



Canadian Investor
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July 30, 2021

Victoria Steeves
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British Columbia Securities Commission
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Dear Ms. Steeves,

Re: *Proposed British Columbia Instrument 51-519 - Promotional Activity Disclosure Requirements*

The Canadian Investor Relations Institute (CIRI), a professional, not-for-profit association of executives responsible for communication between public corporations, investors and the financial community, is pleased to provide comments on *Proposed Instrument 51-519 - Promotional Activity Disclosure Requirements* (the Proposed Instrument). CIRI membership represents more than 230 non-investment fund reporting issuers with a combined market capitalization of \$1.9 trillion. More information about CIRI is provided in Appendix A.

CIRI recognizes that recent online events coupled with the increased use of social media has led to problematic promotional activity. Given its popularity, use of social media for stock promotion will likely grow in the coming years and we commend the BCSC for addressing this critical issue now. We welcome the opportunity to provide our comments on the Proposed Instrument and hope that they lead to a solution that addresses the BCSC's concerns effectively while not being excessively onerous on the issuer.

General Comments

Investor Relations is Not Promotional Activity

CIRI defines investor relations (IR) as the strategic management responsibility that integrates the disciplines of finance, communications, marketing, securities law compliance and sustainability to achieve an effective flow of information between a company (i.e. a reporting issuer), the investment community and other stakeholders, in order to support an informed valuation of the company's securities and enable fair and efficient capital markets.



An effective IR program enables a company to achieve the highest sustainable price for its securities – accurately and fully reflecting its fundamental value. The practice of IR involves identifying current and potential investors and providing them with publicly available information that facilitates knowledgeable investment decisions.

IR activities are diametrically opposed to ‘stock promotion’, which seeks the highest attainable share price as quickly as possible without regard to fundamental value. Unlike stock promoters, IR professionals do not attempt to directly influence trading volume, liquidity or stock price. Moreover, they do not recommend stocks or trading strategies, provide investment advice or forecast share price performance.¹ IR professionals do not engage in the problematic promotional activities that are the focus of the Proposed Instrument. That said, some promoters attempt to confuse investors by calling themselves IR consultants. It is therefore important that CIRI and its members continue to underline the distinction by clearly communicating the practice of professional IR at every opportunity. By including ‘investor relations activity’ in the ‘promotional activity’ definition, the BCSC undermines the legitimacy of the investor relations profession, something that CIRI and our members work hard to uphold. To that effect, CIRI publishes the *Guide to Developing an IR Program* and *Standards and Guidance for Disclosure and Model Disclosure Policy*, both of which are updated regularly, and our members sign [CIRI’s Code of Ethics](#) when joining.

If there are concerns with the existing ‘investor relations activity’ definition and exceptions, we strongly recommend the BCSC review and amend the definition and exceptions for ‘investor relations activity’ to make it effective as opposed to including ‘investor relations activity’ in the definition for ‘promotional activity’.

Venture Issuers Often Have Investor Relations Consultants

Venture issuers tend to have limited financial and human resources and so do not have a full-time, in-house Investor Relations Officer (IRO). In many cases, these venture issuers outsource their investor relations activities to investor relations consultants. These consultants fulfill the same role as an in-house IRO does, to facilitate the flow of information between a company, the investment community and other stakeholders to support an informed valuation of the company’s securities.

That said, we recognize that there are organizations and individuals who call themselves investor relations consultants whose practices do not align with CIRI standards and, unfortunately, they negatively impact the perception and value of reputable investor relations practitioners.

Proposed Instrument and Companion Policy are Vague and Too Broad in Scope

As written, the Proposed Instrument and Companion Policy are vague and too broad in scope, which has led to a great deal of confusion as to what constitutes ‘promotional activity’. Clearly defining this key term is important so as to delineate the significant difference between promotional activity and investor relations activity. With the benefit of having had discussions with the BCSC and recently hosting a webinar with the BCSC to educate our members on the Proposed Instrument, we believe more third-party services are being captured under the Proposed Instrument than was intended.

For example, lawyers providing counsel on issuer disclosure have questioned whether they fall under the Proposed Instrument and we note the Proposed Instrument is unclear on this matter. In addition, some smaller issuers with limited in-house resources often engage investor relations consultants who may assist issuers in drafting interim and annual material disclosure documents and/or posting content to the issuer’s social media accounts. External consultants and experts may also be employed by issuers to

¹ *Guide to Developing an IR Program, Fourth Edition, 2021, Canadian Investor Relations Institute*



assist in developing valid marketing materials to more effectively communicate a company's publicly available performance metrics to investors during meetings and/or investor conferences. In each of these scenarios, the third party is being paid by the issuer but ultimately the issuer is approving and/or making the disclosure, which is clear to the investment community, and so does not appear to fall under the currently drafted requirements of the Proposed Instrument.

Point of Dissemination at the Crux of the Matter

The crux of the matter seems to be the point of dissemination of the promotional activity. If the promotional activity is made by a third party on a platform that is not the issuer's and that third party is being compensated by the issuer, then the Proposed Instrument would apply. This would include promotional activity such as: paid-for research reports; paid-for newsletter coverage; and paid-for opinion posts on online investment websites.

