DIRECTORS ROUNDTABLE

WORLD RECOGNITION of DISTINGUISHED GENERAL COUNSEL

GUEST OF HONOR:

Simon A. Fish

Executive Vice President & General Counsel,
BMO Financial Group

THE SPEAKERS

Simon A. Fish
Executive Vice President & General Counsel, BMO Financial Group

Stephen Pincus
Senior Partner, Goodmans LLP

Norman Steinberg
Chair Emeritus – Canada, Norton Rose Fulbright

Dale R. Ponder
Firm Managing Partner & Chief Executive, Osler, Hoskin & Harcourt LLP

H. Rodgin Cohen
Senior Chairman, Sullivan & Cromwell LLP

Cornell Wright
Co-Head of M&A Practice, Torys LLP

(The biographies of the speakers are presented at the end of this transcript. Further information about the Directors Roundtable can be found at our website, www.directorsroundtable.com.)

TO THE READER

General Counsel are more important than ever in history. Boards of Directors look increasingly to them to enhance financial and business strategy, compliance, and integrity of corporate operations. In recognition of the achievements of our distinguished Guest of Honor and his colleagues, we are honouring Simon Fish and the Legal Group of Bank of Montreal with the leading global honour for General Counsel and Law Departments. Bank of Montreal was founded 200 years ago as Canada's first bank. Since then, it has played a critical role in Canada's growth, financial systems, and prosperity. Simon's address focuses on Values, Culture and Conduct – and the Mysterious Whereabouts of the Lawyers. The panelists' additional topics include international banking regulation; M&A; cross-border capital markets; corporate governance; industry disruption; and diversity.

The Directors Roundtable is a civic group which organizes the preeminent worldwide programming for Directors and their advisors, including General Counsel.

Jack Friedman
Directors Roundtable Chairman

Simon A. Fish

Executive Vice President & General Counsel

BMO Financial Group

Simon Fish is Executive Vice-President and General Counsel of BMO Financial Group. He serves as counsel to the office of the chairman and the board of directors. He is a member of the bank's executive management committee. In addition, Simon chairs the bank's reputation risk committee and the environmental, social and corporate governance committee. He co-chairs the bank's leadership committee for diversity and inclusion.

Simon leads over 650 lawyers and compliance professionals in 20 offices across North America, Europe and Asia. He is responsible for the overall legal, regulatory, and compliance affairs of the bank, as well as the bank's investigative & security services, ethics, ombudsman, and corporate sustainability functions.

Simon joined BMO in 2008 from the global mining company CVRD ("Vale"), where he served as Executive Vice-President and General Counsel of the Canadian and international operations. Prior to that, he was Vice-President, General Counsel and Corporate Secretary of Shell Canada. Earlier, he held a number of different positions with Royal Dutch Shell plc in the United Kingdom, the Netherlands, South Africa, and Canada. Before joining Shell, Simon practiced corporate and securities law with Dechert LLP, an international law firm.

Simon was named Canada's General Counsel of the Year in 2013. He was named one of Canada's Top 25 Most Influential Lawyers in the legal profession in 2014. He serves on the boards of a number of non-profit and charitable organizations.

BMO Financial Group

Established in 1817, and currently marking its 200th year of operations, BMO Financial Group is a highly diversified financial services provider based in North America. With total assets of $719 billion as of April 30, 2017, and more than 45,000 employees, BMO provides a broad range of personal and commercial banking, wealth management and investment banking products and services to more than 12 million customers, and conducts business through three operating groups: Personal and Commercial Banking, Wealth Management and, BMO Capital Markets.

RICK WILLIAMS: Good morning! My name is Rick Williams and I'm a partner with the Newport Board Group. Directors Roundtable is a civic group which organizes the preeminent worldwide programming for Directors and their advisors, including General Counsel. My job today is to welcome you and moderate this Directors Roundtable program.

General Counsel are more important than ever, as a core part of the leadership team of corporations across the globe. In addition to providing legal guidance, boards of directors look increasingly to General Counsel to enhance the financial and business strategy, compliance, and the integrity of corporate operations. In recognition of the achievements of our distinguished Guest of Honour and his colleagues, we are gathering today to honour Simon Fish and the Legal Group of Bank of Montreal for their important contribution to the bank, and more generally, for the legal profession and their community.

You will hear that Simon cares deeply about his role and the role of the legal profession broadly in advancing the complex society in which we live. Bank of Montreal was founded 200 years ago as Canada's first bank. Since then, it has played a critical role in Canada's growth, financial systems, and prosperity. Simon's role as a leader of this great institution has an impact far beyond the bank itself.

Our program today begins with remarks by Simon Fish. Following Simon's talk, our very distinguished panel will share their insights on related issues. A full-colour transcript of today's program will be created and made available electronically on the Directors Roundtable website.

It is now my distinct honour to introduce you to Simon Fish, Executive Vice President and General Counsel of BMO Financial Group. [APPLAUSE]

SIMON A. FISH: Thank you, Rick, for the warm introduction, and my sincere thanks to Jack Friedman and the Directors

Roundtable for this great honour. I'm grateful also to my distinguished colleagues on the panel this morning. They are truly some of the most accomplished members of our profession, and I am privileged to know each one very well.

Such moments as this are earned only with the support of others, so thank you to BMO's Chairman, Rob Prichard; to BMO's CEO, Bill Downe; and to my colleagues in our Legal and Compliance Group.

As Rick mentioned, this is a special year for us at BMO. We're marking 200 years of business! Only two other companies listed on the Toronto Stock Exchange have attained this milestone: the Hudson's Bay Company, founded in 1670, and Molson Coors, whose Canadian roots go back to 1786. Bank of Montreal is one of only 15 companies listed on the New York Stock Exchange to mark 200 years.

BMO has evolved, grown and prospered through two centuries precisely because we've always looked to the future. It's quite something to reflect on how far we have come since our doors opened in Montreal in 1817. We are now a global company with total assets of $719 billion, over 45,000 employees, and 12 million customers.

We continue to push ourselves to be the bank that defines great customer experience. BMO is committed to harnessing the power of our professionals to create a culture where our people's goals, our customers' goals and our business goals go hand-in-hand. We have built a fiercely powered culture founded on our core values of integrity, empathy, diversity, and responsibility. This is my tenth year as BMO's General Counsel, and it has been a very fulfilling time, personally and professionally, complete with all the challenges we lawyers seem to thrive on.

My career has given me opportunities to work in diverse sectors around the globe, from corporate law in private practice, to oil and gas, to mining, and now to financial services — which brings me to the topic of values, culture, and conduct, and the mysterious whereabouts of the lawyers. This is what I would like to consider with you this morning.

