CSA Staff Notice
National Policy 58-201 *Corporate Governance Guidelines*

and

National Instrument 58-101 *Disclosure of Corporate Governance Practices*, Form 58-101F1 and Form 58-101F2

National Policy 58-201 *Corporate Governance Guidelines* (the **Policy**) and National Instrument 58-101 *Disclosure of Corporate Governance Practices*, Form 58-101F1 and Form 58-101F2 (collectively, the **Instrument**) are initiatives of the members of the Canadian Securities Administrators.

The Instrument has been made, or is expected to be made, as a rule in each of British Columbia, Alberta, Manitoba, Ontario, New Brunswick, Nova Scotia and Newfoundland and Labrador, as a Commission regulation in Saskatchewan and Nunavut, as a regulation in Québec, as a policy in Prince Edward Island and the Yukon Territory, and as a code in the Northwest Territories. The Policy has been made, or is expected to be made, as a policy in every jurisdiction in Canada.

We intend the Policy and the Instrument to come into force on June 30, 2005. However, the Instrument will only apply to information circulars or AIFs, as the case may be, which are filed following financial years ending on or after June 30, 2005.

In Ontario, the Instrument and other required materials were delivered to the Chair of the Management Board of Cabinet on April 15, 2005. The Minister may approve or reject the Instrument or return it for further consideration. If the Minister approves the Instrument or does not take any further action by June 14, 2005, the Instrument will come into force on June 30, 2005. The Policy will come into force on the date that the Instrument comes into force.

In Québec, the Instrument is a regulation made under section 331.1 of *The Securities Act* (Québec) and must be approved, with or without amendment, by the Minister of Finance. The Instrument will come into force on the date of its publication in the *Gazette officielle du Québec* or on any later date specified in the regulation. It must also be published in the Bulletin.

In Alberta, the Instrument and other materials were delivered to the Minister of Finance. The Minister may approve or reject the Instrument. Subject to Ministerial approval, the Instrument and Policy will come into force on June 30, 2005. The Alberta Securities Commission will issue a separate notice advising whether the Minister has approved or rejected the Instrument.

Background to the Instrument and Policy

On January 16, 2004, the securities regulatory authorities in Alberta, Saskatchewan, Manitoba, Ontario, New Brunswick, Nova Scotia, Prince Edward Island, Newfoundland and Labrador, the Yukon Territory, the Northwest Territories and Nunavut published for comment proposed Multilateral Policy 58-201 *Effective Corporate Governance* and proposed Multilateral Instrument 58-101 *Disclosure of Corporate Governance Practices* (the **January Proposal**). On April 23, 2004, the securities regulatory authorities in British Columbia, Alberta and Québec published for comment proposed Multilateral Instrument 51-104 *Disclosure of Corporate Governance Practices* (the **April Proposal**).

On October 29, 2004, we published the Policy and the Instrument for comment. The Policy and Instrument reflected elements of each of the January Proposal and the April Proposal. The comment period expired on December 13, 2004 (December 27, 2004 in Manitoba).

Summary and Discussion of the Policy and the Instrument

The Policy

The Policy provides guidance on corporate governance practices. Although the Policy applies to all reporting issuers, other than investment funds, the guidelines in the Policy are not intended to be prescriptive; rather, we encourage issuers to consider the guidelines in developing their own corporate governance practices.

The following corporate governance guidelines are contained in the Policy:

- maintaining a majority of independent directors on the board of directors (the **board**)
- appointing a chair of the board or a lead director who is an independent director
- holding regularly scheduled meetings of independent directors at which non-independent directors and members of management are not in attendance
- adopting a written board mandate
- developing position descriptions for the chair of the board, the chair of each board committee, and the chief executive officer
- providing each new director with a comprehensive orientation, and providing all directors with continuing education opportunities
- adopting a written code of business conduct and ethics (a **code**)
- appointing a nominating committee composed entirely of independent directors

- adopting a process for determining the competencies and skills the board as a whole should have, and applying this result to the recruitment process for new directors
- appointing a compensation committee composed entirely of independent directors
- conducting regular assessments of the board effectiveness, as well as the effectiveness and contribution of each board committee and each individual director

The Instrument

The Instrument applies to reporting issuers other than investment funds, issuers of asset-backed securities, designated foreign issuers, SEC foreign issuers, certain exchangeable security issuers, certain credit support issuers and certain subsidiary issuers. The Instrument establishes both disclosure requirements and a requirement to file any written code that the issuer has adopted.

The Instrument requires an issuer to disclose those corporate governance practices it has adopted. The specific disclosure items are set out in Form 58-101F1. However, because we appreciate that many smaller issuers will have less formal procedures in place to ensure effective corporate governance, the Instrument requires issuers that are "venture issuers" to disclose those items identified in Form 58-101F2.

