

Corporate Securities Law

May 1, 2015

CSA Adopts National Policy on Guidance for Proxy Advisory Firms

The Canadian Securities Administrators (CSA) have announced that they are adopting a policy providing guidance to proxy advisory firms, which have an influential role in public securityholder voting contexts. National Policy 25-201 *Guidance for Proxy Advisory Firms* (NP 25-201) provides guidance on recommended practices and disclosure for proxy advisory firms, in order to: (i) promote transparency in the processes leading to vote recommendations and the development of proxy voting guidelines; and (ii) foster understanding among market participants about the activities of proxy advisory firms.

Background

On June 21, 2012, the CSA published for comment a consultation paper¹ to initiate discussion regarding market participant concerns about proxy advisory firm services and the potential impact on Canadian capital markets. The CSA concluded, from comments received during the consultation and recommendations arising from international initiatives, that it was appropriate to provide guidance, and published a draft policy for comment on April 24, 2014.²

Comments and Subsequent Review

The Draft Policy elicited 58 comment letters from various market participants. The key changes to the Draft Policy, adopted in response to the comments received and reflected in NP 25-201, are as follows:

- *Conflicts of Interest.* To enhance corporate governance practices, the board of directors or executive management team of a proxy advisory firm are generally expected to oversee the development of policies and procedures and codes of conduct, the implementation of internal safeguards and controls and the effectiveness of those measures instituted to address actual or potential conflicts of interest. It is also recommended that proxy advisory firms provide sufficient information to enable their clients to assess the independence and objectivity of the proxy advisory firms and their services.
- *Transparency and accuracy of vote recommendations.* It is recommended that proxy advisory firms generally describe on their websites the practices adopted with respect to the hiring, training and retaining of individuals to demonstrate that they have the appropriate experience, competencies, skills and knowledge to prepare vote recommendations.
- *Development of proxy voting guidelines.* It is recommended that proxy advisory firms consider account relevant characteristics of the issuers when developing proxy voting guidelines. Such characteristics may include the size, industry and governance structure of an issuer.
- *Communications with clients, market participants, other stakeholders, the media and the public.* It is recommended that proxy advisory firms communicate in reports to their clients how the relevant approaches or methodologies were applied and the sources of information they used in preparing vote recommendations.

¹ CSA Consultation Paper 25-401 *Potential Regulation of Proxy Advisory Firms*.

² National Policy 25-201 *Guidance for Proxy Advisory Firms* (the Draft Policy). For more information on the Draft Policy see our April 25, 2014 Update, *Canadian Securities Administrators Publish Proposed National Policy to Regulate Proxy Advisory Firms*.

Goodman's^{LLP} Update

Next Steps

The CSA recognize that proxy advisory firms have demonstrated a willingness to respond to the concerns raised by market participants and support the initiatives taken by many firms to improve their practices. The CSA intend to continue to monitor market developments in the proxy advisory industry and other international initiatives to evaluate if NP 25-201 addresses the Canadian marketplace's concerns.

Please contact any member of our Corporate Securities Group to discuss the implications of this review.