

We continue to have concerns with respect to the fact that the Task Force did not address one of the four key issues that arose from the Annual General and Special Meeting of Members held in December 2008 ("2008 AGM"). The Board of Directors announced on February 12, 2009 that it had determined that it would have a full review of the four governance issues raised at the 2008 AGM including the process for making and/or amending the By-laws and Rules of the MFDA. Under the direction of the Board of Directors the Task Force was to conduct a review of this and other matters, and engage in a robust consultation process with Members, the CSA and interested members of the public. We understand that at the Member Regulation Forum of July 20, 2009 representatives of the MFDA and the Task Force indicated that there is now no intention to conduct such a review or engage in any consultation process on the process for making and/or amending the By-laws and Rules of the MFDA. The reason given at the Member Regulation Forum was that a Members Only section was added to the MFDA Website and this will have minutes of Policy Advisory Committee meetings, the MFDA's Strategic Plan, and Staff research papers. If our understanding of the communication at the Member Regulation Forum is correct, we believe that such an approach would not fulfill the mandate of Task Force and the February 12, 2009 commitment to Members by the Board of Directors. We would like to recommend that the MFDA consider extending the engagement of the Task Force, or dedicating any additional resources required, in order to address all issues identified at the 2008 AGM.

Due to time constraints the Task Force chose the next Annual General Meeting of the MFDA members to be held in December, 2009 as the target date for the implementation of the proposed amendments. Accordingly, we are concerned that some significant issues may be addressed in haste and that other more complex issues, such as policy-making, may be left out entirely in the interest of time. Again, it is our recommendation that the important work of the Task Force continue with ample time for robust public consultation on all issues identified.

Proposed Amendments to By-law 15

Board size: We continue to support the amendments to By-law 15 that would increase the Board size to 15 by adding an additional Industry Director and an additional Public Director. We note, however, that section 3.1. indicates that the number of Directors will be "an odd number of directors of not less than 13 and not more than 17", as determined from time to time by the Board. We believe that this provision was made to allow for flexibility in the election process but would like clarification in this regard.

Election process: The proposal of the Task Force to include at all times two Industry Directors selected by MFDA Members raises a number of questions for which clarification is also sought. It is indicated that the details of the procedures by which Members will have the opportunity to select two Industry Directors of their choice will be made available at the special meeting of members to be held in October, 2009. In order to provide sufficient time for substantive feedback, it is our recommendation that the material be published for review well in advance of the special meeting.

Furthermore, it is not clear what selection process would apply to the remaining five Industry Directors and what the rationale is for this differentiation. In this regard, we seek clarification on the use of the term "election" in Sections 3.3.1 and 3.3.2 of the Proposed By-law, as quoted below.

Section 3.3.1 – “... Each Public Director to be elected at an Annual Meeting shall have been recommended by the Governance Committee to the Board of Directors for nomination for election by the Members according to the requirements of the By-laws and the terms of reference of the Governance Committee adopted by the Board of Directors....”

Section 3.3.2 – “...Each Industry Director to be elected at an Annual Meeting shall have been recommended by the Governance Committee to the Board of Directors for nomination for election by the Members according to the requirements of the By-laws and the terms of reference of the Governance Committee adopted by the Board of Directors...”.

Given that Members have a right to submit recommendations to the Governance Committee for individuals to fill positions as Public and Industry Directors no later than 60 days prior to the relevant Annual Meeting (Sections 3.3.1 and 3.3.2 of the Proposed By-law), we would suggest that a requirement for timely notice to Members be added to solicit such recommendations.

Member representation: In our view, representation from various constituencies can be achieved through direct election of directors using objective criteria. We would also like to reiterate our proposal to amend By-law 1 to require at least one of the Industry Directors to represent Level 4 Members to ensure representation from each membership type.

Quorum: We note that while the required quorum has been prescribed for various Board Committees, there are no provisions that set out quorum for the Board of Directors. We would suggest that such provisions be added to By-law 15.

Finally, we note that submissions will be made to request an expedited CSA approval process of By-law 15 without an opportunity for further comment. We caution against such approach by the securities regulators, given the significance of the issues and proposed changes under consideration.

Thank you again for this opportunity to share our views with the Task Force. We look forward to discussing progress on this important initiative in the future. Should you have any questions regarding this submission, please let us know.

Yours truly,



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