I began my career with the U.S.-headquartered global law firm Dechert. In 1993, I joined Royal Dutch Shell and was assigned to the Commodity & Financial Derivatives Trading Group in London. Two months later, the morning edition of *The Times of London* ran the eye-catching

headline *Where Were the Lawyers?* The headline referred to a more-than-$1-billion loss Shell's Japanese unit incurred on foreign exchange futures contracts. The loss stemmed from speculative trades involving bets on the value of the dollar against the yen, in violation of the company's internal controls. The company's president and several others lost their jobs.

The Times seemed especially interested in the whereabouts of the company's lawyers while this was happening. Naturally, the headline made me uneasy. Surely, the article wasn't asking about me, given that I had just joined the company. My colleagues, then? No, I knew them to be hard-working, fair-minded and honest. Our external counsel? No, how could they be blamed for a breach of the company's internal trading guidelines?

I had no immediate answers, and I continued to ponder the question as similar trading infractions came to light at Metallgesellschaft, Orange County, and Sumitomo. (I learned later that *The Times*' headline question had already been asked by U.S. Federal Court Judge Stanley Sporkin in his 1990 opinion in *Lincoln Savings & Loan*.)

Why, then, did the answer to this question seem germane to *The Times* (and to Judge Sporkin)? Perhaps it was simply to determine whether the lawyers were complicit or failed to do something about it once they knew. But more fundamentally, I think they raised the question because there is an expectation — one I certainly have — that lawyers have a professional obligation to prevent misconduct wherever it may occur, and that we ought to be more activist in how we approach our roles and professional duties.

The past 25 years are littered with corporate scandals we could examine as we try to answer the vexing question: Enron, WorldCom, Adelphia, Tyco, Parmalat — some of which led to the Sarbanes-Oxley Act and many other corporate governance regulations. Although the rules and regulations were tightened and oversight improved, we continue to witness corporate misdeeds today. The answer to the question, "Where were the lawyers?" remains elusive.

Consider some of the following: In 2012, Wal-Mart found itself embroiled in a bribery scandal that raised numerous corporate governance and personal accountability issues. A *New York Times* story alleged that Wal-Mart employees bribed Mexican officials to fast-track permits for store openings and that once the scheme was exposed, high-level executives attempted a cover-up.

In 2013, the EU imposed a record antitrust fine of $2.3 billion on six European and U.S. banks and their brokers for rigging LIBOR benchmark interest rates.

In 2014, the Financial Conduct Authority fined six global banks $1.7 billion for conspiring to manipulate foreign currency markets. The Commodity Futures Trading Commission ordered the same banks to pay an additional $1.4 billion in penalties.

In the same year, General Motors recalled about 800,000 of its vehicles for faulty ignition switches that shut off the engine during driving and prevented air bags from inflating. These recalls were ultimately blamed on GM bureaucracy. The focus was not on the role of top management who could have prevented — or responded much more swiftly — before the deaths of more than 120 people.

In 2015, the Environmental Protection Agency issued two citations to Volkswagen for violating the Clean Air Act for installing equipment designed to deceive emissions testing in its vehicles. Volkswagen later admitted to equipping 11 million vehicles worldwide with software to cheat emissions tests. The company maintains that only a small group of people knew about the deception, and that top management was not aware.

Then last year, Wells Fargo admitted that, over several years, it created more than two million false customer accounts. The Consumer Financial Protection Bureau levied a fine of more than $185 million on Wells Fargo. The bank was criticized in congressional hearings; law enforcement authorities, including the Justice Department, have begun investigations; private suits have been filed; the CEO resigned; and a number of senior executives have left the bank.

In each case, senior management appears to have — at the very least — significantly failed to create a corporate culture of integrity that might have constrained employees' bad actions and to respond quickly and appropriately to inexcusable conduct.

In each case, one might ask, "Where were the lawyers?" Were they, like Nero, fiddling while their companies burned? What could they have done to prevent their companies' wrongdoing?

Among the cases mentioned, apart from three senior lawyers at GM, no other lawyers appear to have lost their jobs. So far as is publicly known, none have been subject to investigation.

In the context of these cases, then, I believe in asking, "Where were the lawyers?" — the answer was almost invariably, "Where everybody else was." As true as that may be, there is something unsatisfactory about that answer.

What *could* the General Counsel and the companies' inside lawyers have done to prevent or moderate the wrongful acts? Let me suggest three possibilities.

First, they could insist, if necessary, on having a seat at the table to ensure they are fully aware of the company's dealings. It is quite likely that in many of the cases, the lawyers were not present simply because they were not invited.

Second, they could provide unequivocal advice that the activities were unlawful, improper, or at least unwise. This would include refusing to provide advice that could obscure the illegality of the proposed course of conduct.

Third, they could take that advice up the corporate structure, including to the company's board of directors, if necessary.

These measures alone are not likely enough, however. Lawyers must also work with their colleagues to foster an environment of integrity entrenched in their company's strategy, decision-making processes, and products and services. After all, a high-integrity culture ensures fewer incidents of misconduct, attracts and retains high-performing talent, cultivates an environment where employees speak up, gains the respect of regulators, earns the trust of customers, and builds public confidence.

I do not mean to suggest that my own company is beyond reproach; we are not. But at BMO, we have invested considerable time and resources in promoting a culture of integrity that stems from four values:

Do what's right — which directs us to do the right thing, set the highest standards, and meet them every day.

> "BMO is committed to harnessing the power of our professionals to create a culture where our people's goals, our customers' goals, and our business goals go hand-in-hand. We have built a fiercely powered culture founded on our core values of integrity, empathy, diversity, and responsibility."
>
> *– Simon Fish*

Put others first — which encourages us to go out of our way to understand our colleagues and customers. Only by truly understanding the needs of others are we able to offer meaningful help where it is valued most.

Learn from difference — here, we learn from beyond our comfort zone, drawing from a wide range of experiences, perspectives and backgrounds of our colleagues and customers.

Make tomorrow better — this notion of stewardship reflects our proud 200-year legacy of responsible management of relationships entrusted to our care. Our business is fundamentally personal; we lead by example, and we take seriously our responsibility to each other, our customers and the communities we serve.

There is no ambiguity. Our values and our code of conduct influence everything we do and are ingrained at every level of the organization.

Ben Heineman, the former General Counsel at GE and widely regarded as the doyen of the inside bar, has said:

- The General Counsel's obligation is to move beyond the first question, "Is it legal?" to the ultimate question, "Is it right?"
- Such a role involves leadership, not just for the company's legal matters, but for its ethics, reputation, public policy, communications, and corporate citizenship.
- The General Counsel role includes not just dealing with past problems, but charting a future course — not just providing legal counsel, but being part of a business team and offering business advice. It means being a partner to the business leadership, but ultimately being the guardian of the company.