The Instrument requires every issuer that has a written code to file a copy of the code (or any amendment to the code) on SEDAR no later than the date on which the issuer's next financial statements must be filed, unless a copy of the code or amendment has previously been filed.

We recognize that corporate governance is in a constant state of evolution. Consequently, we intend to review both the Policy and the Instrument periodically following their implementation to ensure that the guidelines and disclosure requirements continue to be appropriate for issuers in the Canadian marketplace.

Summary of Written Comments Received

We received submissions from 19 commenters regarding the Policy and the Instrument. We have considered all the comments received and thank all the commenters. The names of the commenters are contained in Schedule A of this Notice.

A summary of the comments we received, and our responses to those comments, is contained in Schedule B of this Notice. Upon consideration of the comments, we determined to incorporate a number of changes into the Policy and the Instrument. A summary of the principal changes is set out below.

Summary of Principal Changes

The Policy

The following principal changes were made to the Policy:

- Paragraph 3.3 of the Policy was clarified to state that the independent directors should hold regularly scheduled meetings at which members of management and non-independent directors are not in attendance.

- Paragraph 3.14 was revised to recommend that the nominating committee should specifically consider whether or not each new nominee can devote sufficient time and resources to his or her duties as a board member. Footnote 2, which formerly contained this guidance, was consequently deleted.

The Instrument

Similarly, the following principal changes were made to the Instrument:

- The definition of independence applicable to issuers that are reporting issuers in British Columbia (section 1.2 of the Instrument) was modified. In addition, a definition of "significant security holder" has also been added to the Instrument.

- Subsection 1.3(d) of the Instrument was revised to provide an exemption which more closely paralleled that provided in Multilateral Instrument 52-110 *Audit Committees* (**MI 52-110**).

- Item 1(g) was added to Form 58-101F1. Consequently, issuers other than venture issuers must now disclose the attendance record of each director for all board meetings held since the beginning of the issuer's most recently completed financial year.

- The phrase "an interested party" in Item 5(a)(i) of Form 58-101F1 has been replaced by the phrase "any person or company".

- Item 5(a)(ii) of Form 58-101F1 has been revised to clarify that a board of directors is not expected to guarantee compliance with its code.

- Item 7 of Form 58-101F1 has been revised to require issuers other than venture issuers to disclose whether or not a compensation consultant or advisor has, at any time since the beginning of the most recently completed financial year, been retained to assist in determining director and officer

compensation. If a compensation consultant has been retained, the issuer must:

(a) disclose the identity of the consultant or advisor;

(b) briefly summarize the mandate for which the consultant has been retained; and

(c) if the consultant or advisor is performing any other work for the issuer, briefly describe the nature of the work.

- The Instructions to Forms 58-101F1 and 58-101F2 have been revised to require, in appropriate circumstances, disclosure regarding both existing and proposed directors of the issuer.

Transition from TSX Guidelines

Upon the coming into force of the Policy and the Instrument in Ontario, the Toronto Stock Exchange Company Manual will be amended by replacing sections 472 through 475 with a requirement than each listed issuer subject to the Instrument be required to comply with the Instrument.

Consequential Amendments to MI 52-110

On October 29, 2004, the securities regulatory authorities in every jurisdiction in Canada other than British Columbia proposed changes to the definition of independence contained in MI 52-110. Concurrently with the publication of this notice, the participating securities regulatory authorities have also published a notice and final version of the MI 52-110 amendments.

Authority for the Instrument — Ontario

In Ontario, securities legislation provides the Ontario Securities Commission (the **OSC**) with rule-making authority regarding the subject matter of the Instrument.

- Paragraph 143(1)22 of the *Securities Act* (Ontario) (the **Act**) authorizes the OSC to prescribe requirements in respect of the preparation and dissemination and other use, by reporting issuers, of documents providing for continuous disclosure that are in addition to the requirements under the Act.

- Paragraph 143(1)39 of the Act authorizes the OSC to make rules requiring or respecting the media, format, preparation, form, content, execution, certification, dissemination and other use, filing and review of all documents required under or governed by the Act, the regulations or the rules and all documents determined by the regulations or the rules to be ancillary to the documents.

- Paragraph 143(1)44 of the Act authorizes the OSC to vary the Act to permit or require the use of an electronic or computer-based system for the filing, delivery or deposit of (a) documents or information required under or governed by the Act, the regulations or rules, and (b) documents determined by the regulations or rules to be ancillary to documents required under or governed by the Act, the regulations or rules.

Related Instruments

The Instrument is related to National Instrument 51-102 *Continuous Disclosure Obligations,* National Instrument 71-102 *Continuous Disclosure and Other Exemptions Relating to Foreign Issuers* and Multilateral Instrument 52-110 *Audit Committees*.

