

Briefing Note

OCFP Governance Committee

Date: August 21, 2023

Topic: Updated OCFP By-Laws and Articles of Amendment

Strategic Plan / Business Plan Linkage

Improving Our Governance Processes

Purpose

- To summarize recommended amendments to the OCFP By-Laws and Letters Patent.

Motions

- See Appendix A for Special Resolutions

Background

- On October 19, 2021, the Ontario *Not-For-Profit Corporations Act, 2010* (ONCA) came into force. Not-for-profit organizations governed by this new legislation, including OCFP, are required to update their letters patent/supplementary letters patent and By-laws to ensure they do not conflict with the new legislation.
- OCFP By-laws were last updated and approved by the Members in 2017 with a number of changes made at that time in anticipation of the ONCA legislation. The further amendments contained in the 2023 amended By-Laws are required to ensure complete compliance with ONCA.
- Several changes to the By-laws also require changes to the same content in OCFP's letters patent. With ONCA, changing an organization's Letters Patent now requires filing "Articles of Amendment."
- In 2022, CFPC revised its membership classes from 11 to 4 categories of members. Since CFPC and OCFP By-Laws must use the same membership classes the OCFP By-Laws also need updating to establish the same 4 membership classes.
- The Board decided to take the opportunity presented by the required update of OCFP's By-Laws and Letters Patent to also identify changes to better align these with current governance practices.
- The Governance Committee was tasked with leading the By-Law and Letters Patent update on behalf of the Board. Legal counsel and a governance expert were engaged to advise and the review was completed over the last 6 months, with regular input from the Governance Committee.
- On April 21, 2023, the OCFP Board approved the amended By-Laws and Articles of Amendment.
- The amended By-Laws were sent to CFPC for approval as was required under OCFP's existing By-laws. The CFPC Board approved the amended By-laws on April 21, 2023.

Analysis

Highlights of the Amended OCFP By-laws and Articles

- Some changes include housekeeping provisions such as referring to a "registered office" instead of "head office" and requiring Directors to consent in writing within 10 days of being elected to the Board.
- The definitions and interpretations sections are updated to use the language of ONCA, such as adding a new definition of "Public Accountant".
- By-law provisions that are no longer required under the ONCA have been removed, such as borrowing.
- The objects of the OCFP, already stated in the Letters Patent and more appropriate left there, have been removed.

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- Required provisions on Director qualifications and consents (such as the 10-day consent requirement noted above) have been added.
- The limit on director compensation is removed in the By-laws and Letters Patent as the Board President receives a stipend for their work.
- Similarly, provisions on committees have been amended to reflect the ONCA, including additional requirements for an audit committee.
- The process for Director dissent at a meeting, and dissenting when absent from a meeting, have been clarified under the ONCA.
- Provisions on meeting by telephone and electronic means (i.e. virtual meetings) have been updated.
- ONCA's requirement that the board have a "Chair" has been addressed for OCFP by adding a statement that the Board President will be the Chair of the Board for the purposes of the ONCA.
- Restrictions established under the ONCA on what the Board can delegate to committees is addressed by a new provision in the By-laws identifying "Board Exclusive Matters".
- Section Eight on Members has been updated for ONCA in several ways:
 - Membership classes are brought in line with those of CFPC,
 - A required clarification on member discipline has been added,
 - Provisions are added to allow meetings to be held entirely electronically,
 - Quorum for member meetings has been reduced to 15, and
 - Absentee voting provisions have been updated.
- With the ONCA, changes to an organization's letters patent are made through Articles of Amendment. The Articles of Amendment presented for OCFP Member approval:
 - Set the size of the Board at a range of 13 to 16 Directors,
 - Update the membership classes also as updated in the By-laws, and
 - Enable Directors to receive reasonable compensation for serving as a director which includes the stipend that the Board President receives.

Next Steps

- The amended OCFP By-laws and Article of Amendment will be presented for Member approval at the AMM on September 27, 2023.
- Following Member approval, the Articles of Amendment are signed and filed with the Ontario government.
- The approved By-laws are saved and guide the governance and other activities of the OCFP.

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Appendix A:

ARTICLES OF AMENDMENT

RECITALS:

The *Not-for-Profit Corporations Act, 2010* (Ontario) (the "**Act**") came into force on October 19, 2021, and replaced the *Corporations Act* (Ontario) in governing corporations without share capital.

It is in the best interests of the Corporation to amend its charter documents to bring them into conformity with the Act by filing articles of amendment in the form presented to the members (the "**Articles of Amendment**").

The directors of the Corporation approved the Articles of Amendment, subject to approval by special resolution of the members, on the 21st day of April, 2023.

RESOLVED, AS A SPECIAL RESOLUTION, that:

the Articles of Amendment are hereby approved;

any two (2) directors or officers of the Corporation are hereby authorized and directed to sign all documents, including the Articles of Amendment, with such further amendments as they may determine to be necessary, proper, convenient or desirable to comply with the requirements of any governmental authority having jurisdiction, without the need for further approval of the directors or the members of the Corporation, and to do on behalf of the Corporation all things necessary, desirable or useful to carry out and give to effect to this resolution, including the filing of the Articles of Amendment with the Director appointed under the Act; and

the directors may revoke this resolution before it is acted on without further approval of the members.

BY-LAW

RECITAL:

It is in the best interests of the Corporation to bring its by-law into conformity with the Act by amending and restating its existing By-law No. 1.

The directors of the Corporation amended, restated and approved the existing by-law of the Corporation on the 21st day of April, 2023.

RESOLVED, AS A SPECIAL RESOLUTION, that:

the amended and restated By-law No. 1 of the Corporation, in the form approved by the directors and presented to the members, is hereby confirmed as the by-law of the Corporation to be effective as of the date of the certificate of amendment issued by the Government of Ontario further to the Articles of Amendment; and

any two (2) directors or officers of the Corporation are hereby authorized and directed to certify a copy of the amended and restated corporate by-law, as confirmed by the members, and place such certified copy in the minute book of the Corporation.