Heineman has suggested that in many corporate scandals, those General Counsels fell short as guardians, perhaps because they were excluded from the decision-making process or they failed to ask searching questions about dubious actions.

So to be in a position to answer the nagging question — and I borrow heavily from Ben here — I believe General Counsel must:

- Build a world-class legal and compliance team;
- Earn the confidence of the board and CEO;
- Be ever-present in decisions on business performance;
- Be a leader in developing an integrity framework that embeds the company's values into its strategy, decision-making processes, and goods and services;
- Play a lead role in defining and adopting ethical standards;
- Keep abreast of emerging legal and regulatory trends and expectations;
- Ensure all employees can express concerns about the company's adherence to the law, ethics, and values;
- Help develop the company's position on public policy; and
- Be prepared to resign if asked to condone or do something illegal or highly unethical, or if excluded from major decisions.

If we are to answer the question with a confident, "*We were there,*" or — better still — ensure that there is never cause for the question to be asked, General Counsel and the lawyers they lead must be strong business partners for the CEO and other business leaders, and at the same time serve as guardians of the company. The guardian role *must* involve saying "no" in circumstances where inappropriate conduct may arise.

This would sit well with Judge Sporkin, I suspect, who noted in his 1990 opinion that few corporate transactions are completed without the assistance of lawyers. In this sense, they are, as he put it, gatekeepers without whom many deals would not be completed.

Heineman remarked recently that the General Counsel operates between two trepidations: the anxiety of not being invited to the meeting and the anxiety of being indicted. That may account for the degree of insomnia many of us face, but to be successful General Counsel, I believe we must carry out our professional duties and conduct ourselves with the confidence to support our business leaders in a manner that is both legally and ethically responsible.

To my colleagues in the room this morning, please join me in partnership in this quest. Thank you very much. [APPLAUSE]

RICK WILLIAMS: Thank you. That was terrific. Next, we're going to have the panelists speak, and then after they make their presentations, we're going to open the program to your questions.

As I mentioned earlier, Rodgin Cohen is in New York rather than here, and is going to give his talk via the phone. Rodgin is the Senior Chairman of Sullivan & Cromwell, and we are excited that you're joining us.

H. RODGIN COHEN: Thank you very much.

I am very regretful I could not be there in person. In any event, I am truly delighted to participate, even if by phone, to honour an individual who exemplifies what a superb General Counsel is all about. It's about judgment, knowledge, intellectual integrity, and an abiding commitment to the organization he represents; that person is Simon Fish.

His comments this morning, I thought, were both instructive and inspiring. The one basic message that at least I heard was how critical it is for a General Counsel actually to be more than a lawyer, to be an advisor, and be able to be at the table, as he put it, and be able to advise his client, to be the guardian — the word Simon used — as to what is right, as well as to what is legal.

I wanted to spend a few moments briefly, this morning, talking about two topics. The first is the desirability of, and threats to, international regulation; and the second, and related, is the need for international agreement on resolution of major international institutions.

I think I can state the case for robust international regulatory standards simply — and, I hope, persuasively. The failure of a major international bank threatens the global financial system wherever that bank may be headquartered. Even if the post-financial crisis regulatory system has sharply reduced the risk stemming from bank interconnectedness — what one bank may owe another — it has done little, if anything, to reduce the risk of contagion. If a major bank fails anywhere in the world, there is a true risk that it will stoke concerns about the solvency of banks everywhere in the world.

As a result, the need for a strong international regulatory system is really not about competitive equality, although that is an issue that cannot be ignored. It is principally about reducing the risk that a major international bank fails with severe adverse consequences to the global financial system.

In 2008, we were able to survive due to the courage and wisdom of a handful of government officials, and if truth be told, a substantial amount of luck. We cannot count on either in the future.

Now, during the last five years, we *have* seen major progress towards the development of robust international standards. This has been due primarily to the efforts of — I'm sure, not coincidentally — a Canadian. Mark Carney is head of the Financial Stability Board. Governor Carney has led the development of international standards on capital liquidity and stress testing, among others.

Unfortunately, we now have countervailing factors which threaten the implementation of these international standards. One is the signal from the new U.S. administration

that it is leery about an international regulatory approach. But that's far from the only cause for concern. Let's look at what is happening around the world. There has been opposition to the new Basel capital standards, which appear to reflect, in large part, a concern by some countries that the proposed revisions will require their banks to raise too much capital.

Of perhaps even greater concern is that a few weeks ago, Spain's fifth largest bank failed shortly after it passed its European stress test with flying colors. I'm unaware of any explanation for contradicting the obvious presumption that the stress test of this bank was not sufficiently rigorous. That leads to a fundamental question about stress tests, which have become the principal governor of capital.

There's widespread agreement as to the value of stress tests. But that value is threatened with significant erosion unless and until the regulators are prepared to provide some disclosure about their black box models for evaluating stress. Until that time, the concerns will be variously that the models are too lax, the models are too stringent, or they are simply wrong.

Turning for a few moments to international resolution: in my view, again, great strides have been made since the financial crisis in resolving international institutions. These include robust regulatory requirements for live banks that could ease the death pangs if a bank fails; living wills; what is known as TLAC — total loss absorbency capacity — in the United States, the combination of a special resolution regime and so-called "single point of entry," and substantial cooperation among international regulators.

Enhanced cooperation, however, fails to solve for the rift that in the event of a potential or actual failure of a major international financial institution, one or more countries will seek to protect their own national interests without regard to the interests of the global financial system. Regulatory cooperation

> "I was really fortunate, I have to say that I received the full support of my business colleagues from the outset. That support was ensured by the very manner in which I came to BMO. I was recruited to the bank directly by our CEO, Bill Downe. Following initial discussions with him, I met our Chair of the board of directors, Rob Prichard." – *Simon Fish*

in life does not necessarily translate into death. Once *any* country decides to apply a national ring-fenced approach to a resolution, *every* country will feel obligated to do so. This is likely to minimize the potential for successful resolution, and maximize the adverse consequences if the resolution fails.

Indeed, there are some recent indications that national self-interest is on the upswing. This trend started in the United States when the Federal Reserve adopted its intermediate holding company requirement for all foreign banks with U.S. subsidiary assets of $50 billion or more. This requirement was apparently aimed at just two or three foreign banks which had substantial securities affiliates, but its dragnet application made it difficult to avoid a ring-fencing label.

It was obviously not going to be long before the European authorities would respond with their own IHC requirements, which may be even broader.