Alternatives Considered

In developing the Policy and Instrument, we considered seeking legislative authority to require reporting issuers to adopt certain corporate governance practices. However, we appreciate that corporate governance is in a constant state of evolution, and that some governance practices may not be appropriate for all issuers. Consequently, we determined to adopt a policy which provides guidance on corporate governance practices, and to implement a rule to require issuers to disclose those corporate governance practices they currently utilize.

Anticipated Costs and Benefits of Instrument

The Instrument will provide greater transparency for the marketplace regarding the nature and adequacy of issuers' corporate governance practices. We anticipate that the benefits of such transparency, including enhanced investor confidence in Canadian capital markets, will exceed the relatively nominal cost for issuers to provide the disclosure required by the Instrument. We note that many issuers have previously incurred equivalent costs to comply with the corporate governance disclosure requirements of the Toronto Stock Exchange and the TSX Venture Exchange.

Reliance on Unpublished Studies, Etc.

In developing the Policy and Instrument, we did not rely upon any significant unpublished study, report or other written materials.

Questions may be referred to the following people:

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Text of Policy and Instrument

The text of the Policy and the Instrument follow.

Date: April 15, 2005.

SCHEDULE A

List of Commenters

Borden Ladner Gervais LLP
Canadian Bankers Association
Canadian Coalition for Good Governance
Canadian Investor Relations Institute
Canadian Society of Corporate Secretaries
Canadian Tire Corporation, Limited
Dynetek Industries Ltd.
Imperial Oil Limited
MVC Associates Consultants
Ogilvy Renault
Ontario Teachers Pension Plan
Pension Investment Association of Canada
Power Corporation of Canada
Pulse Data Inc.
Simon Romano
Social Investment Organization
Torys LLP
Talisman Energy Inc.
TSX Group

SCHEDULE B

Summary of Comments and Responses

No.	Topic	Comment	Response
General Comments			
1.	**National approach**	Seven commenters commended us on producing a harmonized set of instruments.	We thank the commenters for their support.
2.	**Plethora of codes and paperwork**	Two commenters expressed concern with the emerging plethora of charters, codes, mandates, position descriptions, policies and the like. The commenters believed that emphasis on these types of documents would result in a focus on paperwork and procedures rather than on substantive good governance. One of the commenters recommended that the Policy include a statement that substantive good governance, not procedure and paperwork, is what is important, and that it is the prerogative of issuers to choose whether or not to adopt charters and the like.	The Policy does not suggest that issuers should focus on paperwork and procedures at the expense of substantive good governance or, for that matter, the operation of the issuer's business. Nevertheless, we believe that good corporate governance necessarily involves some degree of process and structure which can assist the issuer, its board and employees in managing the business and affairs of the issuer in an appropriate and responsible manner. As noted in paragraph 1.1 of the Policy, the guidelines are not intended to be prescriptive. We encourage issuers to consider the guidelines in developing their own corporate governance practices.
3.	**Non-Prescriptive Nature**	One commenter suggested that it was important for us to educate issuers about the non-prescriptive nature of the Policy and the Instrument, and to remind issuers that although they may feel pressure to comply with the Policy, they should choose a corporate governance regime appropriate to them.	We believe the statements in this Notice and in paragraph 1.1 of the Policy sufficiently address the commenter's concern.
4.	**Centralization of Continuous Disclosure Requirements**	One commenter recommended that all continuous disclosure requirements (including corporate governance disclosure required to be included in an information circular) be centralized in one instrument.	While the centralization of all continuous disclosure requirements would be desirable, it is not always practical. However, we do periodically review our various rules and requirements with a view to consolidation when this appears to be appropriate.

5.	**Application to Controlled Companies**	Two commenters noted that, unlike Multilateral Instrument 52-110 *Audit Committees* (**MI 52-110**), neither the Instrument nor the Policy incorporate an exemption for controlled companies. The commenters argued that, although the guidelines are not mandatory, the absence of such an exemption would not allow an issuer to make simplified disclosure that they are relying on a recognized policy exemption from the general guideline. The commenters also noted that the New York Stock Exchange (**NYSE**) guidelines provided just such an exemption for controlled companies.	We believe that a foundation for the regulation of corporate governance is transparency. Issuers that are controlled companies are not required to adopt the guidelines; nevertheless, we believe that it is essential that they provide meaningful disclosure to the markets regarding those practices and procedures that they have adopted. As a result, we have not revised the Instrument to provide for a simplified exemption for controlled companies. Although both MI 52-110 and the NYSE listing requirements provide a similar exemption, we note that they are requirements and not guidelines. Furthermore, the higher percentage of Canadian public companies that are controlled companies as compared to those listed on the NYSE merit a Canadian approach which differs from that adopted in the United States. We do, however, understand that some parties have concerns about how the Policy and the Instrument affect controlled companies. Accordingly, we intend, over the next year, to carefully consider these concerns in the context of a study to examine the governance of controlled companies. We will consult market participants in conducting the study. After completing the study, we will consider whether to change how the Policy and the Instrument treat controlled companies.
6.	**Application to wholly-owned subsidiaries**	Two commenters suggested that section 1.3(d) of the Instrument be revised to more closely parallel the exemption contained in section 1.2(e) of MI 52-110.	We agree. We have revised the Instrument accordingly.
7.	**Application to Venture Issuers**	One commenter noted that, while mindful of their limited resources, venture issuers should attempt to conform, as much as reasonably possible, to the principles and standards applied to more senior listed companies. Another commenter considered the disclosure guidelines for venture issuers to be appropriate. However, the commenter remained concerned that the language in the Policy remained too prescriptive, and did not seem consistent with the movement away from the comply or explain model for venture issuers.	We believe that the disclosure required by Form 58-101F2 achieves an appropriate balance for venture issuers. We will, however, continue to monitor the disclosure provided by venture issuers to ensure that the balance we achieved remains appropriate in the future. We do not consider the language in the Policy to be too prescriptive. No changes to the language in the Policy have therefore been made. We have, however, revised Item 8 of Form 58-101F2 to more clearly reflect our movement away from the comply or explain approach for venture issuers.

