British Columbia Investment Management Corporation
Suite 300 – 2950 Jutland Road, Victoria BC, Canada V8T 5K2
Web www.bcimc.com Email communications@bcimc.com
Phone 778.410.7100 Facsimile 778.410.7321

October 5, 2017

Director
Financial Institutions Division
Financial Sector Policy Branch
Department of Finance Canada
James Michael Flaherty Building
90 Elgin Street
Ottawa ON K1A 0G5

Via Email: fin.legislativereview-examenlegislatif.fin@canada.ca

Dear Sir/Madam,

Re: Review of the Federal Financial Sector Framework: Second Consultation Paper

British Columbia Investment Management Corporation (bcIMC) is an investment manager with over CAD $135 billion in assets under management, and one of the largest institutional investors in Canada. Our investment activities help finance the pensions of approximately 554,000 people in our Canadian province, including university and college instructors, teachers, health care workers, firefighters, police officers, municipal and other public sector workers. On behalf of these pension beneficiaries, we provide long term capital to companies around the world that we believe will provide strong and stable financial returns.

As a long-term investor, bcIMC relies on well-functioning capital markets. We see it as our responsibility to contribute to the overall stability of the financial system. As an active participant in the capital markets, we address systemic risks with the expectation that our efforts will lead to greater stability and integrity within the markets. We regularly engage with regulators and advocate for legal and regulatory changes to ensure that principles of good governance are integrated into the regulatory framework.

We welcome the opportunity to provide comments to the Department of Finance ("the Department") on the consultation paper mentioned above. Our comments will be focused on the corporate governance section of the paper. In 2014, bcIMC provided detailed feedback to Industry Canada when it invited comments on whether amendments to the *Canada Business Corporations Act* ("CBCA") were required with respect to various governance topics. We are pleased to see that Bill C-25 addresses some of these topics and we are supportive of the Department following suit.

Diversity Disclosure

bcIMC is a strong advocate of diverse boards and senior management teams as illustrated in our support of Bill C-25 and multiple submissions to securities regulators on this issue. We are active members of the Canadian chapter of the 30% Club and have made efforts to align our voting activity with our views on gender diversity. Most recently, bcIMC, along with 16 other institutional investors in Canada, signed a public statement calling on Canadian companies to improve the representation of women on their boards and in executive management positions. We are supportive of the proposed CBCA amendments that will require public companies to disclose certain information with regard to diversity within their organizations and pleased to see the Department contemplating the same. Further, we would encourage the Department to recommend that federally regulated financial institutions establish targets for female representation on their Boards and in senior management positions in addition to disclosing their policies.

Director Elections and Terms

bcIMC is supportive of amendments in corporate law that would eliminate slate voting, staggered elections and terms beyond one year. We feel these practices restrict shareholders' ability to exercise their shareholder rights and represent barriers to director accountability. Therefore, we are supportive of mandating individual director elections for all federally regulated financial institutions. This would allow shareholders to approve or disapprove of each candidate, rather than make a choice on an "all or none" basis. We also support the proposal to mandate annual elections for directors and limit director terms to one year. These changes are reflective of commonly accepted best practices and TSX listing requirements, and we endorse protecting these principles under corporate law. Since these are best practices that have largely been adopted, we do not think a two-year transition period for smaller institutions is necessary and suggest that a one-year transition period would be sufficient.

Majority Voting Standard in Uncontested Elections

Bill C-25 proposes changing the voting regime for uncontested director elections from the current plurality regime to a majority voting standard. bcIMC agrees with this proposed amendment because we feel the plurality standard is insufficient in how it does not permit shareholders to vote against directors. Rather, shareholders are only permitted to vote 'for' or to 'withhold' their vote from a director nominee. Consequently, a director can be elected or reelected to a board with a single vote in favour. This renders the voting process little more than symbolic. We are, therefore, a strong proponent of corporate law amendments that: a) require shareholders to either vote 'for' or 'against' each director nominee, without the option to 'withhold' and b) require each director nominee to receive the support of the majority of votes cast to be elected to the company's board. We also support the Department's contemplation of mandating a majority voting standard for federally regulated financial institutions and, further, we do not believe that this will lead to board disruptions or instability for financial institutions in Canada.

Notwithstanding the fact that plurality voting is the standard mandated in corporate law, the TSX requires issuers to conduct director elections by a majority vote of all shareholders. We consider this listing requirement to be positive, but it is a workaround for a deficient corporate statute. It is important

to note that the TSX listing requirements merely require a director's resignation in the event that the individual does not receive more than 50% support, and there is no obligation for the board to accept the director's resignation. Therefore, we would impress upon the Department the importance of providing a true majority voting standard which comes from the requirement for each director to receive the support of the majority of votes cast to be elected.