Another indication just came down a couple days ago, when we had a 90% proposed international *internal* TLAC — total loss absorbency capacity — requirement. This provides little flexibility for an international bank to shift resources to where they are needed in the event of a serious loss.

I'm actually going to make a suggestion for this potential problem, and that is to have an international treaty on resolution. This may sound quixotic, and before anybody explains and argues how a treaty is beyond the realm of possibility, let me just spend a moment explaining what it would say and who would be involved.

The treaty — and it would take exactly one page — would say that every host country would abide by the legal and regulatory resolution regime of the home country. There might be a knock-down for a breach of circumstances. The signatories would be the U.S., U.K., Canada, the EU, and Japan — those five jurisdictions, which is something well north of 95% of the true international assets.

One reason that treaties are so difficult is that they are often so complex. In contrast, this proposed treaty is designed to be the essence of simplicity.

In closing, once again, I would like to congratulate Simon on this extraordinarily well-deserved honour today. Thank you. [APPLAUSE]

RICK WILLIAMS: Thank you very much for the effort you've made to try to be here today, and secondly, the thoughtful presentation you've made.

Our next panelist is going to be Norman Steinberg, who is Chair Emeritus – Canada, of Norton Rose Fulbright. [APPLAUSE]

NORMAN STEINBERG: Thank you, Rick, for your kind introduction. I really am honoured to join this distinguished panel of legal leaders and be part of this extraordinary event honouring my good friend, Simon Fish, and the Bank of Montreal.

Rodgin had mentioned his involvement in a very humble way in the financial crisis of 2008. We're proud, as Canadians, because of Mark Carney's very important role in the

whole situation. But it behooves me, and it behooves us, to mention that Rodgin Cohen was a critical part of the solution of that crisis, that he was really involved from beginning to end, and I think that we all owe a lot to him and his firm for doing that.

Many of you in the room know how important diversity and inclusion is to Simon and to his colleagues at the bank. Today, I wanted to make a few observations about how he's amplified his impact on diversity and inclusion beyond BMO, and I'd like to make a few comments about how that relates to the evolution of diversity in our private law firms in Canada, the U.S. and otherwise, and of course mentioning our own firm's involvement in it.

Some of you may know that in addition to BMO's executive diversity champion and co-chair of the Leadership Committee for Diversity and Inclusion, Simon is also the recipient, among other things, of the Canadian Center for Diversity and Inclusion 2016 "Senior Executive of the Year" award. That's quite a mouthful.

Simon has driven the diversity agenda within the legal sector as a founding member of the Legal Leaders of Diversity and Inclusion. LLD is a group of Canadian General Counsel from coast to coast who have declared their support and commitment for creating a more inclusive legal profession, as well as supporting diversity initiatives within their own organizations. In this role, Simon's been a driving force in changing the conversation around diversity and inclusion at firms across Canada.

The business case for diversity and inclusion is evolving within all our firms. Yes, the focus on diversity is the right thing to do; however, obviously there's more to it. In my own firm, I've seen the conversation move from the ethical case to the business case. In the last few years, we started to talk about the value of diversity and how we can leverage diversity as a competitive advantage. By bringing diverse perspectives together, we're able to present better, be more creative, and bring innovative solutions to our clients. I've seen an increase — we all have — in our clients pushing us, the outside law firms, to present more diverse teams and pitches, and how we staff files.

Acritas, which is a legal brand research organization, presented some compelling data following their 2016 global survey of General Counsel. When they analyzed the feedback from GCs and compared it with the diversity of law firms staffing the files, they saw that very diverse teams (1) received higher client satisfaction ratings; (2) were more likely to attract repeat business; and (3) received a greater share of their clients' overall legal spend.

This data tells a very powerful story about the real business impact of getting the mix of diversity and inclusion right.

We've all seen an increase in our clients challenging us to make diversity a top priority. In the past, diversity surveys were something we received, in Canada, only from our U.S. clients. We've seen an increase of surveys from our clients globally, challenging us on everything from our policies and practices, the impact of our programs' initiatives, to breaking down the demographics of the hours we bill for. In other words, it's not good enough just to come to the first meeting and say, "We're very diverse," and then later on, when the work is done, the results show a very different picture. I expect to see more of our clients holding us to account in the future.

The American Bar Association launched a new diversity survey last year. Their aim is to obtain a commitment from the GCs in the Fortune 1000 to sign up using the survey with their panel firms. The ACC, which is the Association of Corporate Counsel — an association where I know Simon and I know our firm and many others in this room are very closely involved — has approximately 45,000 members around the world now, and it's led by their president, Veta Richardson. She came into the role as a champion of diversity, and has initiated a wide variety of programs to enhance diversity in the corporate world and in the law firms that serve the ACC corporate members. I can speak for Simon and I — we have great respect for Veta and her vision in promoting diversity in the business world.

Now, *The Legal Press* recently published an article about how organizations like AT&T, HP and PepsiCo have implemented holdbacks for firms who cannot complete the survey or who cannot demonstrate diversity in how they staff the files.

Now, these are all exciting changes that create a real sense of urgency in firms to take notice of the opportunity available in leveraging their diversity. We all know that the legal sector is experiencing unprecedented levels of change globally. But I believe — and I think I share this vision with people in the room — that the firms who will come out on top are the firms that are successful in fostering a culture that leverages diversity.

Research tells us — very basic research — that when people feel able to be themselves at work, they are likely to be more engaged and more productive. When people are expending effort to fit into a majority culture, we're not going to see them at their best.

It's essential for diversity to be part of the conversation in our firms, and we need to challenge ourselves and ask each other some tough questions. These may seem obvious. Why does the pitch team have no women, or no members of diversity groups? What percentage of the client relationship partners are women or members of minority groups? What's the backgrounds of partners who are inheriting clients from previous partners? What about our talent pipeline — where are the minorities there? What are the backgrounds of some of the people involved? Very obvious questions that we have asked ourselves on a repeated basis.

Now, my first diversity and inclusion strategy and action plan refers to how we create opportunities to speak about diversity when we make decisions about people. Now, for those of you who are not aware of who we are — who is Norton Rose Fulbright — well, I'll just mention that we're one of the largest law firms in the world now. We continue to do mergers upon mergers. Right now, we're at about 4,000 lawyers around the world. We recently completed a merger in Canada — Vancouver — with Bull Housser; in the U.S. with Chadbourne & Parke; and we just announced another merger in Australia with Henry Davis York.

