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Synopsis of the 2025 Banff Capital Markets Roundtable

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Synopsis of the 2025 Banff Capital Markets Roundtable

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ABOUT THE ROUNDTABLE

Since 2023, the Alberta Securities Commission (ASC) has sponsored an annual roundtable composed of leading Canadian capital markets scholars to discuss the most important evolving themes in contemporary Canadian securities law. The Banff Roundtable takes place over a weekend in Alberta's beautiful Rocky Mountains and brings together approximately a dozen corporate law professors from across Canada. A small number of American corporate law scholars are also invited as participants to provide a comparative analysis of American trends.

The Banff Roundtable is organized by the business law group from the University of Calgary, Faculty of Law. The ASC's sponsorship of the Banff Roundtable reflects the value that it places on convening academia to deeply consider current Canadian practices and the evolving issues in Canadian capital markets. It is designed to facilitate thought leadership among the participants, and to foster nuanced discussions of complex issues in Canadian securities law. The Banff Roundtable also provides an opportunity for relationship building and research collaboration among Canadian securities law academics.

Each year, a new topic for discussion at the Banff Roundtable is selected. Faculty at the University of Calgary's law school select extensive readings on all sides of the issue, which are sent to participants ahead of the meeting. The meeting itself is built on wide-ranging discussions of the scholarship on a particular topic.

Previous Banff Roundtable topics have focused on the value of corporate disclosure and the character of fiduciary duty. The most recent Banff Roundtable, held at the Chateau Lake Louise in April 2025, focused on the theme of the current state and possible limitations of shareholder voting in Canada's public markets.

ABOUT THIS SYNOPSIS

The purpose of this synopsis is to more broadly share the discussions that occurred at the 2025 Banff Roundtable. It is not intended to reflect only the participants' consensus positions, but to provide an accessible overview to the topic and the points of agreement and disagreement among the attendees.

2025 BANFF ROUNDTABLE: THE SHAREHOLDER DEMOCRACY REVOLUTION

The 2025 Banff Roundtable explored the rise and effects of shareholder voting and its implications for corporate governance; the concurrent growth and influence of institutional investors and proxy advisors; and the intersection of shareholder activism and shareholder voting behaviours on matters beyond maximizing shareholder returns.

The organization of this synopsis reflects the Roundtable's order of discussion around the following topics:

- Session I: Shareholder Democracy in the Modern Age
- Session II: The Role of Proxy Advisors
- Session III: Shareholder Voting in Proxy Fights
- Session IV: Shareholders and Socially Directed Voting

PARTICIPANTS

The discussions were subject to modified Chatham House Rules and therefore this paper does not attribute any statements to specific attendees. However, with the participants' consent, we would like to acknowledge the following attendees and thank them for their contributions. Participants of the 2025 Banff Capital Markets Roundtable were as follows:

- Stan Magidson (Host): Chair and Chief Executive Officer of the ASC and Chair of the Canadian Securities Administrators (CSA);
- Ryan Clements (Moderator): Director, Advanced Research and Knowledge Management at the ASC, Chair of CSA Financial Innovation Hub and Adjunct Professor, University of Calgary Faculty of Law;
- Jonathan Chan, Assistant Professor, McGill University Faculty of Law;
- Barnali Choudhury, Professor, York University, Osgoode Hall Law School, and Director, Nathanson Centre on Transnational Human Rights, Crime and Security;
- Douglas Cumming, Professor of Finance and Steven Shulman '62 Endowed Chair for Business Leadership, Stevens Institute of Technology School of Business;
- Cristie Ford, Professor, Peter A. Allard School of Law, University of British Columbia;
- Mark Gillen, Professor, University of Victoria Faculty of Law;
- Danielle Grover, Adjunct Professor, University of Calgary Faculty of Law;
- Camden Hutchison, Associate Professor, Peter A. Allard School of Law, University of British Columbia;
- Chris Nicholls, Professor, Western University Faculty of Law, W. Geoff Beattie Chair in Corporate Law, Director of Business Law at Western Law and Co-Director of Western University's Interdisciplinary Centre for Financial Innovation and Risk Management;
- Martin Petrin, Professor, Professor and Jarislowsky, Dimma, Mooney Chair in Corporate Governance, York University, Osgoode Hall Law School and Schulich School of Business;