8.	**Application to Non-Corporate Issuers**	Two commenters believed that the guidance regarding the application of the Policy and the Instrument to income trusts was not sufficiently clear. One of these commenters was unclear whether the guidance in the Instructions to Forms 58-101F1 and 58-101F2 applied to the Instrument as a whole. The other commenter recommended revising the Instrument to explicitly acknowledge that a non-corporate issuer has the flexibility to develop corporate governance structures and practices in ways that fit with its specific relationships with its trustee, management company and operating entities. One commenter also recommended revising the Instrument to acknowledge that not all of the enumerated governance policies will have application to a non-corporate issuer.	We believe the guidance in the Policy and the Instrument is sufficiently clear to permit their application to income trusts. In particular, we believe that it is clear that the income trust guidance applies to the Instrument as a whole and not just to Forms 58-101F1 and 58-101F2. We also believe that the Policy, as drafted, provides non-corporate issuers with sufficient guidance and flexibility to develop their own corporate governance practices and to provide meaningful disclosure to investors. We disagree. We see no reason that non-corporate issuers, as a class, should not consider all of the guidelines when developing their own practices.
9.	**Application to Investment Funds that are not Mutual Funds**	One commenter noted a gap between the Instrument and Policy, on one hand, and proposed National Instrument 81-107 *Independent Review Committees for Mutual Funds*. The commenter suggested that there was an absence of regulatory guidance for investment funds that were not mutual funds.	We acknowledge this comment and will consider revising proposed National Instrument 81-107 to address the gap between the two regimes.
10.	**Application of the Policy**	One commenter noted that the Policy applied to more issuers than the Instrument. The commenter recommended that the Policy be made to conform to the Instrument to avoid confusion.	This was intentional. In our view, the Policy contains guidelines that every issuer (other than investment funds, which are dealt with under a separate instrument) should consider in developing their approach to corporate governance. The application provision in the Instrument merely recognizes that, for sound policy reasons, certain types of issuers need not be burdened with the task of providing disclosure to the marketplace of their corporate governance.
11.	**Monitoring and Compliance**	Two commenters noted that it was unclear how we will monitor compliance with the Instrument.	We currently intend to monitor compliance with the Instrument in the same manner in which we monitor compliance with all other applicable securities legislation.

12.	**Transition and Timing**	Four commenters were concerned that if the Instrument was implemented during the 2005 proxy season, issuers would have insufficient time in which to properly prepare their disclosure materials. Two of these commenters noted that this was particularly important given the number of other substantive changes (including reduced filing periods) to be implemented in 2005 under Multilateral Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings*, MI 52-110, and National Instrument 51-102 *Continuous Disclosure Obligations*.	We intend for the Policy and the Instrument to come into force on June 30, 2005. However, the Instrument will only apply to information circulars or AIFs, as the case may be, which are filed following financial years ending on or after June 30, 2005. *E.g., an issuer with a June 30th year end would include the disclosure required by the Instrument in its information circulars commencing with the first information circular it files after June 30, 2005. Similarly, an issuer with a July 31st year end would include the required disclosure in its information circulars commencing with the first information circular it files after July 31, 2005.* We believe that this will provide issuers with a sufficient period of time in which to consider the guidelines contained in the Policy and to revise their disclosure documents accordingly.
		Another commenter recommended that we publish guidance regarding the transition from the TSX corporate governance guidelines and disclosure requirements to the Policy and the Instrument.	See "Transition from TSX Guidelines" in the Notice.
		Two commenters recommended that, as both the Instrument and the Policy rely upon the definition of independence contained in MI 52-110, the implementation of the Instrument and Policy should be deferred until the amendments to MI 52-110 come into effect.	We agree. The Instrument and the Policy will come into force when the amendments to MI 52-110 become effective.

