

September 28, 2023

Alberta Securities Commission
Autorité des marchés financiers
British Columbia Securities Commission
Financial and Consumer Affairs Authority of Saskatchewan
Financial and Consumer Services Commission, New Brunswick
Manitoba Securities Commission
Nova Scotia Securities Commission
Office of the Superintendent of Securities, Newfoundland and Labrador
Office of the Superintendent of Securities, Northwest Territories
Office of the Superintendent of Securities Nunavut
Office of the Yukon Superintendent of Securities
Ontario Securities Commission
Superintendent of Securities, Department of Justice and Public Safety, Prince Edward Island

To the Attention of:

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Re: CSA Notice and Request for Comment – Proposed Amendments to Form 58-101F1 Corporate Governance Disclosure of National Instrument 58-101 Disclosure of Corporate Governance Practices and Proposed Changes to National Policy 58-201 Corporate Governance Guidelines

To whom it may concern:

University Pension Plan Ontario (UPP) welcomes the opportunity to provide the Canadian Securities Administrators (CSA) with our comments on proposed amendments to *Form 58-101F1 Corporate Governance Disclosure of National Instrument 58-101 Disclosure of Corporate Governance Practices and Proposed Changes to National Policy 58-201 Corporate Governance Guidelines*.

UPP is a jointly sponsored defined benefit pension plan created by and for Ontario's university sector. UPP manages \$10.8 billion in pension assets and proudly serves over 39,000 members across four universities and 12 sector organizations. Our commitment is to protect the security and sustainability of members' pensions while providing service excellence. As a sector plan, UPP is open to all employers and employees within Ontario's university community.

UPP requires diversity information for investment decision-making

UPP considers Equity, Diversity and Inclusion (EDI) and Reconciliation as business imperatives for success in our internal operations and our investing approach.¹ Our Statement of Investment Policies and Procedures affirms that “ESG factors, such as climate change and diversity, will present material and evolving impacts over time and are part of comprehensive risk management for a long-term investor”.²

UPP includes consideration of EDI in our selection, appointment, and monitoring of external investment partners. We expect that our investment partners and investee companies will establish EDI policies, talent strategies, and training, and time-bound targets for women and under-represented groups.

We also prioritize EDI in our stewardship activities through engagement with companies and proxy voting. Our proxy voting policy outlines our view that:

A high-performance board is one comprised of directors with a wide variety of experiences, views, and backgrounds which, to the extent practicable, reflects the gender, ethnic, cultural, and other personal characteristics of the communities in which the company operates and sells its goods or services. In North America, Australia, the UK, and similar markets a board should have directors from traditionally under-represented groups including Indigenous peoples, Black peoples, members of visible minorities, persons with disabilities, and people who are part of LGBTQ2+ communities.³

UPP reviews each vote in context of the individual company. In general, we expect boards to have:

- At least three women and three men (or at least 30 percent women and 30 percent men) among the directors, and a board gender diversity policy or statement containing targets at least as ambitious as this threshold.
- Disclosure of aggregate information, as self-identified by the directors, regarding the representation of traditionally under-represented groups,
- At least one board member from a traditionally under-represented group and a board diversity policy or statement with timebound targets to increase the representation of traditionally under-represented groups.

Implementation of our stewardship and investment selection activities require market-wide transparent and comparable data, supported by narrative context about how EDI policies and practices support the issuers strategy. UPP works with likeminded partners to advance EDI policy, practices and disclosures at Canadian issuers including the Canadian Coalition for Good Governance (CCGG), the Shareholder Association for Research and Education (SHARE) and the 30% Club Canada.

While investor collaboration is important, regulatory clarity is necessary to establish market norms. We support the approach outlined in Form B which provides a common baseline for disclosure on EDI beyond gender that gives transparent and decision useful information for UPP and other investors while providing clearer guidance for issuers.

¹ [Investment beliefs - My UPP](#), [Our culture - My UPP](#); [Equity-Diversity-Inclusion-and-Reconciliation-Policy.pdf \(myupp.ca\)](#)

² [UPP statement of investment policies and procedures \(myupp.ca\)](#)

³ [UPP proxy voting policy \(myupp.ca\)](#)

Form B best meets investor needs and the CSA’s objectives of transparency, decision-useful information, and issuer guidance

Form B best ensures transparency and decision-useful information (Consultation Questions 2, 4, 5, 6)

The Proposed form B better meets the market where it is at. It provides investors with this long-requested comparable diversity data while leaving space for contextual and explanatory information from issuers.

