

CSA Staff Notice
CSA Coordinated Blanket Order 51-930 Exempting Reporting Issuers Incorporated under
the *Canada Business Corporations Act* from the Director Election Form of Proxy
Requirement

January 31, 2023

PART 1 - Introduction

On January 31, 2023, the Canadian Securities Administrators (CSA) published an exemption from the director election form of proxy requirement in subsection 9.4(6) of National Instrument 51-102 *Continuous Disclosure Obligations* (NI 51-102) for reporting issuers incorporated under the *Canada Business Corporations Act* (CBCA) in respect of the uncontested election of directors. The CSA has implemented the relief through local blanket orders that are substantively harmonized across the country. This notice contains CSA staff's views about the exemption in the local blanket orders (collectively, the **Blanket Orders**).

PART 2 - Description of the Blanket Orders

The Blanket Orders exempt CBCA-incorporated reporting issuers from the director election form of proxy requirements in subsection 9.4(6) of NI 51-102 in respect of the uncontested election of directors.

PART 3 - Background

Reporting issuers incorporated under the CBCA must send a form of proxy to shareholders when giving notice of a shareholder meeting. Before August 31, 2022, CBCA-incorporated reporting issuers were generally required to provide an option for shareholders to vote “for” director candidates or to “withhold” their shares from voting. This requirement aligned with that in subsection 9.4(6) of NI 51-102, which requires that a form of proxy sent to securityholders of a reporting issuer provide an option for the securityholder to specify that the securities registered in the name of the securityholder must be voted or withheld from voting in respect of the election of directors.

On August 31, 2022, amendments to the CBCA and the *Canada Business Corporations Regulations, 2001* (CBCR) (the **Majority Voting Amendments**) came into effect that generally require “majority voting” for each candidate nominated for director in uncontested director elections of CBCA-incorporated reporting issuers. Pursuant to subsection 149(1) of the CBCA and subsection 54.1(2) of the CBCR, where the Majority Voting Amendments apply, the form of proxy must provide shareholders with the option to specify whether their vote is to be cast “for” or “against” each candidate nominated for director, rather than “voted” or “withheld” from voting as required by subsection 9.4(6) of NI 51-102.

Some stakeholders have raised concerns about the discrepancy between these requirements in terms of voting options to be provided to shareholders of CBCA-incorporated reporting issuers. The Blanket Orders aim to respond to this concern by exempting CBCA-incorporated reporting issuers from the requirement to specify that securities be voted or withheld from voting in respect of the election of directors, as required by subsection 9.4(6) of NI 51-102, where the reporting issuers comply with Majority Voting Amendments.

The CSA is considering whether future proposed amendments to subsection 9.4(6) of NI 51-102 are appropriate. Any such amendments would be adopted by the CSA through the normal rule-making procedures on a coordinated basis.

PART 4 - Day on Which the Order Ceases to Have Effect (Ontario-only)

In Ontario, the Blanket Order comes into effect on January 31, 2023, and remains in effect until the earlier of the following:

- (a) July 31, 2024, unless extended; and
- (b) the effective date of an amendment to NI 51-102 that addresses substantially the same subject matter as the Blanket Order.

PART 5 - Questions

If you have any questions regarding the Blanket Orders, please contact any of the following:

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