Comments on Specific Portions of Policy and/or Instrument			
13.	**Definition of Independence**	Four commenters made specific remarks on the definition of independence as set out in MI 52-110. One commenter recommended that the Instrument and Policy have one definition of independence. In the alternative, the Instrument should explicitly state that the only occasion when an issuer can assess independence based upon British Columbia's meaning of independence is when the issuer is a reporting issuer only in BC and in no other jurisdiction. Another commenter noted that paragraphs 1.4(3)(c) and (d) of the definition of independence (as found in MI 52-110) dealt with the relationship of the director to the issuer's internal or external auditor, which the commenter noted was particularly relevant for audit committee members but less so for other directors. One commenter suggested that to be independent for the purposes of the Instrument and the Policy, a director should be independent within the meaning of both sections 1.4 and 1.5 of the proposed amendment to MI 52-110. One commenter suggested that it would be more logical to include the definition of independence in the Instrument, and to provide a cross-reference in MI 52-110, rather than the other way around. Another commenter recommended that the MI 52-110 definition also be reproduced in each of the Policy and the Instrument, for ease of reference.	Comments regarding specific elements of the definition of independence will be discussed in the notice that accompanies the publication of the amendments to MI 52-110. By using the meaning of independence set out in MI 52-110, we have ensured that there is only one set of criteria for the vast majority of issuers. As MI 52-110 was not adopted by the British Columbia Securities Commission, issuers that are reporting issuers in only BC must apply a different independence standard. We believe that this conclusion is sufficiently obvious and that it is unnecessary to revise either the Instrument or the Policy to explicitly state this fact. We believe that a director's relationship with the issuer's internal or external auditor is relevant to the determination of independence for both audit committee members and directors, generally. Consequently, we have not revised the Instrument and Policy as suggested. By defining independence for the purposes of the Policy and the Instrument by reference to both sections 1.4 and 1.5 of the proposed amendments to MI 52-110, we would be creating a definition of independence significantly out of step with that applied in the United States. As noted above, one goal of the Instrument and the Policy is to ensure a degree of harmonization between Canadian and American corporate governance standards. In our view, it is neither necessary nor desirable to make our corporate governance standards different in this regard. We do not believe these suggestions to be practical at this time. However, we believe that the proposed amendments to MI 52-110 will make reference to the definition of independence more "user friendly".

14.	**Majority of Independent Directors**	Two commenters recommended that exemptions from the independence guidelines be adopted, similar to those incorporated into MI 52-110. One commenter noted that we have not previously incorporated the exemptions into the Policy or Instrument because, unlike MI 52-110, the independence requirements are not mandatory. However, the commenter believed that this approach failed to recognize that the absence of an exemption will not allow an issuer to make the simple disclosure that they are relying upon an exemption based upon a recognized policy exemption; instead, they will have to provide such justification themselves.	See the response to Topic 5, above.
15.	**Disclosure re Independent Directors**	One commenter recommended that issuers be required to describe the basis for concluding that a director is independent.	For the purposes of the Policy and the Instrument, independence is defined as the absence of a material relationship with the issuer. We are not convinced that describing the basis for determining that there is an absence of a material relationship would provide meaningful disclosure to the marketplace. Consequently, we have not revised the Instrument in this way.
16.	**Meetings of Independent Directors**	One commenter noted that the Policy recommends that independent directors have regularly scheduled meetings at which management is not in attendance. The commenter suggested that the Policy clarify that such meetings may be scheduled before or after meetings of the full board, as this is a normal and practical procedure for most issuers. Another commenter proposed that the guidance be amended to state that at each board meeting, the independent directors should hold a meeting at which members of management are not in attendance. A third commenter requested clarification regarding whether non-independent non-management directors should be excluded from independent directors' meetings. A fourth commenter reiterated its comment that the purpose of this provision should be to empower non-management directors rather than independent directors. Consequently, the guideline should provide for regular meetings of non-management directors rather than independent directors.	The holding of regularly scheduled meetings of independent directors either before or after a full board meeting would clearly comply with the guideline as drafted. We see no need to revise the guideline to provide additional clarification. While we assume that regularly scheduled meetings of independent directors would occur more frequently than once a year, we do not believe it is necessary to revise the guideline as suggested. We also note that Item 1(e) of Form 58-101F1 requires issuers to disclose whether or not the independent directors hold regularly scheduled meetings, and, if so, the number of such meetings held since the beginning of the issuer's most recently completed financial year. We believe this will provide the marketplace with sufficient insight into the issuer's interpretation of "regularly scheduled meetings". We have revised paragraph 3.3 of the Policy to provide additional clarification. We disagree. We continue to believe that it is important to empower independent directors.

