

December 12, 2016

Ontario Ministry of Government and Consumer Services
E-mail: businesslawpolicy@ontario.ca

To Whom It May Concern,

Re: Business Law Advisory Council
Report to Minister of Government and Consumer Services FALL 2016

The Canadian Investor Relations Institute (CIRI), a professional, not-for-profit association of executives responsible for communication between public corporations, investors and the financial community, is pleased to provide comments regarding the Business Law Advisory Council (Advisory Council) Fall 2016 Report (i.e. Proposal Number: 16-MGCS022) to the Minister of Government and Consumer Services (MGCS).

CIRI has long been an advocate for good corporate governance practices, which it believes are an important factor for establishing and building a dynamic and well-regarded business climate characterized by full, fair and complete disclosure practices that contribute to the integrity and efficiency of capital markets.

CIRI membership represents over 200 publicly listed issuers with a combined market capitalization of just over \$1.5 trillion. More information about CIRI is noted in the attached Appendix.

General Comment

CIRI supports the work of the Advisory Council and the MGCS on identifying ways to update and improve Ontario's business legislation to ensure that Ontario public companies remain competitive and current in today's global economy. CIRI further appreciates that the nature of business today means that changes to the Ontario Business Corporations Act (OBCA) may well impact companies with substantial operations in Ontario but who have the option of incorporating in other jurisdictions to avoid unwelcome restrictions.

CIRI believes that solid corporate performance for Ontario companies derives in part from strong, well-qualified and engaged Boards of Directors and that legislation such as the OBCA should not impede, but rather should be supportive of, the establishment of such Boards.

Residency Requirements for Boards of Directors

The Advisory Council has noted that Part IX – *Directors and Officers*, Section 118 (3) of the OBCA requires that "At least 25 percent of the directors of a corporation other than a non-resident

corporation shall be resident Canadians, but where a corporation has less than four directors, at least one director shall be a resident Canadian.” Further, the Advisory Council has recommended that the OBCA be revised to eliminate these residency requirements.

Today’s capital markets are global in nature and if Ontario is to remain competitive in its ability to attract and retain innovative businesses, the elimination of this significant residency restriction for directors is a key factor in decisions regarding where to incorporate a business. The ability of responsible corporations to attract and retain the most qualified and experienced members for its Board of Directors, without restriction as to residency, is a critical element of good corporate governance. Ontario’s stated desire to attract additional public companies may well be hamstrung by a residency requirement that appears to be inconsistent with the objectives of this business law review.

CIRI supports the recommendation of the Advisory Council, noting that only four other provinces (Alberta, Saskatchewan, Manitoba and Newfoundland & Labrador) currently have some form of this 25% residency restriction, while the other eight provincial/territorial jurisdictions have no such restriction. Given the ease with which investors, both domestic and international, can readily establish, incorporate or move their business to a Canadian jurisdiction that does not impose a residency restriction it seems only logical for Ontario to remove this significant barrier to businesses wishing to incorporate in Ontario.

Electronic Communication Technologies

In its October 16, 2015 submission to the MGCS, CIRI recommended that the OBCA be revised to remove existing impediments to the use of current and potential future electronic communications technologies applicable to efficient business processes. CIRI notes that the Advisory Council Fall 2016 Report does not address the issue of electronic communication technologies.

CIRI continues to recommend that future review(s) of the OBCA consider this issue given the rapid and extensive adoption of advanced electronic communications technologies throughout the business world and the capital markets. Electronic communication technologies are used for many capital market activities including Board of Directors meetings, annual shareholder meetings, communications with shareholders, online access to information for investors and shareholders (including material disclosures on SEDAR and SEDI), delivery of required notices from issuers to stakeholders (e.g. Notice and Access provisions) and others.

Businesses are more productive, efficient and transparent as they continue to adopt innovative communications technologies. Corporate governance is improved by the adoption of more efficient electronic communication technologies. CIRI continues to believe it is important that legislative and regulatory policies be reviewed to ensure they are up-to-date and do not impede the ability of the business and financial communities incorporated in Ontario to take maximum advantage of such competitive technology.

CIRI appreciates the opportunity to comment on the recommendations of the Advisory Council's Fall 2016 Report and is always available if there are questions regarding our submission.

Yours truly,



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APPENDIX

The Canadian Investor Relations Institute

The Canadian Investor Relations Institute (CIRI) is a professional, not-for-profit association of executives responsible for communication between public corporations, investors and the financial community. CIRI contributes to the transparency and integrity of the Canadian capital market by advancing the practice of investor relations, the professional competency of its members and the stature of the profession.

Investor Relations Defined

Investor relations is the strategic management responsibility that integrates the disciplines of finance, communications and marketing to achieve an effective two-way flow of information between a public company and the investment community, in order to enable fair and efficient capital markets.

The practice of investor relations involves identifying, as accurately and completely as possible, current shareholders as well as potential investors and key stakeholders and providing them with publicly available information that facilitates knowledgeable investment decisions. The foundation of effective investor relations is built on the highest degree of transparency in order to enable reporting issuers to achieve prices in the marketplace that accurately and fully reflect the fundamental value of their securities.

CIRI is led by an elected Board of Directors of senior IR practitioners, supported by a staff of experienced professionals. The senior staff person, the President and CEO, serves as a continuing member of the Board. Committees reporting directly to the Board include Human Resources, Compensation and Corporate Governance (HRCCG); Audit; Membership; and Issues.

CIRI Chapters are located across Canada in Ontario, Quebec, Alberta and British Columbia. Membership is close to 500 professionals serving as corporate investor relations officers in over 200 reporting issuer companies, consultants to issuers or service providers to the investor relations profession.

CIRI is a founding member of the Global Investor Relations Network (GIRN), which provides an international perspective on the issues and concerns of investors and shareholders in capital markets outside of North America. The President and CEO of CIRI has been a member of the Continuous Disclosure Advisory Committee (CDAC) of the Ontario Securities Commission. In addition, several members, including the President and CEO of CIRI, are members of the National Investor Relations Institute (NIRI), the corresponding professional organization in the United States.