We're in sixty cities around the world. Why do I mention this? Well, it *is* interesting to be part of a global law firm, but by definition, we are a diverse organization. But we're still on a journey. We've implemented important programs to promote diversity in Canada and globally, but what I found is our global diversity programs are not one-size-fits-all. Just one little example: in our South Africa offices, we're working with a very important part of the government policy, which is black empowerment. Now, that's

something that's applicable in South Africa, not necessarily in other places. Everywhere around the world, we have a global diversity policy in view, but it has to be modified for the different places, which includes not only countries, but cities, as well.

As a firm, a couple of years ago, we made a big decision. We were going to say publicly, so we would create more self-discipline, that by 2020, we wanted to have 30% female partners represented in our global partnership and in our management. I know when I sometimes talk to people about it, it sounds like, "Thirty? That's pretty awful... your goal is thirty?" But, you know, it's funny — there's a big distance to cover. We're at 25% global female partners now, but we're also at 35% of our global executive committee, and in Canada, we're at 27%, moving closer to that 30 goal, and 42% of our management committee are female in Canada.

Diversity is more than just the right thing to do; it's how we do business around the world.

We're working towards integrating diversity and inclusion to every part of our business, and have rolled out a national unconscious bias program. I know many others in this room have been partaking in that, as well. We've trained 50% of our people in Canada, and aim to reach 75% by the end of the year.

The funny thing about it is everybody that goes into it that I've spoken to says they don't really need it — they absolutely have no unconscious bias — and everybody comes out the other end of the conveyor belt saying, "Oh my God — I didn't realize I did this and that." I think it is a very valuable training program.

I'm proud of the programs that we have to promote diversity, drive real change with visible minorities, LGBT, and people with disabilities. In fact, I was mentioning this at the outset to Ken Fredeen (General Counsel, Deloitte Canada) — who is really one of the thought leaders on this, as well — that we look to a lot of our friends and clients to help us understand where we go next on these programs.

In addition to focusing on diversity as a real business imperative, I believe we have a responsibility as corporate citizens to help shape the future in a way that provides economic and social benefits for all. I thought it was interesting — for those of you that read the report on business, *The Globe and Mail*, the Canadian newspaper, on Canada Day — they had a bunch of articles about Canada I thought very inspiring and made me feel good. One of them was an article called "Canada's economy at 150: Confidence is surging — and so is investment." Well, that sounds very good, and actually, it *was* interesting.

Not surprisingly, the article referred to the beneficial effect of our Canadian immigration policies that have resulted in an increase and an upgrade of our labour force by having 300,000 new immigrants join our country each year. By the way, the 300,000, on a per capita basis, there's few other countries in the world that have a program as robust as that. By definition, immigrants, what do they do? They strengthen the diversity of our

talent pool. The article went on to state, and I quote, "Canada has also been more successful than most of its peers in tapping into its female labour supply. The labour force participation rate among working-age Canadian women, at 75 per cent, is the highest in the G7 and among the highest in the industrialized world." I'm still quoting from the study: "It's another labour advantage that Canada will have over many of its advanced-economy peers as they wrestle with aging populations over the next decade." I thought that was very thought-provoking.

One aspect of diversity that our firm has quite honestly been struggling with is the inclusion of aboriginal Canadians. For those of you who are Canadian in this room, you know that it's a big part of where our government is trying to go; it's a huge issue in Canada. When our partner, Derek Burney, who was Canada's former ambassador to the U.S., approached me wearing his hat as the Chancellor of Lakehead University, three years ago, to support the new Bora Laskin Faculty of Law, I was intrigued. This new law school up in northern Ontario is meant to provide indigenous peoples in northern Canada with a place to study close to their homes, with a view of retaining them in the north following their graduation.

I presented this to our Management Committee and Diversity Committee. I was proud of the fact that we were able to get it through, and we became one of the first or second law firms to agree and make a significant capital contribution to the law school, even though we didn't have graduates in the firm. We then turned to Simon — Derek and I spoke to him, and Simon felt the same way about it. He felt this is something the bank is also trying, to look for programs to enhance their connection to the aboriginal communities in Canada. Following with us was the Bank of Montreal also supporting the program.

I'm proud of the fact that Simon and I co-hosted the kick-off celebration in Toronto for the new school, and we welcomed the new dean, who is an aboriginal from, I believe, North Dakota, if I recall, whose name is Angelique EagleWoman. We had a party here in Toronto to kick off the law school capital campaign.

It was critical for us to make a meaningful impact at the school. In addition to naming the award, ourselves and the Bank of Montreal, we remain involved with the day-to-day at the law school. But it's not just about writing checks; it's about staying committed to the students that are there.

We value the opportunity to have a small role in doing that and other things. I'd like to just take this opportunity, again, to recognize Simon, BMO and the team for their role in promoting diversity and keeping it on the agenda, and putting the pressure on outside firms like ours to make sure that we don't forget the importance of doing it.

I'd like to thank Rick, and Jack Friedman, who's not here today, for providing this tremendous opportunity, and it's so great to see so many friends in this room. Thank you. [APPLAUSE]

RICK WILLIAMS: Thank you, Norm, for your wonderful presentation on diversity. Our next panelist is Stephen Pincus, Senior Partner at Goodmans. Let's welcome him. [APPLAUSE]

STEPHEN PINCUS: Thanks, Rick. I'm inspired and humbled to participate in this distinguished panel this morning. It's a real privilege to celebrate Simon, who is, as you've heard, certainly among the finest of counsel in Canada and, I think, internationally. He is well-recognized, justifiably as an extremely effective business lawyer.

To mark this recognition this morning, I thought I would reflect for a few moments on what makes a business lawyer effective. That immediately raises the very fundamental, deceptively simple question, "What is it that business lawyers actually do?"

Now, the first serious attempt to answer this question was a seminal article in the mid-1980s by Professor Ronald Gilson. It was a heady time for corporate deals. Business law, as we know it today, was just taking flight. Gilson answered the question by calling business lawyers "transaction cost engineers." He said their role is simply to reduce the inefficiencies that complicate deals. How? By structuring and implementing deals to minimize the friction caused by stuff like regulation and informational imbalances.

For Gilson, legal skills that don't have a quantifiable impact on deal costs are simply irrelevant. His business lawyer is a technician, and 33 years later, we're starting to see more efficient robo-lawyers as replacements.

Meanwhile, in looking at how to teach law students to be effective business lawyers, along the line of legal academics have responded to Gilson. I'd like to take a moment just to trace the development of this thought, because I think it's helpful.

It was Stephen Schwarcz who took Gilson's logic to its technocratic conclusion. Schwarcz's business lawyer is a regulatory cost reducer in an increasingly regulated world, with little need for any understanding of the client's industry.

Next, we have George Dent's lawyer — an enterprise designer, who does need to understand the client's industry and helping to define its scope — but remains essentially a technician.