- Bryce Tingle, KC, N. Murray Edwards Chair in Business Law, University of Calgary Faculty of Law and member of the ASC;
- Dan Wilson, Associate Dean (Academic), Chair in Business Law and Regulation, University of Calgary Faculty of Law; Project Lead, Financial Markets Regulation, School of Public Policy, University of Calgary;
- Moin Yahya, Professor, University of Alberta Faculty of Law; and
- Robert Yalden, Sigurdson Professor in Corporate Law and Finance, Queen's University Faculty of Law.

EXECUTIVE SUMMARY

SEVERAL SIGNIFICANT THEMES EMERGED AT THE 2025 BANFF ROUNDTABLE, INCLUDING THE FOLLOWING:

1. **The risks attendant on using the phrase “shareholder democracy.”** The shareholder franchise’s role and influence have evolved in recent decades. While the rhetoric around shareholder voting appears to imply that there are parallels between the political democratic system and the corporate governance system, there are actually significant moral and economic differences which can work to obscure important aspects about the purpose and practice of shareholder voting.
2. **There is significant academic debate about whether increased shareholder democracy will yield benefits to the Canadian capital markets.** There is debate between those who have seen shareholders as an important counterweight to the power of corporate managers and those who have expressed concern about the incentives and behaviour of shareholders in making voting decisions. A growing body of empirical analysis strongly suggests that shareholder voting often does not reflect deep understanding of various corporate issues and that shareholders’ interests may not be aligned with those of the corporation in many instances.
3. **The rise of proxy advisory services has resulted in changes to shareholder engagement and voting practices; however, there are significant concerns regarding the negative impacts of proxy advisors.** These criticisms include institutional investors’ over-reliance on voting recommendations from advisors; fund managers improperly delegating fiduciary duties; advisors’ undue influence in determining good corporate governance practices; the promotion of practices that are clearly not linked to better corporate outcomes; limited opportunity for issuer engagement; potential for conflicts of interest; mistakes made while generating voting advice; and a lack of transparency that makes it difficult for issuers to address the other problems when they arise.
4. **Despite the criticisms of the current state of proxy advisors, this industry could play an important role in corporate governance by supporting and enhancing shareholder voting.** Potential solutions to the problems in proxy advisor workstreams were explored, along with the lack of alternatives to assist institutional investors with their voting decisions. However, none of the potential solutions appeared to solve the core problems, so more research and analysis are necessary on this topic.

5. A rise in shareholder activism has accompanied the growth of shareholder democracy.

Greater shareholder activism can positively shape corporate governance by demanding higher levels of accountability from management and boards. Conversely, it can also result in a shift from traditional long-term value maximization to undue focus on short-term gains or other priorities, which are not necessarily aligned with the best interests of all shareholders. Empirical analysis provides evidence that shareholder activism is often associated with positive returns in the short and medium terms, but the preponderance of evidence (which only speaks to the average case) is that longer term outperformance is not generally associated with the interventions except in the case of a corporate sale.

6. Notwithstanding the negative repercussions that shareholder activism can have on long-term value creation for issuers, the trendline has been for activists to play an increasingly central role in shaping corporate governance.

Despite academic debate on how to enhance the role of activists in the Canadian capital markets, what constitutes “good” versus “bad” shareholder activism ultimately requires a case-by-case analysis considering the activist in question as well as the specific issuer, its stakeholders, its operations and industry.

7. While there are increasing calls for institutional investors, such as index and mutual funds, to act as stewards on social matters, a tension exists between the adoption of an enhanced stewardship role and the actual incentives and voting behaviours of these large funds.

