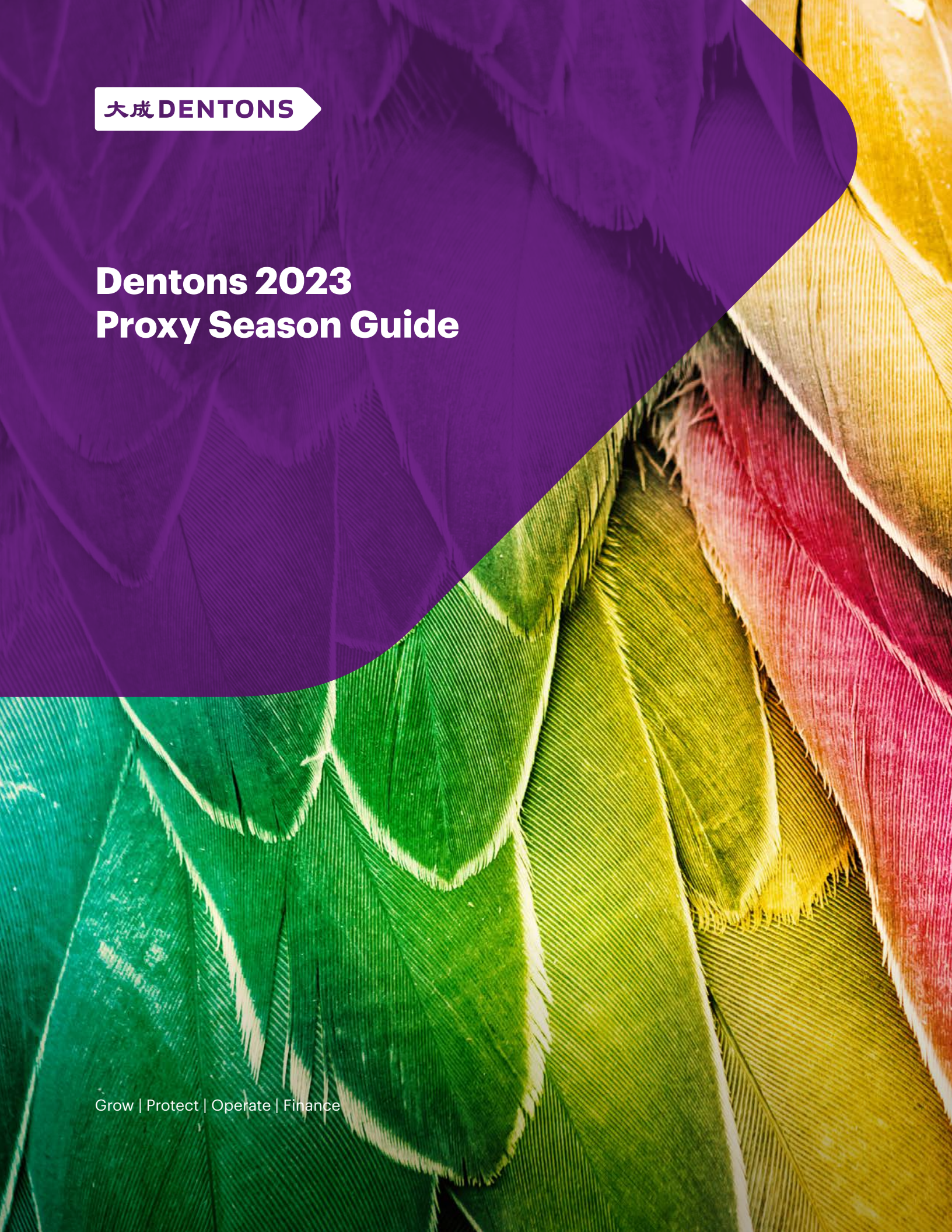
大成 DENTONS

# Dentons 2023 Proxy Season Guide



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This guide sets out legislative, regulatory and advisory developments in respect of corporate governance and annual disclosure matters. These developments will impact Canadian public companies with respect to their proxy-related materials and other annual disclosure. The focus is on developments over the course of the 12 months prior to February 2023, with reminders about continuing developments and future matters.

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# New developments

## 1. Bill C-25 – Amendments to the Canada Business *Corporations Act*

Amendments to the *Canada Business Corporations Act* (CBCA) under Bill C-25, *An Act to amend the Canada Business Corporations Act, the Canada Cooperatives Act, the Canada Not-for-profit Corporations Act and the Competition Act* (Bill C-25), including proposed changes to the director election process, came into force effective August 31, 2022. For the 2023 proxy season, the changes are in effect for the election of directors at annual shareholders' meetings of CBCA incorporated companies.