Then along came Karl Okamoto, who suggested that, as repeat players, business lawyers rent their reputations to clients in commercial negotiations, regulatory dealings, takeovers, proxy battles, and other situations.

As the dot-com train gathered steam, Mark Suchman depicted the lawyer as a business advisor — counselling, matchmaking, deal-making, gatekeeping, and conciliating. Unlike Gilton's transaction cost engineer that maximizes short-term value for the client, Suchman's Silicon Valley lawyer is seeking to build the client's long-term resources.

Then we have Jeff Lipshaw, whose effective lawyers are deal managers. They're strong leaders who give the parties the encouragement to overcome fear, panic, seller's remorse, buyer's remorse, and risk aversion!

Then Therese Maynard identified judgment as the key quality. We've heard something about judgment this morning. Having seen multiple scenarios unfold, the effective business lawyer can predict outcomes better than their client.

Recently, Jack Wroldsen called lawyers "disruption framers" who reimagine and reform existing legal frameworks in order to accommodate innovative business ideas. It's the polar opposite of Gilson's transaction cost engineers. Wroldsen's approach is timely and interesting, but his lens is quite narrow. His examples focus on business lawyers helping entrepreneurs to fight existential battles with what he calls "creative destruction" — like Uber's battles with the taxi industry, or Tesla's conflicts with car dealerships and so on.

Finally there is Praveen Kosuri, who outlines a much broader model of business law skills. It's a pyramid with three levels. At the base, there are the foundational skills — research, drafting, analysis, knowledge of the core business law subjects. The middle level comprises what he calls "transitional skills": negotiation, structuring, risk management. At the top are the "optimal skills": understanding business, understanding people, creative problem-solving, and advising clients. Unlike most foundational and transitional skills, the optimal skills are not unique to lawyers.

Now, it seems to me that if we try to find a common theme that runs through Gilson and all his responders, and encompasses all three levels of Kosuri's pyramid, we might describe the effective business lawyering as effective management of the lawyer's environments — whether those environments are legal, or regulatory, political, financial, social, economic, technological, or an industry or industry sector. The more effective the lawyer, the better those environments are managed.

But I would like to suggest to you a different approach altogether. I would describe it as the fourth layer of Kosuri's pyramid. Certainly, effective lawyers need strong foundational, transitional, and optimal skills. But beyond the *optimal*, there is the *exceptional*.

The exceptional is about *creativity*. And the exceptional is not only about managing your environment; it's about ultimately creating new environments!

I recently asked Simon what is the most important quality that he looks for, and he asks his team to look for, in hiring new lawyers for his formidable group at BMO. Typical of Simon, his response was immediate, unconventional, and right on target. The key quality, he said, is *imagination*.

And if you think about it carefully, you'll find that exceptional business lawyering — and this applies to both inside and outside lawyering — generally involves a healthy dose of imagination, and often leads to the creation of a new environment.

Often, a new environment is developed by adapting existing structures, products or processes.

For example, the client asks for a license and distribution agreement. The lawyer proposes a new form of joint venture.

Or what if the client is trying to find a way to acquire several businesses at the same time? The lawyer develops a novel use of a special-purpose acquisition company to affect a management "roll-up."

Or the client wants to take a health care or a hospitality company public, and the lawyer designs a new form of real estate investment trust.

Sometimes, creativity results in the creation of new structures or products or processes, or even new industries or areas of legal practice. I think we heard a bit of this from Rodgin earlier this morning.

While exceptional inside lawyers like Simon and his team initiate creative output for their internal clients, it's quite rare for us outside counsel to self-generate new environments without a client to catalyse that creativity. I do think we should be doing it more often.

But my experience has been that most creative outcomes arise from working with highly creative and highly demanding clients — clients like Simon and his colleagues at BMO.

So I'll end by thanking *them* for enabling us business lawyers to do what we do.

Thank you. [APPLAUSE]

RICK WILLIAMS: Thank you, Stephen, your take on lawyering was very informative. Our next speaker is Dale Ponder, she is firm managing partner and chief executive of Osler, Hoskin & Harcourt. [APPLAUSE]

DALE R. PONDER: Thank you, Rick.

Good morning everyone. Before I begin, I want to thank Simon for including me in this roundtable discussion today — and to congratulate him on this recognition of all he and his legal team have accomplished at BMO. It is well-deserved.

The topic I've chosen for my remarks today is "Decision-Making in Times of Industry Disruption."* I plan to discuss the concept of disruption generally, identify some of the "disruptors" in the financial services sector, and then turn to how our Canadian banks are adapting and responding.

** I also want to thank a number of people for sharing their thoughts on my chosen topic, including Bindu Cudjoe of BMO and Alan MacGibbon, Larry Ritchie, and Kashif Zaman of Osler.*

I think we can all agree that since the Great Recession, as the pace of entry of new technologies and new business models has accelerated, there have been few words more frequently used in business journalism than "disruption" and "innovation." The other word of prevalence since the events of 2008 is "uncertainty" — used in the context of business, politics, geopolitics, stock market performance, and even Twitter feed from the current President of the United States. You name the subject, and its future is likely volatile, uncertain, complex, and ambiguous. The new trendy managerial acronym for our times — "VUCA."

Over-used these words may be, but they capture the prevailing environment in which our business decision-makers must navigate. So today, I plan to explore developing best practices in decision-making in the context of fundamental industry disruption. Specifically, I'd like to consider this from the perspective of key enterprise decision-makers: senior management, their boards of directors, and their foremost advisors, their General Counsel.

No industry is entirely immune to the forces of disruption. And, despite the scale of our major Canadian banks, neither are they. So how are they responding? Are they changing their historic "bureaucratic" hierarchy to become more nimble and agile? Is increased regulation stalling or blocking innovation? I ask these questions because I believe that for those of us in other industries, there is much for us to learn from the journey of adaptation underway in the large scale financial services sector. And frankly, the sector is so critical to our Canadian economy, that we need our banks to succeed in this journey.

In my own industry of professional services, the Great Recession was an inflection point, and the change underway in our profession is profound. At Osler, we recognized early on that the law firm world was changing and that would require us to examine our processes and our service delivery afresh — and to examine these relentlessly from the perspective of our clients.

Our goal at Osler is to continue to increase efficiency for the benefit of our clients, but without losing excellence in service delivery or "product." And we insist of ourselves that we be leaders, or at minimum fastest followers, in re-engineering our processes and transforming our business model. Within our own firm, we've had to accept that as we experiment with innovation, there will be some failed attempts. I've become fond of saying that without some failure, we are surely not actually innovating. And I've also come to realize that culture is absolutely fundamental to executing on strategy, and that this is particularly so for the execution of a fundamental change agenda.