Nevertheless, in this country (but not the United States) the demand for enhanced stewardship is growing and may reflect the investment values and preferences of younger cohorts of Canadian investors.

A more detailed summary of the 2025 Banff Roundtable discussions is as follows:

I. SHAREHOLDER DEMOCRACY IN THE MODERN AGE

The 2025 Banff Roundtable began with an exploration of the state of shareholder democracy in Canada, which included a discussion regarding the evolution of shareholder voting beyond traditional statutory matters and into areas such as corporate governance, executive compensation and corporate strategy. Participants reviewed the historical voting activity of shareholders, which was principally limited to matters required under corporate law, such as the election of directors and the approval of fundamental corporate changes, including mergers and acquisitions or changes to capital structure. However, in recent decades, shareholders have pushed for increasing voting power in corporate decisions, expanding beyond traditional corporate law matters and into topics such as environmental, social and governance (ESG). With this broadened role of the shareholder vote has come significant academic debate, which was explored during this session.

WHAT DOES ‘SHAREHOLDER DEMOCRACY’ MEAN?

At the outset, participants acknowledged that the shareholders’ exercise of voting rights is an essential element of corporate governance. Conventional wisdom suggests parallels can be drawn between the political democratic voting process and the corporate voting process, but it was also noted that there are important distinctions that make the analogy imperfect.

First, participants identified that the voting process lacks the basic features of a democratic process, which allocates votes equally among citizens. Conversely, shareholder voting is per share, not per person. Second, participants acknowledged that the term “shareholder democracy” is challenging, given the varied types and motivations of shareholders and that, over the last few

decades, an increasing percentage of Canada's public company ownership has been concentrated in the hands of institutional investors. The voting of these institutionally held shares is by fund managers managing often highly diversified portfolios, who therefore have a limited economic stake in the shareholdings they oversee. It was largely agreed that institutional investors dominate election results in all but the smallest Canadian public companies. The retail shareholders have minimal influence on contemporary corporate democracy. As a result, while the concept of shareholder democracy is commonly understood to align with the democratic voting process, participants noted the term is misleading and current market dynamics shift power toward the institutional holders of capital and away from retail investors.

IS INCREASED ENGAGEMENT BY RETAIL INVESTORS BENEFICIAL TO THE CANADIAN CAPITAL MARKETS?

Building on the discussion regarding the meaning of "shareholder democracy," participants considered the arguments for increased retail investor engagement. Banff Roundtable participants expressed multiple perspectives on this matter. Certain participants advocated that stronger retail investor engagement in the voting process enhances the legitimacy of corporate governance by promoting broader investor participation and reflects diverse perspectives in corporate decision-making. Further, these participants held that increased shareholder engagement permits retail investors to have a voice on matters that are important to them, such as climate change and diversity. Increased engagement by retail investors enhances accountability of a corporation's board of directors and management. Some participants further noted that they are witnessing a growing malaise and lack of interest from the student population towards traditional stock market investments, and even a growing distrust or disillusionment with capital markets and public companies. As a result, participants queried whether enhanced retail investor voting could encourage the engagement of younger generations in traditional investing, as well as stimulate growth in financial literacy.

Countering these positions, participants noted that the outcome of empirical studies reflects that, while shareholders have pushed for increased voting power over a range of corporate decisions in recent years, retail shareholders give little value to their voting rights and their voting patterns do not reflect the company's economic performance. Instead, shareholder votes are often cast for expressive reasons such as strongly held preferences and beliefs, identity group loyalty, mood affiliation and self-expression. The political science research finds similar behaviours among political voters. From this perspective, there is little to be gained by increased retail investor engagement.

CAN WE LEVEL THE PLAYING FIELD?