On January 31, 2023, the Canadian Securities Administrators (CSA) issued a Blanket Order, clarifying the uncertainty faced by CBCA incorporated companies with respect to the applicable rules, which we discuss in our Insight dated February 7, 2023. The Blanket Order exempts public companies governed by the CBCA from the requirement to include a "withhold" option on proxies when voting for directors if such election is conducted pursuant to the requirements of the CBCA. As the Blanket Order clarifies the potential inconsistency regarding voting options, public companies governed by the CBCA may now comfortably table proxies with only "for" and "against" options in an uncontested election of directors. Similarly, such companies will likely no longer require a standalone majority voting policy as the CBCA regime governs the requirements for director elections.

In our Securities and Corporate Finance 2022 Year in Review and Future Trends Insight, we summarized the amendments to the CBCA under Bill C-25, which reform the director election process to align with the rules adopted by the Toronto Stock Exchange (TSX). The key changes to director elections for CBCA incorporated companies under Bill C-25 include the following:

a. **Mandatory annual election of directors –** All public companies are required to hold annual elections for the entire board of directors, such that the term limit will become one year for the directors of a public company, but remain three years for the directors of a private company.

b. **Mandatory individual director voting –** All public companies are required to elect their directors by individual voting, rather than slate voting, such that shareholders will vote for each nominee separately.

c. **Majority voting –** All public companies are subject to mandatory majority voting, rather than plurality voting, involving an amended form of proxy allowing shareholders to vote "for" or "against" a director rather than "withholding" a vote. With certain exceptions (to fulfill Canadian residency or non-officer/non-employee director requirements), a candidate who fails to receive more votes "for" than "against" will not be elected as a company director.

d. **Appointment of additional directors between annual meetings –** The default rule for the appointment of directors between annual meetings has become "opt-out" instead of "opt-in," such that directors have the power to appoint one or more additional directors for a term ending no later than the next annual meeting, unless the articles of the company provide otherwise.

As discussed in our 2022 Proxy Season Guide, on February 3, 2021, Corporations Canada set out further non-binding guidelines on diversity disclosure (Diversity Guidelines), which were updated on February 7, 2022 to ensure the clear and consistent disclosure of diversity information. These updates include providing additional guidelines on disclosing written policies relating to the identification and nomination of directors from designated groups, and disclosing board

and management consideration of the level of representation of designated groups. The Diversity Guidelines also encourage, among other things, consistently disclosing diversity information in a common format, clearly indicating the date of disclosure and presenting diversity information, including term limits and targets, in a table format.

## 2. Proxy advisory firm updates: Institutional Shareholder Services and Glass, Lewis & Co.

### Institutional Shareholder Services advisory updates (2023)

#### A. Gender diversity (TSX-listed issuers)

Effective February 1, 2023, **Institutional Shareholder Services** (ISS) will recommend against the election of the chair of the nominating committee, or its equivalent, of a company listed on the S&P/TSX Composite Index with less than 30% representation of women on its board of directors. ISS will make an exception for a company that (i) recently joined the S&P/TSX Composite Index and was not previously subject to a 30% representation of women on the board requirement; or (ii) due to extraordinary circumstances, fell below the 30% threshold after having previously achieved such level of representation at the preceding annual meeting. To qualify for such an exemption, a company must have provided a publicly-disclosed written commitment to achieve at least 30% women on its board of directors at or prior to the company's next annual meeting.

For TSX-listed companies which are not also included in the S&P/TSX Composite Index, ISS will generally vote against the election of the chair of the nominating committee, or its equivalent, if there are no women on the board of directors. ISS will not apply this policy to publicly-listed companies which were listed in the current or prior fiscal year or companies with less than four directors, provided that the company has given a publicly-disclosed written commitment to achieve at least one woman on the board at or prior to its next annual meeting.