Form B sets out a standard baseline of disclosure from issuers on recognized aspects of diversity in a way that is easy to understand and use for both investors and issuers. It identifies aspects of diversity for disclosure that are consistent with disclosures under the Canadian Business Corporations Act (CBCA) and with the groups that investors have identified as under-represented at the board and executive officer level. The tabular format is consistent with the recommended approach under the CBCA guidelines and the UK Financial Conduct Authority disclosures.⁴ This standardization allows investors to use the data to conduct portfolio and fund-level analysis, in addition to reviewing company by company disclosures.

By contrast, Form A’s approach of using self-defined groups as the basis of disclosure will result in inconsistent and unclear disclosures that are of little use for investor decision making. Without the standard and transparent data disclosure from issuers in the tabular format of Form B, investors like UPP will be required to make our own evaluations or rely on third party assessments for the information that we need.

Form B provides clearer guidance to issuers which will facilitate higher quality disclosures (Consultation Questions 2, 4)

The guidelines accompanying Form B provide clearer guidance for issuers and more decision-useful information for investors. The guidance and questions it sets out support issuers in structured reflection about how governance and how diversity fits into strategy. This guidance and reflection process will then lead to more structured and specific issuer disclosures which enable investors to better understand how diversity ties into an issuer’s strategic decisions.

The more open-ended guidance provided in Form A does little to enhance the current CSA guidance to issuers around diversity disclosures and could perpetuate the vague and incomparable disclosures that are common practice today. Such disclosures are of minimal value to investors in understanding a specific issuers strategy and place added burden on investors to parse unclear information and find alternative information sources. The poor quality of information from companies and unreliability of third-party data were among the factors that originally motivated investors to seek rulemaking from the CSA. Rather than resolving these issues Form A risks compounding them to the detriment of both investors and issuers.

Form B could be enhanced with select improvements (Consultation Questions 2, 3)

1. Incorporation of narrative disclosure on executive officer positions from Form A

Although UPP supports the adoption of Form B, it could be improved with certain targeted additions. One area of Form A which we would like to see incorporated in Form B is narrative disclosure as to how a company considers diversity when making executive officer appointments. This type of information is included in the existing gender diversity disclosure requirements and has been crucial for investors to understand talent pipeline planning. The

⁴ See Corporations Canada Guidance, [Diversity of boards of directors and senior management](#) and UK FCA Policy Statement PS22/3, [Diversity and inclusion on company boards and executive management](#).

absence of narrative executive officer appointments information is a weakness to the otherwise greater transparency and clarity of strategic approach provided by the rest of Form B.

2. Integration of CCGG’s proposed revisions

In its response to this consultation, the Canadian Coalition for Good Governance (CCGG) provides a compelling approach to augment Form B with aspects of Form A including consideration of diversity in the executive officer appointment process, as well as other revisions for logical consistency and useability. CCGG proposes a hybrid form that would both ensure the information needs of investors are met while allowing issuers flexibility to emphasize the aspects of diversity that they view most important. UPP encourages the CSA to give due attention to CCGG’s proposed approach.⁵

3. Introduction of mandatory issuer defined targets

The Capital Markets Modernization Taskforce (the “Taskforce”) recommended introduction of a requirement that publicly listed issuers in Canada set their own board and executive management diversity targets and implementation timelines, in relation to the representation of those who self-identify as women, Black, Indigenous and People of Colour (BIPOC), persons with disabilities or LGBTQ2SI+ on boards and executive management.⁶ We were disappointed to see target setting is not required in either the CSA proposed Forms A and B. Setting and disclosing time-bound targets is the most effective way to enhance diversity in board and executive positions. As a step towards implementing the Taskforce recommendation, we urge the CSA to introduce requirements that issuers set targets of their choosing for the representation of women and the representation of BIPOC individuals in board and executive positions.

UPP urges swift adoption of Form B by supportive administrators

Finally, although UPP would prefer to national consistency in implementing Form B or the hybrid proposed by CCGG, UPP believes that the information contained in such disclosures is of sufficient importance as to warrant individual securities administrators moving forward separately to implement Form B. In particular, if consensus cannot be reached among the CSA members or if there is unnecessary delay to implementation of a disclosure regime covering under-represented groups, UPP supports the Ontario Securities Commission in acting independently to issue new regulations before the end of 2023 in line with Form B.

Should you have any questions about the comments outlined above please do not hesitate to contact my colleague Delaney Greig at [REDACTED]

Sincerely,

[REDACTED]

Barbara Zvan
 CEO & President
 University Pension Plan Ontario

⁵ [Canadian Coalition for Good Governance submission to CSA Request for Comment – Proposed Amendments to Form 58-101F1 & Proposed Changes to NP 58-201, September 20, 2023.](#)

⁶ [Capital Markets Modernization Taskforce, Final Report, January 2021 \(ontario.ca\)](#)