Bank of Montreal is Canada's oldest bank and our firm, Osler, Hoskin is 153 years old. At that, we're one of Canada's oldest law firms. I'd like to believe we'll both "innovate successfully" to our next sesquicentennial anniversaries.

I'd like to next set the scene with some facts for background.

First, to quantify the importance of our Canadian banks to the Canadian economy in size alone. The biggest among the banks have assets on their balance sheet in excess of a trillion Canadian dollars. Canada's GDP by comparison is U.S. $1.5 trillion.

Second, an idea of the cost of regulatory intervention. The global financial crisis was a wake-up call as to the imperilment of the "safety and soundness" of the banking industry and as we saw, new and increased regulation and oversight was the result. Boston Consulting Group recently released a study estimating that banks globally have paid over $300 billion in fines and legal fees since the financial crisis. And this is not measuring the cost of additional internal time and resources devoted to regulatory compliance every year since.

And finally, who are the "disruptors"? In Canada, the FinTech industry is expanding rapidly. Over 70 companies in Toronto alone are developing solutions for various aspects of traditional banking — including mobile payments, online exchanges, mobile wallets, etc. And these enterprises operate in largely unregulated space, so the playing field is not level.

However, it's not just start-ups that are disrupting the industry. Think about these big and now commercially trusted brands, and what they're doing in the "money transfer" space:

- PayPal: Its roots began in the late 1990s, and today it is one of the world's largest internet payment companies. Its business is all about money transfer and its total revenues today are over $10 billion.
- Alibaba: Also began in the late 1990s in China to facilitate B2B e-commerce. Today its online payment escrow service accounts for over half of all online payments in China. Alibaba has a market cap of over $300 billion U.S.
- Starbucks: Its payment app has cut out the financial intermediary role between it and its customers. Losing revenue for traditional financial institutions as a result. Starbucks has over $1 billion "on deposit" from its customers. Would you categorize this level of activity as that of a coffee shop or that of a financial institution?

> "... a high-integrity culture ensures fewer incidents of misconduct, attracts and retains high-performing talent, cultivates an environment where employees speak up, gains the respect of regulators, earns the trust of customers, and builds public confidence."
>
> *– Simon Fish*

These three big-name examples have three things in common — business disruption, business trust, and a large customer base. And there's a fourth important commonality. None of the three are overseen by bank regulators.

So how have our Canadian banks responded to these events? Their response has involved an extensive review of their business models, but as an outside observer, I'd offer these three high-level observations:

- First, a look at their early response following the turmoil of the global financial crisis. In the immediate aftermath, our Canadian banks were largely insulated from the issues that felled other major financial institutions. So in the short term our banks were the heroes in the eyes of the regulators and had significant opportunity to expand into the distressed U.S. financial services market. Many took advantage of those buying opportunities in the U.S. and further afield, and that increased both their scale and the diversity of their market reach. That buying advantage is now behind us. Regulatory emphasis post-Wells Fargo is moving increasingly to emphasize consumer protection and Canada is no exception to this. Our Canadian banks now must operate in an ever-more-regulated domestic and international market environment. And, given their size relative to that of the Canadian economy, they must continue to hunt for growth opportunities outside Canada in a market that is not only highly regulated, but also highly competitive — while continuing to search for "white space" domestically.
- Next, some observations on the impact of digital disruption. Digital disruption affects virtually every industry and — as noted by a friend who chairs a bank audit committee — highly profitable, bureaucratic industries are the most attractive targets. In response to the digital explosion, our banks are investing in AI, transforming how they deliver traditional banking services, and partnering with FinTech in the process. Although FinTech is attracting increased capital investment, new businesses don't have either the customer base or the commercial "trust and confidence" levels required to penetrate financial markets with necessary scale fast enough. Our banks have both. So smart partnerships between the banks and FinTech are happening and expected to be a win/win.
- And finally, the imperative to continue delivering results. Our banks are counted on to deliver financial results, consistently. Bank shareholders expect large dividend payouts and a steadily increasing share price. The stock market generally is not forgiving of quarterly disappointments. But if the banks are big targets of the "disruptors" for attack on market share — and they are — both effective defense and pursuit of new growth opportunities are imperatives. This requires investment. Reconciling short-term stock market expectations of a mature industry participant with the need to invest long term and to experiment with innovation isn't easy, but so far our banks overall are performing a remarkable balancing act in one of the most closely watched sectors of our economy.

As external observers, we can study the output of internal processes in a business, but it's more difficult for us to assess how the current environment of disruptive change is impacting internal decision-making processes. There is much to learn from the successes and failures of enterprises facing fundamental disruption and from an examination of the changes underway in the C-suite, the boardroom and the office of the General Counsel. I offer three observations on developing best practices:

First, the importance of "tone from the top" and some changes underway in that "tone." Historically, management theory was all about command-and-control. And the banks were longtime viewed as slow-moving bureaucracies, with strict management hierarchies that were very much about command-and-control. Increasingly, it's viewed in management theory that command-and-control can stifle innovation and creativity. And as a result, is not the best method to pursue business transformation.

I'd observe that increasingly senior leadership in mature businesses must be the catalysts for cultural change and must "enable or empower" their best talent to successfully pursue a fundamental change agenda. It must be more dialogue than monologue in order to harness the power of an organization's talent. Good ideas are not only generated from the C-suite and today I believe there is an increased recognition that diversity of skills and collaboration across functions are fundamental to both identify opportunity and assess risk with timeliness. The imperative is to be agile in pursuing opportunity while still balancing risk.

Mature industries must also weed out complacency. Longtime institutions with the benefit of strong market share can suffer from "aristocracy syndrome." Instead, they must learn to emulate the key characteristics that enable start-ups to outperform: operational flexibility and agility, strong strategic alignment, and intense work force engagement. The journey is all very much about changing cultural norms. And, in my experience, to succeed with this kind of cultural change, the "top of the house" must communicate relentlessly, must celebrate innovation and sensible risk-taking, and must not punish failure in the reasoned pursuit of opportunity.

Next, the role of the Board. Senior management reports to the Board, whose members are the stewards of the enterprise for stakeholders. Without tight strategic alignment between the Board and management, the change agenda will fail and the enterprise cannot act with the speed and agility required.

I'd also observe that the board skill set required for a business under fundamental disruption is likely quite different than prior periods of relative calm. In our most sophisticated public entities, there is a recognition that there are new skills required at the board table. If digitization is a foremost disruptor, does the board have the skill set to sufficiently comprehend that business factor? If the biggest risks for financial institutions today include cybersecurity, money laundering, and enhanced consumer protection interventions, is there a new skills matrix required? Board diversity takes on new meaning in this context. Diversity of experience, skills, and perspective will benefit decision-making and increasingly, it is a recognized business imperative.