#### B. Ethnic/racial diversity (TSX-listed issuers)

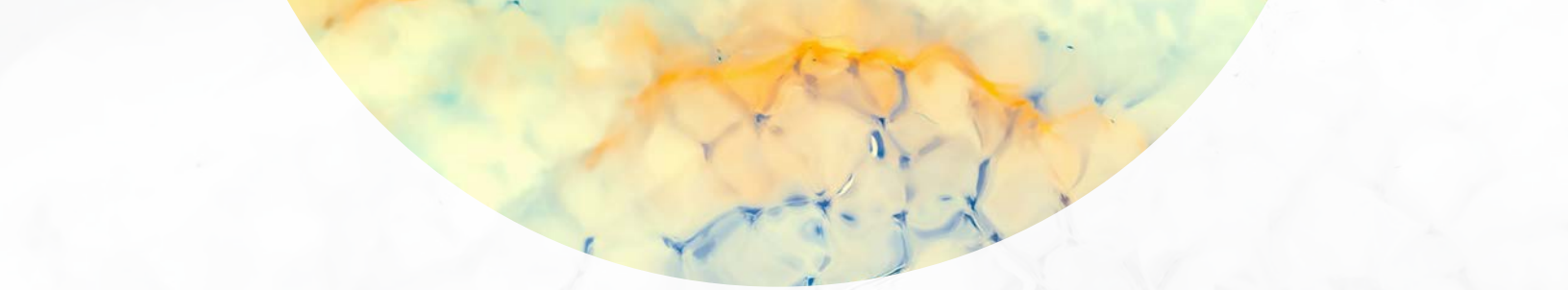
ISS has broadened its policy on diversity beyond gender to include diversity requirements for racial and/or ethnic members (including Aboriginal peoples, Indigenous, Inuit or Métis, and members of visible minorities, people who are not Aboriginal peoples and are non-Caucasian in race or non-white in colour).

Commencing in 2024, ISS will generally recommend against the election of the chair of the nominating committee, or its equivalent, of S&P/TSX Composite Index companies that have no apparent racially or ethnically diverse members of the board. ISS will make an exception if there was racial and/or ethnic diversity on the board at the preceding annual meeting and the company makes a firm public commitment to appoint at least one racially and/or ethnically diverse member at or prior to their next annual meeting.

#### C. Climate accountability (TSX-listed issuers)

Effective February 1, 2023, for companies that are listed on the Climate Action 100+ Focus Group List (significant greenhouse gas (GHG) emitters, either through their operations or their value chain), ISS will generally recommend voting against or withholding from the election of the chair of the responsible committee, or other directors on a case-by-case basis, that are not taking the minimum steps required to understand, assess and mitigate climate change related risks.

At a minimum, ISS expects these companies to provide (i) detailed disclosure of climate-related risks in line with the Task Force on Climate-related



Financial Disclosures (TCFD) recommendations, including board governance measures, corporate strategy, risk management analysis and metrics and targets and (ii) appropriate GHG emissions reduction targets, including medium-term GHG reduction targets or net-zero-by-2050 GHG reduction targets related to a company's operations and electricity use.

### D. Social and environmental shareholder proposals (TSX-listed issuers)

ISS codified and clarified its approach to evaluating social and environment proposals, and the criteria it will consider when assessing such proposals, on a case-by-case basis. Beginning in 2023, ISS will consider (i) whether the issue(s) presented in a proposal are being appropriately or effectively dealt with through legislation or governmental regulation, (ii) if the company has already responded in an appropriate and sufficient manner to the issue(s) raised in the proposal, (iii) whether the request is unduly burdensome in scope or timeframe or overly prescriptive, (iv) the company's approach compared with any industry standard practices for addressing the issue(s) raised by the proposal, (v) whether there are significant controversies, fines, penalties or litigation associated with the company's practices related to the issue(s) raised in the proposal and (vi) if the proposal requests increased disclosure or greater transparency, whether implementation would reveal proprietary or confidential information that could place the company at a competitive disadvantage. ISS will also take into account whether or not regulation or legislation is likely to occur and if there is a presence of controversies related to the issue raised by the proposal.

### E. Executive compensation (TSX-listed issuers)

ISS updated its policy for TSX-listed companies related to non-employee director (NED) deferred share unit (DSU) plans. Under these NED DSU plans, shares should only (i) be issued to NEDs and (ii) in lieu of director fees that would otherwise be payable in cash. The aim is to align the interests of NEDs with shareholders by developing an equity stake commensurate with the directors' established fee structure.

Effective February 1, 2023, ISS will recommend voting for NED DSU plans (i) if the DSUs may only be granted in lieu of cash fees on a value-for-value basis (no discretionary or other grants are permitted); and (ii) that permit discretionary grants, not in lieu of cash fees, if potential dilution, together with all other equity-based compensation, is 10% or less of the company's outstanding common shares. ISS will also recommend voting for NED DSU plans if the plan includes a company matching or top-up provision, the shareholder value transfer cost of the plan does not exceed the company's allowable cap, NED participation is acceptably limited, and certain amendments to the plan require shareholder approval, including changes to eligibility, increases in the number of shares reserved for issuance or amendments to the plan amendment provisions.