Participants discussed what mechanisms, if any, could facilitate greater retail engagement. Certain participants queried whether providing more access to information and resources advances the ability of retail investors to make informed decisions about how to vote their shares. If retail shareholders vote for expressive and non-economic reasons, certain participants were not supportive of increased disclosure for retail investors, in the belief that it will not lead to a sounder corporate governance framework or better economic results. There is considerable evidence that shareholders — like political voters — seek out and process information in ways designed to reinforce their biases and self-image. However, other participants expressed that shareholders must remain empowered to vote as they see fit, even if such voting behaviour is not aligned with economic interests. The question was raised why, if shareholder voting doesn't improve corporate outcomes, the other corporate constituencies must accept measures designed to increase the shareholders' power.

Participants then discussed the concept of standing voting instructions (SVI), a voting process which allows retail investors to submit their voting preference in advance of a shareholder vote. Certain corporate law scholars have suggested that SVI is a promising solution to encourage retail investor participation in corporate governance. While some participants were supportive of SVI or similar mechanisms to increase retail investor participation, others questioned the utility of such voting procedures, believing that they would not lead to better informed or motivated retail investors. Moreover, it was noted that, while there may be room for creative proposals to empower retail investors, the corporate issuer must be engaged in this process for it to be effective.

WHAT ROLE CAN REGULATORS PLAY?

A final point of discussion focused on whether Canadian securities regulators have a role to play in enhancing shareholder democracy and engaging retail investors. It was noted that Canadian securities regulators are deeply committed to protecting the investing public, which includes the retail investor. Some participants expressed support for increased access to information and the potential applications of technology to assist retail investors in voting. The rationale for these proposed measures is to bring legitimacy to corporate governance and to take steps to mitigate the power that institutional investors have over corporate decisions. Other participants countered that more regulatory measures are unnecessary, as new regulations are burdensome without a corresponding benefit to the investing public.

II. PROXY ADVISORS: SHAREHOLDER DEMOCRACY SOLUTION OR ANOTHER PROBLEM?

The next segment in the Roundtable proceeding focused on proxy advisors. With the rise of institutional shareholders has come the growth of the proxy advisory industry. This session commenced with an overview of the significant role proxy advisory firms play in voting recommendations in corporate governance, specifically in matters such as contested shareholder elections, compensation and ESG. There is significant disagreement in academia regarding the role of proxy advisors. Broadly, defenders see them as shareholder democracy advocates; however, others view them as overly influential, de facto regulators, unaccountable for the results, quality or accuracy of their recommendations. It is through this lens that participants embarked on a discussion of the proxy advisory topic.

PROXY ADVISORS: A BENEFIT OR A BURDEN TO SHAREHOLDER DEMOCRACY?

First, participants acknowledged the impacts that proxy advisors have had on corporate governance, which includes the co-ordination of institutional voting efforts. The rise of the proxy advisory industry was born out of a need for reducing the cost of synthesizing information. Participants acknowledged that the research and recommendations proxy advisors provide to their clients have resulted in a more informed and educated vote by institutional investors, and that the rise of proxy advisory services has been a particular benefit to smaller institutional shareholders who lack the resources to conduct their own review and analysis. Finally, it was noted that, with the support of proxy advisory services, institutional investors can hold corporations and their boards of directors more accountable.

However, participants raised several key concerns about the current state of the proxy advisory industry, which include:

- 1. Over-reliance on proxy advisory services:** It was largely agreed that, as a result of the cost of review and analysis of shareholder voting materials, institutional investors heavily rely on the voting recommendations of proxy advisory firms. As a result, proxy advisors have undue influence on shareholder voting behaviours. Academics have often tried to measure the direct influence of proxy advisory firms on shareholder voting results. While results of these analyses vary, the best evidence is that proxy firms directly and indirectly significantly influence corporation behaviour.
- 2. Improper delegation of fund managers' fiduciary duties:** This concern stems from institutional investors' over-reliance on proxy advisory services. Many participants agreed that this has led to the improper delegation of their duty to wisely vote the shares under their control. Though institutional investors retain control over the final voting decisions, reliance on proxy advisor recommendations is common given the efficiency benefits. Heavy reliance on proxy advisors has given rise to novel types of agency costs, which can damage value creation for average shareholders.
- 3. Undue influence over directors and corporate governance matters:** Large proxy advisory services publish voluminous voting recommendations reflecting their views on best corporate governance practices. The influence of these reports on boards is significant, and they often adopt the recommended corporate governance practices to appease the proxy firms, whether these adopted practices reflect the board's view of best governance or not. Participants expressed concern over proxy advisory firms' views superseding those of the directors, as well as creating a check-the-box corporate governance regime. Participants also questioned the appropriateness of proxy advisors extending their services beyond traditional corporate governance issues to now expressing opinions on merger and acquisition proposals.
- 4. Limited opportunity for issuer engagement:** There was significant concern over the lack of dialogue between proxy advisory firms and issuers in the preparation and publication of voting recommendations. Proxy advisors' unwillingness to engage in dialogue with issuers is especially problematic when voting advice is based on mistakes about key facts or contestable value judgments.
- 5. Conflicts of interest:** Additional concerns were raised regarding proxy advisor conflicts of interest, given the dual role certain proxy advisors play in issuing voting recommendations on corporate governance issues, as well as providing consulting services to the same issuers. This dual role can result in proxy advisors prioritizing their own business interests, or their clients' interests, over the interests of all shareholders. Several participants did not think there was sufficient evidence that this was a problem and noted that one of the largest proxy advisors does not have this kind of conflict of interest.
- 6. Lack of accountability and transparency:** Participants noted there is no accountability for proxy advisors' recommendations, unlike the robust obligations imposed on issuers and other parties influencing shareholder proxies. Moreover, the methodologies proxy advisory firms use to formulate their recommendations are not transparent, and it was noted that such lack of transparency heightens concerns about bias and mistakes.

ENHANCING THE VALUE OF PROXY ADVISORS

While participants acknowledged the criticisms of the current state of proxy advisors, it was also accepted that their services are in demand and that they can play an important role in shareholder voting. Pragmatically, there was a general consensus that proxy advisors are unlikely to disappear from Canadian capital markets, so the participants focused on ideas for enhancing their utility. The following proposed solutions were discussed as pragmatic measures to remedy the current disconnect between the potential benefits of proxy advisory and problems currently being observed in the marketplace:

- 1. Increased engagement with issuers along with a right of rebuttal:** Many participants supported a process that requires proxy advisors to provide issuers with a copy of their voting recommendations before sending it out to clients. This process could require that proxy advisors share a draft report with a window for the issuer to respond and ensure that inaccuracies are corrected prior to report publication. Recognizing the advisors' likely aversion to giving advanced drafts of reports to issuers and dedicating the resources necessary to engage in a substantive editing dialogue prior to publication, an alternative proposed was granting issuers the right to include a response, akin to a right of rebuttal, published in the final proxy advisor report.¹
- 2. Development of proxy advisory standards:** Banff Roundtable participants expressed concern over the one-size-fits-all corporate governance approach of proxy advisory firms. To mitigate these concerns, it was agreed that formal standards of practice could be imposed on proxy advisory firms requiring that the process and rationale leading to determination of the annual corporate governance recommendations be implemented with more transparent procedures. At least one participant expressed doubt that the proxy advisors could justify either: i) their overall approach, which is ineluctably one-size-fits-all; or ii) the specific assumptions behind their voting recommendations, such as the obsession with independence as a crucial quality for directors. The voluntary adoption of a clear and universal industry code of conduct was also discussed as an alternative to formally regulating proxy advisors.

While it was acknowledged that many solutions could be proposed to enhance the role of proxy advisors, the foregoing two suggestions seemed minimally disruptive. It was agreed that further research and analysis are necessary to verify whether these measures would yield sufficient benefits to the Canadian capital markets to justify their imposition.

III. SHAREHOLDER VOTING IN PROXY FIGHTS

The third segment of the Banff Roundtable discussion focused on the voting decisions of institutional shareholders around shareholder activism. The rise of shareholder activism has become an increasingly prominent element of capital markets both in Canada and globally. The mechanisms of shareholder activism have also evolved as a result of concentrated institutional shareholding. The discussion also focused on whether regulatory reforms are required to better align the incentives of institutional investors with the corporation's long-term interests.

