



Securities Transfer Association of Canada

Lara Donaldson
President

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Delivered via e-mail – rule-comments@sec.gov

Brent J. Fields, Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC
20549-1090

RE: File Number 4-725
SEC Staff Roundtable on the Proxy Process

Dear Secretary Fields:

The Securities Transfer Association of Canada ("STAC") appreciates the opportunity to submit these comments in advance of the SEC's upcoming Staff Roundtable on the Proxy Process to be held on November 15, 2018. We would welcome the opportunity to meet with the Commission if further discussion on any of STAC's comments or information would be deemed beneficial by the Commission.

STAC is a non-profit association of Canadian transfer agents that, among others, has the following purposes:

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- To promote professional conduct and uniform procedures among its members and others;
- To study, develop, implement, and encourage new and improved requirements and practices within the securities industry;
- To develop solutions to complex industry-wide problems;
- To provide a forum and to act as a representative and spokesperson for the positions and opinions of its members, and, where appropriate, its clients and the holders of securities.

Members of the Canadian Securities Administrators ("CSA") have undertaken a thoughtful and comprehensive review of the existing proxy voting infrastructure in Canada, with the initial step of publishing a consultation paper on August 15, 2013¹, which provided industry participants the opportunity to provide commentary on various subjects and aspects of the existing system. On January 29, 2015, the CSA published *CSA Staff Notice 54-303 Progress Report on Review of the Proxy Voting Infrastructure*² to provide an update on their review, a summary of comments received, and some initial findings.

On January 26, 2017, after public consultation, the CSA published *CSA Staff Notice 54-305 Meeting Vote Reconciliation Protocols*³ (the "Protocols"). The Protocols focus on accurate, reliable and accountable meeting vote reconciliation by concentrating on the roles and responsibilities of the parties who take on meeting vote reconciliation, and the operational processes that should be implemented. Although the Protocols are voluntary, STAC members worked to implement as many of the Protocols as were operationally feasible through the 2017 and 2018 proxy seasons, specifically from January to June. It is expected that the CSA will now re-assess the Protocols and next steps after consulting with the industry participants who are members of the technical committee that was formed by the CSA.

The voting problems experienced in Canada have a direct impact on many US investors, both retail and institutional. As has been identified for a number of years, many of the vote discrepancies experienced by Canadian issuers result from securities that are held in the United States or by residents of the United States, and missing paperwork from entities outside of Canada. During the 2017 proxy season alone, there were over 1,000,000,000 votes that could not be tabulated for Canadian issuers because of missing Depository Trust Company ("DTC") omnibus proxies. Rule 17 CFR 240.17Ad-8 only allows DTC to provide the security position report and related omnibus proxy to the issuer, which can cause delays or non-receipt. STAC is working with DTC to review processes and continues to educate issuers on the importance of

¹ CSA Consultation Paper 54-401, *Review of the Proxy Voting Infrastructure*, August 15, 2013.

http://www.osc.gov.on.ca/documents/en/Securities-Category5/csa_20130815_54-401_proxy-voting.pdf

² CSA Staff Notice 54-303, *Progress Report on Review of the Proxy Voting Infrastructure*, January 29, 2015. http://www.osc.gov.on.ca/en/SecuritiesLaw_csa_20150129_54-303_progress-report.htm

³ CSA Staff Notice 54-305, *Meeting Vote Reconciliation Protocols*, January 26, 2017.

http://www.osc.gov.on.ca/en/SecuritiesLaw_csa_20170126_54-305_meeting-vote.htm

the document however the current reality is that many US investor votes cannot be tabulated as a result of something as basic as missing paperwork.

Although there has been collaborative work completed in Canada, STAC does not believe that there has been sufficient focus on the reconciliation of record date mailing files by intermediaries prior to material being mailed. We are of the opinion that full reconciliation of record date mailing files by intermediaries to balance the voting entitlement with the number of shares held ("pre-reconciliation") along with providing missing or incomplete omnibus proxy documentation prior to tabulation commencing, is critical to address current problems with the proxy infrastructure. We strongly believe that pre-reconciliation will ensure integrity of the voting files and alleviate many of the problems that currently exist. The Protocols focus on the processes toward the end of a long and complicated process, and the continued existence of over-voting issues after two years of implementation indicates that there needs to be additional focus on addressing issues at the beginning of the process in order to reduce or eliminate the current challenges that are experienced at the end of the process where time and resources available to remediate are limited. Although tabulators have worked hard to correct voting problems as they occur, they do not have transparency to the beneficial shareholder data, so therefore do not have the benefit of all of the required tools to complete their task.

End-to-end vote confirmation has also been discussed by the CSA and the industry members. Based on the conversations held to date, we respectfully note the following:

- The current intermediated system prevents the development of a system that is streamlined and efficient.
- The current proposed process that has been piloted in the United States is very manual and labour intensive.
- The current proposed process contemplates sending of confirmation after a meeting is terminated, leaving the holder with no opportunity to remediate an issue with their vote. Without pre-reconciliation of record date files, confirmation of vote acceptance prior to the voting cut-off is not feasible or reliable.

STAC also believes that it is important to note that any regulation of the proxy tabulation process generally, must encompass all stakeholders, and cannot be narrowed to just the work that is completed by the proxy tabulator. The majority of the proxy tabulation work occurs toward the end of an extensive and complicated process involving data moving through multiple channels, in some instances in a cyclical manner. One of the steps undertaken by the CSA was the implementation of a technical working group which involved the key parties in the proxy voting infrastructure. These key parties were not limited to transfer agents, but included issuers, investors, intermediaries, Broadridge, and The Canadian Depository for Securities, Inc. STAC members were active participants in the technical working group meetings, and we can state with certainty that without all of these parties actively participating in the conversations, the progress would have been far less successful. We would encourage the Commission to take advantage of the extensive work completed by the CSA and learnings obtained to date.

November 1, 2018

Given the interconnectedness between the Canadian and U.S. markets, we would respectfully encourage the Commission to review the work that has been completed to date in Canada. Although the proxy processes are not identical, there are sufficient similarities that we believe that many of the findings will be useful and relevant.

We would again like to express our appreciation at the opportunity to provide these comments.

Sincerely



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President

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