### F. Executive compensation (venture issuers)

ISS also updated its policy for TSXV-listed companies related to NED DSU plans to require the same criteria as for TSX-listed companies.

Effective February 1, 2023, ISS will recommend voting for NED DSU plans (i) if the DSUs may only be granted in lieu of cash fees on a value-for-value basis (no discretionary or other grants are permitted); and (ii) that permit discretionary grants or a company match or top-up provision, not in lieu of cash

fees, if potential dilution, together with all other equity-based compensation, is 10% or less of the company's issued and outstanding common shares, and if the average annual burn rate is no more than 5% per year (generally averaged over the most recent three-year period and rounded to the nearest whole number for policy application purposes).

ISS will also consider other elements to assess whether a DSU plan is deemed, overall, to be beneficial to shareholders' interests when determining vote recommendations, including, but not limited to, (i) the mix of renumeration between cash and equity, (ii) other forms of equity-based compensation (i.e. stock options or restricted stock) and (iii) the vesting schedule or mandatory deferral periods.

### G. Overboarded directors (venture issuers)

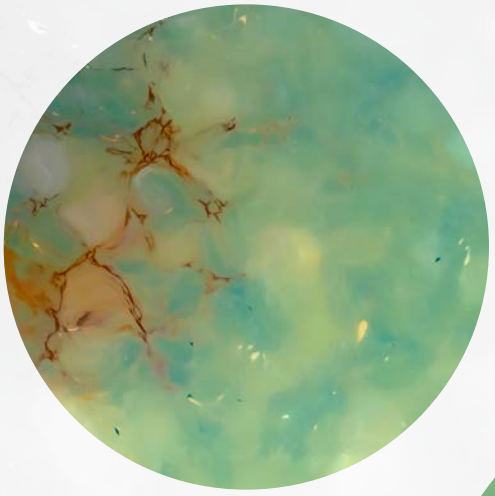
Effective February 1, 2023, to align with its policy for TSX-listed issuers, ISS will generally vote to withhold for individual director nominees of TSXV-listed issuers who are (i) non-CEO directors and serve on more than five public company boards, or (ii) CEOs of public companies who serve on boards of more than two public companies in addition to their own.

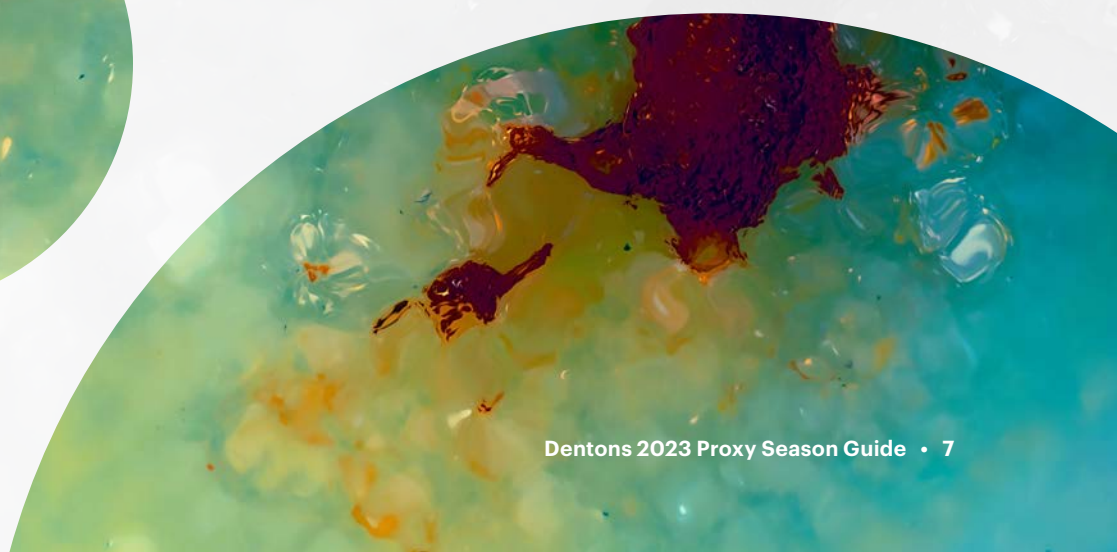
## Glass, Lewis & Co. advisory updates (2023)

### A. Board gender diversity

**Glass, Lewis & Co.** (Glass Lewis) has updated its voting policies with respect to board gender diversity effective for shareholder meetings on or after January 1, 2023. The most significant change to Glass Lewis' gender diversity policies for boards of TSX-listed companies is the transition from a fixed numerical approach to a percentage-based approach. Glass Lewis will generally recommend voting against the election of (i) the nominating committee chair of a board that is not at least 30% gender diverse, or (ii) the entire nominating committee of a board with no gender diverse directors. Glass Lewis defines "gender diverse directors" as women and directors that identify with another gender other than male or female.