Climate Change

We agree with the Department's assertion about growing policy focus in the area of climate-related disclosure. bcIMC has long advocated for improved disclosure of climate-related risks and performance as evidenced by our support of the CDP (formerly Carbon Disclosure Project) and our involvement with the Sustainable Stock Exchanges Initiative (SSE) and the Sustainable Accounting Standards Board (SASB). We have also publicly supported the Financial Stability Board's Task Force on Climate-related Financial Disclosures (TCFD). We are encouraged by the Department's acknowledgement of the discussions occurring in this area as well as their plans to consider the results of the Canadian Securities Administrators' review. We would note that the recommendations of the TCFD are applicable to issuers as well as investors such as ourselves, which elevates the importance of investors having good quality data to rely on from the companies in which we invest.

Proxy Access

Although not contemplated by the Department's consultation paper, given recent developments regarding shareholders' ability to submit nominees to the Board we would encourage the Department to consider aligning the *Bank Act* with what has become common practice in this area. Specifically, this would mean lowering the threshold of ownership required for a shareholder to be eligible to nominate a Director for election at the annual general meeting from 5% to 3% of outstanding shares.

Based on the results of the 2017 annual general meetings (AGMs), shareholders are clearly in favour of proxy access. Shareholders voted 52% in favour of a shareholder proposal at the Toronto-Dominion Bank's (TD) 2017 annual general meeting to adopt proxy access which would allow a shareholder, or group of shareholders, who have together held up to 3% of the shares outstanding, for three years, to put forth a shareholder nominee to the board. A similar proposal submitted to the Royal Bank of Canada (RBC) shareholders received 46.8% votes in favour.

With interest from the institutional investor community as well as two of the largest banks in Canada, it is our hope that the Department will embark on further consultation on this topic to ensure the appropriate mechanisms serve the intended purpose. As developments in this area are recent, with both TD and RBC adopting proxy access policies just in the last week, it is our view that further thought be given to the specifics of any change in legislation.

Advisory Votes on Compensation

Canada is an outlier among developed nations in not having a mandatory advisory votes on compensation (say on pay) that allow shareholders to voice their views on the appropriateness of an issuer’s executive compensation practices. In some countries, say on pay votes are advisory in nature, such as those mandated in the U.S. since 2011 under the Dodd-Frank Wall Street Reform and Consumer Protection Act, and in other countries they are binding, as in the U.K. and Switzerland. bcIMC believes

that the statutes pursuant to which public financial institutions are incorporated should be amended to provide for an annual advisory say on pay vote for all publicly listed institutions governed by those statutes.

Say on pay already has been adopted voluntarily by 148 companies in the S&P/TSX Composite index, a trend which was led by Canada's leading financial institutions and which have been at the forefront of the adoption of say on pay in Canada. Say and pay is viewed widely as having significantly improved the quality of issuer disclosure in Canada and to have increased productive engagement between shareholders and boards. It is important that the playing field be consistent and level, in order that shareholders of all public companies, including all public financial institutions, have this ability and that all directors benefit from this form of shareholder communication.

Separation of Chair & Chief Executive Officer (CEO)

For all issuers, there is an inherent conflict of interest when the Chair of a company's board also serves as the CEO of that company. The oversight of management, in particular the CEO, is one of the board's key responsibilities and a combined Chair/CEO is thus responsible for leading the body that oversees himself or herself. Other important responsibilities of the Chair are compromised when the role is shared: setting the agenda for board meetings; ensuring directors receive the necessary information; and, that board meetings are conducted with open discussion and an independent assessment of management views. Similar challenges are presented when the Chair is not wholly independent of management. Accordingly, it is bcIMC's position that as a basic tenet of good governance the CEO should not also serve as the Chair and, further, that the Chair should be independent of management. bcIMC believes this cardinal rule should be made explicit in the *Bank Act* as well as in other federal statutes that govern publicly listed financial institutions.

We acknowledge that for issuers that currently combine the roles of CEO and Chair, it could take time to completely separate the roles. To alleviate this pressure, the statutes could provide for a transitional period during which boards could appoint a lead director independent of management to carry out the functions of the Chair until such time as the roles can be separated.

Thank you for the opportunity to provide our views on important corporate governance matters. Please do not hesitate to contact Susan Golyak, Manager ESG Integration at susan.golyak@bcimc.com if you wish to discuss any aspect of this letter in further detail.

Regards,

Daniel Garant
Senior Vice President, Public Markets