¹ Certain proxy advisors already provide a form of the notice and rebuttal to issuers, but it is voluntary to do so and issuers are charged a significant fee to exercise this right.

BEYOND THE BERLE-MEANS MODEL

To begin, participants discussed the fact that the past 50 years have seen a fundamental change in the ownership model of public companies. During this period, equity ownership has shifted from dispersed individual owners to concentrated institutional owners. As a result, equity ownership no longer reflects the Berle-Means model of dispersed ownership (Berle and Means 1932). Under the Berle-Means model, public corporations were owned by a broad set of shareholders whose smaller ownership positions did not justify extensive monitoring of managerial performance. This assumption no longer holds.

THE BIG THREE AND CORPORATE GOVERNANCE

Participants discussed the impact of passive funds, particularly the equity positions of the three largest index fund managers in the U.S.: BlackRock, Inc., the Vanguard Group and State Street Investment Management (referred to as the Big Three). As these large index fund managers hold substantial voting power, they exercise considerable influence on corporate governance matters.

Participants questioned whether these institutional investors are focused on the long-term value of their investment portfolios, or whether they are solely focused on the short-term benefits of activist campaigns. Participants' perspectives varied. On the one hand, it was argued that investment fund managers are primarily rewarded on short-term relative performance metrics, particularly private funds which must compete for capital. On the other hand, others said that institutional investors can be positive forces toward corporate management and corporate accountability. At least, they have the power to do so. The extensive empirical evidence on the question was discussed. It seems to suggest activist interventions often lead to short-term increases in share price, but long-term underperformance. The actual interventions of activists seem to leave revenue, research and development, sales and strategy untouched. Instead, they generally consist of financial engineering moves, the most profitable of which involves selling the company.

IV. SHAREHOLDERS AND SOCIALLY DIRECTED VOTING

For the final segment of the 2025 Banff Roundtable, the discussion focused on socially motivated shareholder voting.

SOCIALLY DIRECTED ACTIVISTS: A FORCE FOR GOOD OR AGENCY CAPITALISTS?

While concerns regarding the role and impact of activists were discussed throughout the Banff Roundtable, in this segment of the discussion several participants advanced the position that socially directed activist investors can play a valuable corporate governance role by monitoring and driving corporate change. Also discussed was a branch of legal scholarship supporting a theory whereby activists can play a specialized role as governance intermediaries, directing the attention of other investors to potentially lucrative governance opportunities. This can be done in relation to serious corporate social impacts as well.

After discussion, certain participants held firm that, based on empirical evidence, activists' interests do not generally align with the corporation's long-term interests and this has important implications for their voting in relation to ESG matters. In challenging this position, other participants noted examples of successful activism. Robust discussions on this topic ensued without a consensus being reached.

HOW DO WE DEFINE 'GOOD' SHAREHOLDER ACTIVISM?

Advancing the debate regarding the role of activists, one participant asked what constitutes “good” shareholder activism as opposed to “bad” activism. Certain participants argued that good shareholder activism generates a net positive for society and is not solely focused on shareholder value. Other participants argued that generally, good activism must be focused on maximizing shareholder return, as competitive markets will not, over the long term, permit a company to survive that does not prioritize the highest marginal return investments. However, it was also acknowledged that shareholder value and good governance need to be worked out among a corporation’s constituents, and that in certain cases, there is considerable harmony between ESG and corporate profitability.

Despite the variances in perspectives regarding good activism, participants generally agreed that shareholder activists are potentially a contributing factor to fewer companies going public in the last few years. At least two participants argued that it is hard to enter the public markets if a board is committed to a long-term vision for the company. It was concurrently noted that similar short-term value creation is also found in the private markets, where often private companies are under pressure to provide liquidity to their investors in five to 10 years.

DO INDEX FUNDS HAVE THE POTENTIAL FOR EFFECTIVE STEWARDSHIP?