For companies not listed on the TSX, and for all boards with six or less directors, Glass Lewis' minimum threshold remains at one gender diverse director. Glass Lewis' voting recommendations will be based on a careful review of a company's disclosure of diversity considerations. Consistent with its prior guidelines, Glass Lewis may refrain from recommending that shareholders vote against the election of directors of companies when boards have provided a sufficient rationale or plan to address the lack of diversity on the board.





## B. Environmental oversight and director accountability for climate-related issues

Glass Lewis is continuing to review companies' governance practices with respect to board-level oversight of environmental and social issues, as previously discussed in our 2022 Proxy Season Guide. Glass Lewis will generally recommend voting against the election of the governance committee chair of a S&P/TSX-listed issuer that fails to provide explicit disclosure in its information circular concerning the board's role in overseeing environmental and social issues.

Effective for shareholder meetings on or after January 1, 2023, Glass Lewis has also adopted a new policy on director accountability for climate-related issues in line with its view that climate risk is a material risk for all companies and that companies should provide clear and comprehensive disclosure of climate risk and how it is being mitigated and overseen. Glass Lewis may recommend voting against the election of the chair of the relevant committee (or board) of a company with increased climate risk exposure (i.e. whose GHG emissions represent a financially material risk, including a company identified by the Climate Action 100+) that does not: (i) provide thorough TCFD-aligned climate risk disclosure; and (ii) clearly define board oversight responsibilities for climate-related issues. The policy may be extended to: (i) the chair of the governance committee where no committee (or board) has been assigned oversight of climate-related issues; and (ii) additional members of the responsible committee in cases where the committee chair is not standing for re-election or based on other factors, including the company's size, industry and overall governance profile.

For additional insights regarding the disclosure and oversight of climate-related issues in compliance with Glass Lewis and related policies, please see our previous publications here and here.

## C. Additional updates from Glass Lewis

Glass Lewis has further updated its Canadian proxy voting guidelines for 2023 to incorporate the following key recommendations:

a. **Environmental and social risk oversight –** as previously discussed in our 2022 Proxy Season Guide, as of 2023, Glass Lewis will recommend voting against the election of the governance committee chair of a S&P/TSX-listed issuer that fails to provide explicit disclosure in its information circular concerning the board's role in overseeing environmental and social issues.

b. **Multi-class share structures with unequal voting rights –** for issuers with a multi-class share structure and unequal voting rights, Glass Lewis will recommend voting against the election of the chair of the governance committee if the issuer does not provide for a "reasonable sunset of the multi-class share structure" (generally seven years or less).

c. **Size of key committees –** for all issuers on Canadian stock exchanges, Glass Lewis recommends voting against the election of the compensation, nominating or governance committee chair if the committee consists of fewer than two members for the majority of the fiscal year.

d. **Cyber risk oversight –** Glass Lewis has outlined its view that cyber risk is material for all companies, and that a company's stakeholders would benefit from clear disclosure regarding the role of the board in overseeing issues related to cybersecurity. In a new section of the 2023 Policy Guidelines, Glass Lewis will generally not make voting recommendations on the basis of a company's oversight or disclosure of cyber-related issues. However, it will more closely scrutinize disclosure concerning cyber-related risks where cyber attacks have caused significant harm to shareholders. If a company's disclosure is deemed to be insufficient, Glass Lewis may recommend against the election of appropriate directors.

e. **Company responsiveness for say-on-pay analysis –** Glass Lewis has clarified its voting policies with respect to shareholder opposition to say-on-pay proposals and the board's level of engagement and responsiveness to shareholder concerns. Glass Lewis generally expects a board's minimum appropriate level of responsiveness to correspond to the level of shareholder opposition (in a single year and over time), and may recommend holding compensation committee members accountable for failing to adequately respond to shareholder opposition, having regard for the level of opposition and the severity and history of the company's compensation practices.

