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5650 Yonge Street  
Toronto, Ontario M2M 4H5

416 228.5900 or  
1 877 812.7989

fax: 416 730.5349

[www.otpp.com](http://www.otpp.com)

October 11, 2011

Mr. Michal Pomotov  
Legal Counsel  
Toronto Stock Exchange  
The Exchange Tower  
120 King Street West  
Toronto, ON M5X 1J2  
E-mail: [tsxrequestforcomments@tsx.com](mailto:tsxrequestforcomments@tsx.com)

### **Sent via e-mail**

Dear Mr. Pomotov,

The Ontario Teachers' Pension Plan Board (Teachers') is an independent organization responsible for investing over \$107 billion in assets and administering the pensions of Ontario's 295,000 active and retired teachers. On behalf of our members, we thank you for the opportunity to comment on proposed amendments to Part IV of the Toronto Stock Exchange (TSX) Company Manual. We hope that you find our comments thoughtful and relevant.

### **Individual, Annual Director Elections**

We believe that this initiative is appropriate for the TSX to pursue and agree with the TSX that issuers should be required to elect directors individually and hold annual elections for all directors. The election of directors is a fundamental corporate governance issue as the shareholder vote is the only means by which directors are held accountable to shareholders for the decisions that they make. Slate votes do not hold individual directors accountable and may result in situations where shareholders have no choice but to withhold support for the entire board when the preferred course of action would be to withhold support for a select few directors. Finally, when directors are elected under staggered terms they are held accountable to shareholders only at the end of their term, which is usually once every three years.

### **Mandating Majority Voting**

Teachers' believes that majority voting is the most effective way to elect directors. While we support the TSX mandating a majority voting policy for uncontested director elections, our preferred election method remains replacing the current plurality system with a majority vote standard, under which shareholders are able to vote "for" or "against" individual directors. We do not see any negative impact by requiring issuers to move to a majority vote policy. A recent Shareholder Democracy Study conducted by the Canadian Coalition for Good Governance<sup>1</sup> (CCGG) indicates that 57% of companies in the S&P/TSX Composite Index have adopted a majority vote policy (representing 81% of the S&P/TSX Composite market capitalization). To our knowledge, the adoption of a majority vote policy has not resulted in increased withheld votes for directors, directors not receiving a majority vote or failed boards, indicating

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<sup>1</sup> See [http://www.ccg.ca/site/ccgg/assets/pdf/Shareholder\\_Democracy\\_Study\\_June\\_2011.pdf](http://www.ccg.ca/site/ccgg/assets/pdf/Shareholder_Democracy_Study_June_2011.pdf).

that shareholders continue to execute their votes in a responsible and thoughtful manner. We do believe that electing directors via a majority vote policy enhances directors' accountability to shareholders.

**Adopt or Explain**

Should the TSX decide to not mandate a majority vote policy, we do support the proposed requirement for issuers to disclose whether or not they have adopted a majority vote policy for uncontested meetings and, if not explain why.

**Disclosure of Voting Results**

The disclosure of the results of the vote is essential to "completing the loop" with respect to the election of directors. To Teachers', it is contradictory to provide shareholders with the right to vote but then to not require issuers to provide complete and full disclosure on the results of those votes. While we would encourage the TSX to require the disclosure of vote results, this requirement must include disclosure of the results of all proxies submitted by shareholders. Far too many issuers under the current CSA disclosure rules do not disclose detailed voting results, simply stating that the directors were elected by way of a show of hands or that the proposal "passed". Furthermore, a number of issuers who have adopted majority voting fail to provide detailed voting results, which in our view contravenes the spirit of adopting a majority vote policy in the first place.

We believe that should the TSX decide to be more specific in its vote disclosure requirements, requiring a ballot is not needed. However, if it becomes evident that a ballot is the only way to ensure that the disclosure of vote results is complete, then we would support mandating that director elections be conducted by ballot.

We appreciate the opportunity to respond to your public consultation and hope that you find our feedback helpful. Feel free to contact us if we can be of further assistance.

Yours sincerely,



Wayne Kozun  
Senior Vice President, Public Equities

cc Susan Greenglass, Director, Market Regulation, OSC, e-mail: [marketregulation@osc.gov.on.ca](mailto:marketregulation@osc.gov.on.ca)