. Policies that have not been codified or formalized are subject to change without notice and, while these types of policies may certainly be useful, it is difficult to measure adherence to, or progress made under, such informal unwritten policies.