f. **Director commitments –** Beginning January 1, 2023, Glass Lewis has clarified the application of its director commitment policies in circumstances where the firm believes a director may be potentially overcommitted. For TSX-listed companies, Glass Lewis will consider a director to potentially have excessive commitments when he/she serves as an executive officer of a public company while serving on two or more additional external public company boards. Glass Lewis may now recommend that shareholders oppose, on the basis of excessive commitments, the election of a director who serves as an executive officer while also serving as a director on two or more total public boards, neither of which are the same issuer by which they are employed as an executive.

g. **Long-term incentive awards –** Glass Lewis, in line with market trends, has increased its threshold for the minimum percentage of long-term incentive grants that should be performance-based from 33% to 50%. Beginning January 1, 2023, Glass Lewis will raise as a concern executive pay programs where less than half of an executive's long-term incentive awards are subject to performance-based vesting conditions. Consistent with prior proxy season guidance, Glass Lewis may refrain from a negative recommendation in the absence of other significant issues with the program's design or operation. However, where the allocation of performance-based awards is declining, Glass Lewis may put forward an unfavorable recommendation.

# Continuing developments

## 1. Diversity developments

On October 27, 2022, staff of the CSA published Multilateral Staff Notice 58-314 – *Review of Disclosure Regarding Women on Boards and in Executive Officer Positions*, the eighth annual review by the CSA on disclosure regarding women on corporate boards and in executive officer positions. The CSA reported a modest uptick, as compared to its prior year's report, in the overall percentage of women on boards and in executive officer positions. However, in light of the ever-increasing focus on environmental, social and governance factors, there appears to be an opportunity for more significant growth for issuers that actively plan to address this particular factor, as well as the potential for practical consequences for issuers that fail to adequately address any lack of gender diversity on their boards or management teams. As of 2022: 24% of board seats were occupied by women; 87% of issuers had at least one woman on their board; 70% of issuers had at least one woman in an executive officer position; 7% of issuers had a woman as chair of the board; and 5% of issuers had a woman as Chief Executive Officer. Each of these percentages increased between 0%-5% since the publication of the seventh annual review: 2%, 5%, 5%, 1% and 0%, respectively.

The CSA noted that the number of women on boards varied by industry, with manufacturing, real estate and utilities having the highest percentage of issuers with one or more women on their boards. The mining, oil and gas and biotechnology industries had the lowest percentage of issuers with one or more women on their boards.

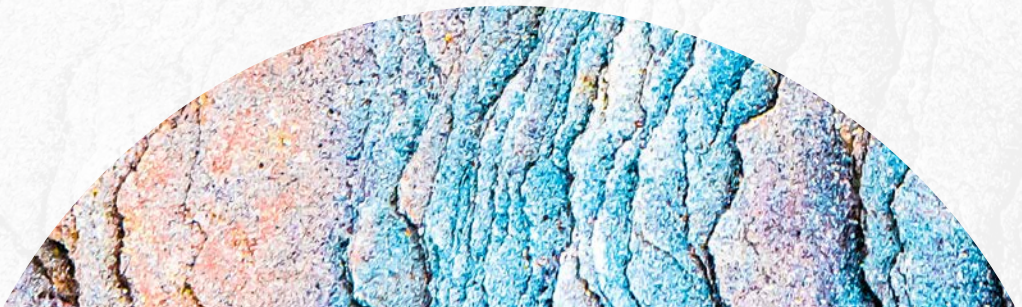
For additional information, please refer to our Insight dated January 4, 2023.

## 2. Environmental, social and governance (ESG) developments

On November 3, 2022, the CSA published CSA Staff Notice 51-364 – *Continuous Disclosure Review Program Activities for the fiscal years ended March 31, 2022 and March 31, 2021* as a biennial report on the CSA's review of continuous disclosure provided by reporting issuers (the Continuous Disclosure Report). In the Continuous Disclosure Report, the CSA identified overly promotional disclosure pertaining to environmental, social and governance (ESG) matters as a key area for improvement in issuers' continuous disclosure, stemming from the CSA's concerns about "greenwashing."

The CSA noted that it observed many issuers making potentially misleading, unsubstantiated or otherwise incomplete claims about ESG and sustainability-related aspects of their businesses that convey false impressions commonly referred to as "greenwashing." Issuers were advised in the Continuous Disclosure Report to ensure that statements and assertions are corroborated by facts and corporate activities.

You can find more information in our Insight published on November 4, 2022.



## 3. Ontario's *Capital Markets Act*

In 2022, the Government of Ontario unveiled the initial version of the *Capital Markets Act* (CMA) after conducting consultations with industry leaders and the general public throughout 2021. If implemented, the CMA would serve as a replacement for the current *Securities Act* and *Commodity Futures Act* in Ontario.