17.	**Board Mandate — General**	One commenter requested clarification that a board can satisfactorily discharge its responsibilities through committees, and that any responsibility attributable to a particular committee may be satisfied by another appropriate committee. While one commenter agreed that an issuer should adopt measures to receive feedback from security holders, the commenter suggested that the board mandate was not an appropriate place for such disclosure. The commenter recommended that such disclosure be provided in Form 58-101F1. One commenter suggested that the expectations and responsibilities of directors, including basic duties and responsibilities with respect to attendance at board meetings and the advance review of meeting materials, were too basic to be appropriate matters for the board's mandate. Instead, the commenter recommended including this in Form 58-101F1.	We do not believe that any further clarification is necessary or appropriate. We disagree. In our view, this is a fundamental responsibility of the board. We disagree. Although these duties and responsibilities may be basic, we also believe them to be fundamental.
18.	**Board Mandate — Integrity of the CEO and Other Executive Officers**	Two commenters recommended that guidance be provided regarding the steps, if any, that should be taken to assess the integrity of the CEO and other executive officers. One commenter suggested that this requirement lacked clarity and would not provide meaningful disclosure or useful guidance to shareholders.	The steps that should be taken to assess the integrity of the CEO and other executive officers will vary from situation to situation. We believe these steps are best determined by the board, upon consideration of the issuer's specific situation. We believe that the board's responsibility in this respect is fundamental to a good corporate governance process. In our view, disclosure of the fact that the board has explicitly assumed responsibility for this matter will be meaningful and important for investors.
19.	**Board Mandate — Board-Shareholder Communications**	One commenter recommended that the Policy provide more specific guidance regarding how boards can effectively receive investor feedback.	We do not believe that any further guidance is necessary nor, given the diversity of reporting issuers, appropriate.
20.	**Separation of Chair and CEO; Lead Directors**	One commenter expressed concern regarding the requirement in the Policy that an issuer either separate the role of chair and CEO, or appoint an independent lead director. The commenter strongly encouraged us to amend the Policy and Instrument to the effect that an issuer would not be required to split the position of chair and CEO, provided that it could demonstrate by alternative effective mechanisms that our objectives have been met.	None of the guidelines contained in the Policy are intended to be prescriptive; rather, we encourage issuers to consider the guidelines in developing their own corporate governance practices. See paragraph 1.1 of the Policy. We also note that issuers may comply with the disclosure requirement in Item 1(f) of Form 58-101F1 by simply describing what the board does to provide leadership for its independent directors.

21.	**Position Descriptions**	One commenter suggested that the Policy and Instrument be more specific about the CEO's written position description; in particular, the commenter suggested that the description must contain the key accountabilities, metrics and the time horizon for performance measurement for the CEO role. Another commenter sought clarification that one position description for the chairs of all committees is sufficient.	While we acknowledge the merit of this suggestion, we also note that the CEO's position description, including the corporate goals and objectives that the CEO is responsible for meeting, fall within the purview of the issuer's board and should reflect the board's strategic plan for the issuer. To this extent, it would be inappropriate for the Policy to recommend the framework of such goals and objectives. We do not believe this type of clarification is either necessary or appropriate.
22.	**Director Education and Orientation**	One commenter recommended that each director's orientation and continuing education involve greater focus on shareholder expectations and concerns.	Paragraphs 3.6 and 3.7 of the Policy provide some basic guidance on the content of a director's orientation and continuing education. Issuers are encouraged to supplement this guidance to address their own particular business and circumstances.
23.	**Code of Business Conduct and Ethics — General**	One commenter queried, in reference to paragraph 3.8 of the Policy, whether our investor protection-related jurisdiction was sufficient justification to suggest an obligation of "fair dealing" with "customers, suppliers, competitors and employees". The commenter suggested that such matters were better left to labour and competition law. One commenter agreed that a code of business conduct and ethics (a **code**) should be made public; however, the commenter questioned whether this would be achieved through filing on SEDAR. Instead, the commenter recommended that the Policy require an issuer to post a copy of its code on its website (if any) in addition to posting it on SEDAR. One commenter suggested that paragraph 3.8(a) of the Policy be strengthened by stating that conflicts of interest, including transactions and agreements in respect of which a director or executive officer has a material interest, must always be disclosed to, and considered by, directors who are not conflicted. One commenter also believed that where there is a dominant shareholder (either through equity control or voting control), the issuer should establish a "conduct review committee" composed entirely of independent directors, which would determine any and all areas of potential conflict from board and committee composition to payments to related party transactions.	As fair dealing with an issuer's customers, suppliers, competitors and employees is suggestive of an organizational culture of integrity, we believe there is a sufficient nexus between the provisions of paragraph 3.8(d) and our mandate and jurisdiction. Although we encourage issuers to post copies of their codes on their websites, we are unable to make this amendment as many CSA members have insufficient rule-making authority. We believe that the current wording of the Policy and Instrument adequately address this concern. Given the guidelines in the Policy regarding independence, generally, it is unclear that issuers would necessarily benefit from the adoption of an independent conduct review committee. Nevertheless, we will continue to study this suggestion.