Participants discussed the issues on which index funds have been most vocal: board diversity and environmental matters. Legal scholarship on the increasing activity of index funds in such social issues discusses a correlation with the shift of investment values from baby boomers to millennials. The pressure and shift in investing objectives from the older to younger generations have forced index funds to at least appear to take on a social role. Many participants questioned the depth of this apparent concern, noting that funds which overtly position themselves as pursuing socially responsible investments seem to have little impact on portfolio company behaviour and often do not vote in ways that parallel their stated commitments. Another participant said that while many funds claim that socially motivated criteria guide their investment decisions, these are just marketing sound bites or sleight-of-hand maneuvers to attract capital, and underlying investment decisions are still aligned with a traditional wealth maximization model. In challenging this more cynical view, certain participants noted that, while ESG investing by funds might simply be market signalling, the fact remains that there is a market for it; many investors are willing to pay more for socially responsible investments.

This part of the discussion concluded with a majority of participants expressing suspicion that index funds are likely to be effective in a stewardship role on social matters. Further, despite the increasing demand for index funds focused on heightened social stewardship, there is an inherent tension between the calls for greater stewardship and the economic role of the funds in the Canadian capital markets, offering efficient and diversified investment options for retail investors.

ESG INVESTING IMPOSSIBILITY THEOREM

Within the discussions regarding socially directed voting, a participant raised a theory developed by the economist Kenneth Arrow, winner of the Nobel Prize in economics in 1972, known as Arrow’s Impossibility Theorem (Arrow 1951). The Impossibility Theorem demonstrates that one cannot add more than two rank preferences of a group and produce clear guidance about which priorities to pursue. It was posited that the Impossibility Theorem could be applied to show that, while institutional investors involved in ESG investing stress the need for clear and comparable ESG reporting standards to facilitate aggregation of investing preferences, there is not one

correct or one-size-fits-all approach to ESG investment decisions that can perfectly consider all priorities. This is especially true when balancing economic performance, stakeholder impact and long-term sustainability. This viewpoint stresses the inherent limitations of ESG ratings, disclosure and investing arising from the irreconcilability of competing elements. Certain participants noted that this perspective appears to be missing in legal scholarship on shareholder democracy and socially directed voting.

Taking a contrary position, a participant noted that, despite the obvious limitations, socially directed voting can persuade a company to alter certain behaviours or operations, even if this doesn't reflect the rank order preference of every faction among the shareholders. From this view, socially directed voting has a particularly valuable role in matters of public interest.

Finally, participants discussed the empirical literature on the validity of ESG ratings, their capacity to predict future environmental and labour outcomes, their relationship to profitability and the evidence around the influence of socially directed funds.

CONCLUSION

The participants in the 2025 Banff Roundtable broadly agreed on several points:

1. Institutional shareholders frequently lack the incentives to make nuanced judgments concerning details of corporate opportunities and welfare. Voting has a low marginal value to the fund, so institutional shareholders rationally do not invest heavily in most of their voting decisions. Historically, corporate law reserved only the most significant corporate governance decisions to the shareholder franchise: voting for directors (usually only important in the case of serious failures) and major corporate changes. There is little evidence that the move by regulators and proxy advisors to drive shareholder voting into much more granular matters produces better decisions.
2. Securities regulators should once again consider regulating proxy advisors to improve their contributions to the capital markets and address current issues.
3. If investment funds are raising capital on the basis of their commitment to ESG, they should not be permitted to rely on flawed ESG ratings but dedicate resources and energy to improving the ESG performance of companies in their portfolios.
4. The current state of shareholder voting may be one of the factors making public markets in Canada (and the rest of the developed world) less attractive to new entrants.

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L. Daniel Wilson is the head of the Financial Markets Regulation group in the School of Public Policy. Dan also serves Associate Dean, Academic, Chair in Business Law & Regulation and Associate Professor in the Faculty of Law, University of Calgary.

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2. **Energy and Natural Resources Policy**
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