In addition, the CMA is positioned to be a major overhaul of the role of the securities regime in regulating cryptocurrency. Currently, the determination of whether a crypto asset is a security is done using a four-part test established by the Supreme Court of Canada in the 1977 ruling of *Pacific Coast Coin Exchange* v. *Ontario Securities Commission*. This test looks at whether there is (i) an investment of money, (ii) an investment in a common enterprise with others, (iii) an intention of profit and (iv) whether the profit comes significantly from the efforts of others. If a crypto asset meets all of these criteria, it is considered an "investment contract" and therefore, a security.

If the CMA is passed as proposed, it would give the Ontario Securities Commission (OSC) significant discretion on how it regulates crypto assets. The CMA defines a "crypto asset" as a "digital representation of value or contractual rights, which may be transferred and stored electronically, using distributed ledger or similar technology," and grants the CEO of the OSC the power to designate a crypto asset as a security or derivative in the public interest. This definition is similar to the one proposed in the European Union's Markets in Crypto Assets framework, which is set to go into effect in 2024.

Industry participants have expressed concern with this discretionary power because it deviates from the current, relatively consistent approach to crypto regulation across all Canadian provinces. Moreover, market participants also expect significant go-to-market delays with this approach because it means they would need to consult with the OSC to determine whether they are subject to regulatory requirements.

## 4. New self-regulatory organization replaces the Mutual Fund Dealers Association of Canada and the Investment Industry Regulatory Organization of Canada

New Self-Regulatory Organization of Canada and new Canadian Investor Protection Fund (CIPF) officially launched on January 3, 2023, marking completion of the CSA plan to create a new, single self-regulatory organization and an integrated investor protection fund.

- The Investment Industry Regulatory Organization of Canada (IIROC) and the Mutual Fund Dealers Association of Canada (MFDA) have officially amalgamated to become the New Self-Regulatory Organization of Canada. The name "New Self-Regulatory Organization of Canada" is the temporary legal name of the newly consolidated Self-Regulatory Organization. A new permanent name will be chosen in 2023 after appropriate stakeholder consultation and member approval.
- The MFDA Investor Protection Fund and the former CIPF have merged into a single investor protection fund and will be known as CIPF.

## 5. Virtual shareholder meetings

On February 25, 2022, the CSA published a news release with guidance on virtual shareholder meetings. Since the emergence of the COVID-19 pandemic, many reporting issuers have adopted a virtual or hybrid format for their shareholder meetings, and the ability to hold a virtual or hybrid shareholder meeting continues.

The CSA suggest when hosting a virtual shareholder meeting, reporting issuers disclose to shareholders procedural information for how shareholder questions will be received and addressed, and how it will accommodate and manage shareholder participation at the meeting. In the case of a contested shareholder meeting, the CSA encourage reporting issuers to consult their legal advisors on the appropriateness of conducting a virtual meeting and to consider establishing a meeting protocol agreement with the dissident parties in advance of the meeting.

# Upcoming developments

## 1. SEDAR+

The CSA began piloting SEDAR+ in 2022. Currently, issuers are being onboarded to SEDAR+ which is anticipated to launch in June 2023. Once the rollout of SEDAR+ is complete, SEDAR will no longer be accessible and the CSA have stated that users can expect the following new features:

- *Automatic historical file transfer* – All historical filings and disclosures will be transferred to SEDAR+, and users will then be able to consolidate their filings. Investors should keep in mind that non-CSA filings will not be transferred into SEDAR+;
- *Single point of access* – Once fully integrated, users will be able to use SEDAR+ to access disclosure information from a single source rather than the independent predecessor systems;
- *No software download* – SEDAR+ is an entirely web-based platform that users can access from their browser, meaning that users will no longer be required to download SEDAR software to file their documents. This platform will also have enhanced cybersecurity and privacy features. Once SEDAR+ is live to the public, users will no longer be able to use the old systems for filings;
- *Fees* – System fees will be revised when the data has been transferred into SEDAR+. Notably, the CSA will switch to flat fees per filing type, and these fees will only be payable to the filer's principal regulator. In addition, SEDAR+ will eliminate some fees, including the prospectus distribution outside Québec, registration of an individual in an additional jurisdiction, related party transaction filings and going private transaction filings; and
- System user and regulatory fees will be payable using Electronic Funds Transfer rather than the current Electronic Data Interchange system. For certain fees, credit card payments will be accepted.

Please see our Insight dated June 22, 2022 for further information on the Canadian Securities Administrators SEDAR+ Pilot Program.