24.	**Code of Business Conduct and Ethics — Waivers**	Two commenters noted that we would have no idea what may be in any particular code. Consequently, the commenters suggested that it was difficult to see on what basis we could reasonably have concluded that material departures from a code would likely constitute material changes. One commenter recommended removing the guidance in paragraph 3.9 of the Policy regarding the content of a material change report. The commenter noted that National Instrument 51-102 already requires every material change report to include a full description of a material change.	While the precise content of a code is not prescribed, we are aware that a code, by its very nature, typically constitutes written standards that are reasonably designed to promote integrity and to deter wrongdoing. In light of this, we believe that it is reasonable for us to have determined that conduct by a director or executive officer of an issuer that constitutes a material departure from a code would likely constitute a material change. We agree that the guidance set out in paragraph 3.9 of the Policy is largely illustrative of an issuer's obligation under National Instrument 51-102. However, as we believe this guidance to be useful, we have retained it in the Policy.
25.	**Code of Business Conduct and Ethics —Social and Environmental Concerns**	One commenter expressed disappointment with the Policy and Instrument because they failed to incorporate social and environmental expectations as an essential part of good corporate governance practice. In the view of the commenter, this demonstrated a lack of understanding of how social and environmental issues are coming to impact the fundamentals of corporate performance and stock returns.	At this time, we do not believe it to be appropriate to incorporate these suggestions.
26.	**Code of Business Conduct and Ethics —Monitoring**	One commenter requested clarification regarding who may be an "interested party" within the meaning of Item 5(a)(i) of Form 58-101F1. Two commenters suggested the language in Item 5(a)(ii) of Form 58-101F1 was inappropriate, as it suggested that directors must ensure and guarantee compliance with a code. One commenter recommended that paragraph 3.9 of the Policy should state that boards should oversee the monitoring of compliance with the code instead of being responsible for such compliance. Two commenters suggested that the Policy provide guidance regarding what steps a board should take to ensure compliance with its code.	We have revised Item 5(a)(i) of Form 58-101F1 to refer to "a person or company". We have amended Item 5(a)(ii) of Form 58-101F1 to address this concern. We have not made this change because we believe that responsibility for monitoring compliance with the code should rest with the board. We have not provided this additional guidance because the steps a board should take to ensure compliance may differ from issuer to issuer. Each board should carefully consider its own situation before determining what steps would be appropriate.

27.	**Code of Business Conduct and Ethics-Other**	One commenter noted that Canadian corporate law already prescribes board procedures for contracts or transactions in which a director or officer has a material interest. Consequently, the commenter suggested that item 5(b) of Form 58-101F1 be refined to specify that disclosure of corporate law requirements applicable to the issuer is not required.	We expect more than boilerplate disclosure. However, we also believe that disclosure should be made of all board procedures for contracts or transactions in which a director or officer has a material interest, regardless of whether or not the procedures arise from statutory obligations.
28.	**Nomination of Directors and Nominating Committees**	One commenter noted that the disclosure regarding nominating committees assumes that companies have much discretion and a wide slate of candidates to choose from, which simply is not the case. Another commenter believed that recommending that the nominating committee be composed entirely of independent directors will make it difficult for companies with controlling shareholders to manage their nomination process. One commenter suggested that section 3.14 should recommend that nominating committees consider, at the time a director is nominated, whether or not the candidate can devote sufficient time and resources to the task. One commenter noted that the Instrument requires disclosure regarding the names of other reporting issuers on whose boards the issuer's directors serve. The commenter suggested that issuers be required to disclose the name of any entity on whose board the issuer's directors and CEO serve.	In our view, the disclosure does not convey this assumption. See the response to Topic 5, above. We agree, and have amended the Policy accordingly. While this suggestion has merit, we believe that a requirement for such disclosure would be too invasive and onerous, and would outweigh any benefit of such disclosure. Consequently, we have not revised the Instrument as suggested.