Based on our webinar and the questions raised by the investor relations community, there seems to be confusion regarding if and when the proposed disclosure requirements would apply to social media, digital marketing, advertising and paid-for investor conferences specifically and so additional clarification around these areas would be beneficial.

The Proposed Instrument Should Address Problematic Promotional Activity

As noted in the *Notice and Request for Comments*, the problematic promotional activity often involves venture issuers in emerging sectors. As such, the Proposed Instrument should apply to venture issuers only, not extend to all issuers. Making this a disclosure requirement for all issuers would unnecessarily increase their regulatory requirements, something the CSA is working hard to reduce.

Non-compliance with Existing Disclosure Requirements

It appears that the Proposed Instrument stems from several TSX Venture issuers who have not complied with existing disclosure requirements including requirements in TSX Venture Exchange Policy 3.4. Under this Policy, "issuers must:

- a) disclose any arrangements, oral or written, made by the Issuer (or made by any other Person if the Issuer has knowledge of the arrangements) by which a Person will act as a Promoter, an investor relations representative or consultant or a market-maker;
- b) briefly describe the background, ownership, business and place of business of the Person providing the services, the relationship between the Issuer and the Person providing the services, and whether that Person has any interest, directly or indirectly, in the Issuer or its securities, or any right or intent to acquire such an interest;
- c) describe the services to be provided including:
 - i. the period during which the services will be provided,
 - ii. a general description of the activities to be carried out,
 - iii. the anticipated total costs of those activities to the Issuer, and
 - iv. in the case of market-making arrangements, the identity and relationship to the Issuer of any Person providing funds or securities for the market-making activities; and
- d) provide full particulars of all direct and indirect consideration, including the timing of payment and source of funds."²

We recognize that Proposed Instrument 51-519 will effectively replace Section 52 of the Securities Act and we urge the BCSC to work with the TSX Venture Exchange to ensure that any adopted amendments are reflected in Policy 3.4 to avoid duplicative and contradicting disclosure requirements.

² [TSX Venture Exchange Policy 3.4: Investor Relations, Promotional and Market-making Activities](#)



Recommendations

CIRI recommends that:

- 'Investor relations activity' not be included in the definition of 'promotional activity';
- Consideration be given to the crucial role investor relations consultants play for venture issuers;
- The Proposed Instrument and the Companion Policy be amended to narrow the scope and clarify what would and would not constitute promotional activity;
- Consideration be given to the point of dissemination as a means to clarify what constitutes promotional activity; and
- The Proposed Instrument apply to venture issuers only.

CIRI further recommends the BCSC work with the TSX Venture Exchange to amend Policy 3.4 once a Proposed Instrument is finalized in order to streamline issuer disclosure requirements.

CIRI is pleased to provide the BCSC with its comments regarding promotional activity disclosure requirements. Should you wish to discuss this submission further, please let me know.

Sincerely yours,

A handwritten signature in grey ink, appearing to read "Yvette Lokker".

Yvette Lokker
President & Chief Executive Officer
Canadian Investor Relations Institute



The Canadian Investor Relations Institute

The Canadian Investor Relations Institute (CIRI) is a professional, not-for-profit association of executives responsible for communication between public corporations, investors and the financial community. CIRI contributes to the transparency and integrity of the Canadian capital market by advancing the practice of investor relations, the professional competency of its members and the stature of the profession.

Investor Relations Defined

Investor relations is the strategic management responsibility that integrates the disciplines of finance, communications, marketing, securities law compliance and sustainability to achieve an effective flow of information between a company, the investment community and other stakeholders, in order to support an informed valuation of the company's securities and enable fair and efficient capital markets.

The practice of investor relations involves identifying, as accurately and completely as possible, current shareholders as well as potential investors and key stakeholders and providing them with publicly available information that facilitates knowledgeable investment decisions. The foundation of effective investor relations is built on the highest degree of transparency in order to enable reporting issuers to achieve prices in the marketplace that accurately and fully reflect the fundamental value of their securities.

CIRI is led by an elected Board of Directors of senior IR practitioners, supported by a staff of experienced professionals. The senior staff person, the President and CEO, serves as a continuing member of the Board. Committees reporting directly to the Board include: Human Resource and Corporate Governance; Audit; Membership; and Issues.

CIRI Chapters are located across Canada in Ontario, Quebec, Alberta and British Columbia. Membership is close to 500 professionals serving as corporate investor relations officers in over 230 reporting issuer companies, consultants to issuers or service providers to the investor relations profession.

CIRI is a founding member of the Global Investor Relations Network (GIRN), which provides an international perspective on the issues and concerns of shareholders in capital markets beyond North America. The President and CEO of CIRI has been a member of the Continuous Disclosure Advisory Committee (CDAC) of the Ontario Securities Commission. In addition, several members, including the President and CEO of CIRI, are members of the National Investor Relations Institute (NIRI), the corresponding professional organization in the United States.