## 2. Changes to climate disclosure

In 2022, the CSA released an update on the status of their proposed instrument for climate-related disclosure on October 12, 2022 (Proposed Instrument). This update came after several significant developments occurred in the international climate-related disclosure landscape, including the United States Securities and Exchange Commission's proposed set of rules and the proposed international standards by the International Sustainability Standards Board for ESG-related disclosure (ISSB Drafts). The CSA stated that they are actively considering these international developments and how they may impact or further inform the Proposed Instrument. They also highlighted some areas where they believe the ISSB Drafts could benefit from certain changes, including prioritizing climate-related matters and addressing the cost and expertise required for compliance.

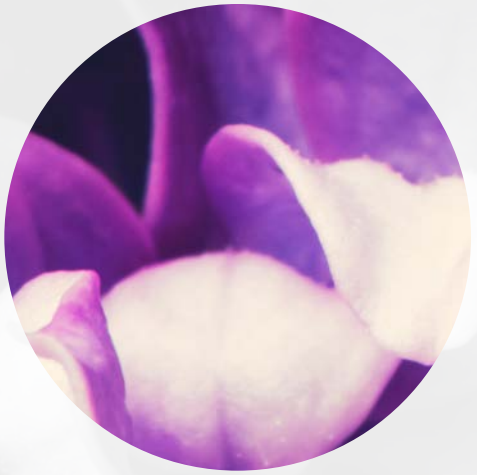
Please see our Insight dated January 25, 2023 for further information on the CSA and ISSB climate-related disclosure proposals.

# Possible developments

## 1. Recommendations from the Capital Markets Modernization Taskforce Final Report

Recommendations previously noted in our 2022 Proxy Season Guide included board diversity targets and timelines, adopting a written policy for director nomination processes, and maximum board tenure limits.

- *Board diversity targets and timelines* – The Capital Markets Modernization Taskforce (the Taskforce) recommended diversity targets of 50% for women, completed within five years, and 30% for other diversity groups, completed within seven years.
- *Written policy for director nomination process* – The Taskforce recommended adopting a written policy for the director nomination process that addresses the identification of candidates who self-identify as women, BIPOC, LGBTQ+ or persons with disabilities.
- *Maximum board tenure limits* – The Taskforce recommended adopting a 12-year maximum term limit for directors and a 15-year maximum tenure limit for the chair of the board, with certain exceptions.



## 2. Access equals delivery

In 2022, the CSA published for comment proposed amendments to several national instruments (including National Instrument 51-102 – *Continuous Disclosure Obligations*) and policies to adopt an "access equals delivery" model which would allow reporting issuers (other than investment funds) to satisfy the requirement to deliver certain prospectuses, annual and interim financial statements and related MD&A by (i) publicly filing the document on SEDAR, and (ii) issuing and filing a news release announcing that the document is publicly available on SEDAR and that a paper or electronic copy can be obtained upon request.

## 3. Changes to National Instrument 43-101– Consultation exercise underway

Last updated in 2011, National Instrument 43-101 – *Standards of Disclosure for Mineral Projects* (NI 43-101) governs disclosure of scientific and technical information concerning mineral exploration, development and production activities by mining issuers for a mineral project on a property material to the issuer. The disclosure, whether oral or written, must be based on information provided by or under the supervision of a qualified person, and specified terminology is required when disclosing mineral resources and mineral reserves. NI 43-101 also requires a mining issuer to file a technical report at certain times, using the prescribed format of Form 43-101F1 - Technical Report, prepared by one or more qualified persons who may need to be independent of the issuer and the mineral property.

Since 2011, the CSA have continually monitored the mineral disclosure requirements in NI 43-101, and gathered data evidencing deficiencies identified through continuous disclosure reviews, prospectus reviews and targeted issue-oriented reviews. These deficiencies include:

- Qualified persons failing to properly assess their independence, competence, expertise or relevant experience related to the commodity, type of deposit or the items for which they take responsibility in technical reports;
- Poor quality of scientific and technical disclosure in technical reports for early stage exploration properties for new stock exchange listings;
- Inadequate mineral resource estimation disclosure, including disclosure related to reasonable prospects for eventual economic extraction;
- Misuse of preliminary economic assessments; and
- Inadequate disclosure of all business risks related to mineral projects.

We anticipate further analysis on the effectiveness of NI 43-101 and ongoing developments and changes to disclosure regarding mineral projects in the near term, particularly in light of increased focus on critical minerals and security as well as new critical mineral flow-through tax credits in Canada.

More information can be found on the Ontario Securities Commission website here.

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