29.	**Compensation and Compensation Committees**	One commenter suggested that the compensation committee must ensure that all compensation policy disclosures reflect what is measured, over what time duration, and that actual compensation decisions made are linked to performance metrics and executed in a manner consistent with disclosed policy.	While the suggestion has merit, the disclosure of compensation metrics is outside the parameters of the Policy and Instrument. We will, however, retain the suggestion for consideration in connection with future amendments to National Instrument 51-102.
		One commenter recommended that the compensation committee should review and approve all compensation that is offered to the CEO. The commenter was concerned that issuers were taking an unreasonably narrow view of "compensation" and that many compensation committees may not have the opportunity to review and assess substantial "non-traditional" forms of compensation (*e.g.*, perks and benefits) that CEOs receive. Another commenter recommended that all compensation, retirement and severance agreements be disclosed.	We have not revised the Policy as we believe that the wording of paragraph 3.17 is sufficiently broad to capture "non-traditional" forms of CEO compensation.
		Two commenters recommended that issuers be required to disclose the identity of any compensation consultant who assisted the compensation committee in determining executive compensation. One of the commenters also recommended that an issuer disclose the mandate of any compensation consultant retained, and any other work the consultant is performing for the issuer.	We agree. We have revised the Instrument appropriately.
		One commenter recommended that the Policy suggest that compensation committees review compensation for proposed CEOs as well as existing CEOs.	We believe this suggestion is already reflected in the drafting of paragraph 3.17. Consequently, no additional change has been made to the Policy.
		One commenter reiterated its previous view that paragraph 3.17(b) of the Policy should be amended to enable compensation decisions in connection with non-CEO officer and director compensation, incentive-compensation plans and equity-based plans to be made at the committee level.	Nothing in the Policy or Instrument would prohibit compensation decisions in connection with non-CEO officer and director compensation, incentive-compensation plans and equity-based plans from being made at the compensation committee level.
		One commenter also suggested that the reference in paragraph 3.17(b) of the Policy to non-CEO "officer and director" compensation should be restricted to "executive officer and director" compensation.	We disagree. We see no reason to restrict the compensation committee's responsibility in this manner.
		One commenter asked that paragraph 3.17(b) of the Policy be amended such that the compensation committee is responsible only for incentive-compensation plans and equity-based plans that are subject to board approval.	We disagree. We see no reason to restrict the compensation committee's responsibility in this manner.

30.	**Regular Board Assessments**	One commenter recommended that board and director assessments include a review of efforts by the board collectively and directors individually to gain the information they need to effectively represent shareholders.	Given the diversity of reporting issuers, we have not revised paragraph 3.18 of the Policy to provide additional guidance regarding board assessments. Boards are encouraged, however, to tailor their assessments to their own situations.
Other Comments			
31.	**Individual Director Voting**	One commenter noted that, in Canada, shareholders often vote FOR or WITHHOLD for an entire slate of directors, rather than FOR or AGAINST individual directors. The commenter recommended that we either push for change in legislation to permit votes for individual directors or otherwise force boards to pass by-laws requiring a threshold level of votes to elect a director.	We believe this comment goes beyond the ambit of the Policy and Instrument. However, in a letter dated September 29, 2004, we encouraged Industry Canada to consider whether such voting procedures should be amended. We will continue to consider whether and how further action may be taken.
32.	**Corporate Governance Officer and Role of Corporate Secretary**	One commenter strongly believed that the cause of good governance could be greatly served by recognizing the role of the corporate secretary in the Policy and encouraging issuers to appoint a chief governance officer.	We acknowledge that corporate secretaries and chief governance officers may play important roles in the corporate governance processes of certain issuers. However, due to the diversity of issuers subject to the Policy and the Instrument, we believe it would be inappropriate to revise the Policy as requested.
33.	**Disclosure of Attendance Records**	Two commenters considered director attendance to be invaluable information for shareholders to determine if a director is meeting the time commitment required to be a director. Consequently, the commenters recommended that disclosure of director attendance be mandated.	We agree, and have amended the Instrument to require disclosure of director attendance.
34.	**Period of Disclosure**	Certain elements of Form 58-101F1 require disclosure of events during the preceding 12 month period. One commenter recommended that the requirement be revised to refer to the period since the issuer last filed a Form 58-101F1 (provided that an issuer's first Form 58-101F1 should cover the preceding 12 month period). One commenter recommended that elements of Forms 58-101-F1 and 58-101F2 be amended to cover individual directors (and the board as a whole) at the date of the management information circular and any new directors (and the proposed slate as a whole) supported by management in the management information circular.	We agree, and have revised Form 58-101F1 accordingly. We have revised Forms 58-101F1 and 58-101F2 accordingly.
35.	**Format of Disclosure**	One commenter believed that the disclosure required by the Instrument should be presented in tabular format.	We do not believe it is necessary to prescribe the format of the disclosure.

36.	**Incorporation by reference to website**	One commenter reiterated its request that issuers be given the option to make corporate governance disclosure in either their management information circulars or on their websites (with notice in their annual report or management information circular that the information is available on the website and, upon request, in print).	Instruction 1(c) to Form 51-102F5 Information Circulars provides that issuers may incorporate information required to be included in an information circular by reference to another document provided that the other document has been filed on SEDAR. In light of this flexibility, the commenter's suggested amendment is not necessary.