This is also true more generally of bank talent overall. The ranks of traditional-looking "bankers" are being augmented by non-traditional experts within the banks. With technological disruption and new customer pursuit, there is a need for a diversity of expertise, including non-traditional expertise like data science, behavioural psychology, and more in the pursuit of business transformation.

And necessarily, business must concern itself with the customers of tomorrow. Millennials are the next largest demographic group in North America next to the Boomers. They will demand changes in how companies create value and interact

with customers. And it is highly likely that their value system will drive business in different ways in the future. In business, we ignore developing a deep understanding of this next demographic wave at our peril.

And finally, the office of the General Counsel. It seems to me that when a fundamental change agenda is underway in a complex enterprise, particularly in a regulated sector, the role of the General Counsel's office is more critical than ever. Regulatory compliance is a financial services sector reality that isn't going away and with the increase in consumer protection concerns post-Wells Fargo, it has taken on an even bigger level of reputational concern. But more fundamentally, the office of the GC must function at the highest levels of intersection between risk and opportunity within the regulatory framework.

I'd also observe that the GC's office, together with the CFO and perhaps increasingly other "Chiefs" like the CIO, must be integrators of information and drivers of collaboration across the enterprise. To capture opportunity and balance risk, the office of the GC is key to the delivery of a fully informed framework for best

decision-making in a climate of disruption. The General Counsel is fairly recognized as a primary safeguard for culture and conduct and ultimately, for reputational risk.

I'll close now with this final observation. Disruption is about competition from new and different competitors. And it's a truth that most mature industries today are experiencing. The competitive environment is fierce. And to succeed in fierce competition requires hunger, agility and speed. A friend in the banking industry summed this up for me with the quote that "a lion runs the fastest when he is hungry" — and the observation that a bit of hunger and fear is actually not a bad thing in business!

Thank you all — I look forward to the discussion to follow. [APPLAUSE]

RICK WILLIAMS: Thank you very much, Dale, we all need to understand more about disruption. It's a great pleasure to me to have Cornell Wright up next. He is the co-head of M&A Practice at Torys. [APPLAUSE]

CORNELL WRIGHT: Good morning. I am a partner in the corporate practice at Torys, where I focus on M&A and corporate governance. I'm honoured to have been invited to serve on this panel with such accomplished colleagues and have the opportunity to congratulate Simon on the recognition he's receiving today as a leader among General Counsel.

This morning, I'd like to talk for a few moments about the decline of deference and what it means for lawyers and their relationship between corporate clients, including in-house lawyers and law firms.

In our corporate practice, we see this trend of declining deference most clearly in the growth of shareholder activism that is affecting companies in all sectors of the public markets, including financial institutions.

Activists are making their voices heard forcefully and effectively, challenging the conventional wisdom that senior management and boards have the best information and the right incentives to make good decisions in the corporation's best interests. They are questioning comfortable assumptions and pressing for changes in strategic direction, management, and operations. In many cases, investors are spending significant resources to come up with an alternative comprehensive strategic plan, forcing the company's management to defend its own strategy. Sometimes this plays out in public; more often, it happens behind the scenes.

The recent situation at Uber is one vivid example. The company's board took action to address the very serious issues that had come to light in an investigation. The board thought it had done enough, but investors disagreed and took matters into their own hands, turning the CEO's leave of absence into a resignation.

This dynamic has forced management teams to be more transparent and forward-looking in what they communicate about their plans to avoid surprising the market and lay a foundation for investor support. There was a story in *The Globe and Mail* last week commenting on the degree of specificity with which Hydro One's CEO and executives appeared to be telegraphing their interest in, and criteria for, a major U.S. acquisition. The takeaway was obvious: smart CEOs take the time to sell investors on a growth strategy long before they announce a takeover.

Last year, the litigation surrounding the InterOil plan of arrangement raised significant questions about the role of fairness opinions in M&A transactions and the adequacy of disclosure regarding the financial analysis done and the compensation paid to financial advisors issuing them. Investors are more engaged in assessing the quality of financial advice and demanding more from financial advisors and the boards that rely on them.

The same assertiveness and lack of deference are evident in the calls for proxy access, say on pay votes, and other initiatives designed to give investors a voice in matters previously thought to be appropriately dealt with by the board.

The lack of deference is also evident in the heightened scrutiny that securities regulators and courts are bringing to governance processes and judgments, and their willingness to second-guess the level of disclosure about corporate decision-making that is provided to investors.

How is this affecting lawyers?

For one thing, corporate boards, knowing they could find themselves in investors' crosshairs, are less deferential to management, more inclined to make their own judgments on the merits, and more engaged in discussing the legal advice. Lawyers face more challenge from directors on legal points, whether on regulatory risk, litigation risk, compliance issues, or how to justify decisions publicly. All this must be factored into the planning. It is very common now

for legal analysis to form part of the business presentation that goes to the board — boards want to know that the lawyers and businesspeople, rather than working in silos, have thought about the issues together and come to a balanced recommendation that makes sense in both business terms and legal terms.

This reflects better governance and better process. We all know, as lawyers, that our thinking is improved when we are forced to make the case with clarity and show our reasoning and work. But it also means raising our games.

Which brings me to a related point: the broader decline of deference — the fact that decisions are going to be second-guessed at every level, whether in the market, around the board table, or in the C-suite and beyond — has increased the prominence and centrality of the legal function, both internal and external, to meet higher expectations, to contribute at the highest levels and generally play a critical role in successful management and governance. Indeed, it is that increased prominence of the legal role and, in particular, the role of the General Counsel, that we recognize and celebrate this morning.

The growth and professionalization of in-house legal departments and the centrality of the role of the General Counsel in major multinationals is very much a function of the decline of deference. Boards appreciate that law permeates everything and trust the lawyers to protect the integrity of the organization and hold the legal leadership accountable for doing so. They also expect lawyers to focus on the best interests of the corporation including its reputation and culture and not just on the wishes of the corporation's senior management. It is a broader and more demanding standard that lawyers are uniquely trained to discharge.

With this heightened responsibility has come a recognition that lawyers, both internal and external, need an expanded skill set.

Subject matter expertise has traditionally been the holy grail for lawyers. But management skill has taken on increasing importance for lawyers in corporate practice, whether in-house or in private practice. In-house legal departments can leverage the training and development programs available to leaders at large companies. Law firms have traditionally assumed that successful lawyers will naturally learn to be good managers; increasingly there is an appreciation that we need to be more deliberate in teaching management skill.

Regulatory complexity, technology, globalization and cost pressures have all increased the number and range of advisors involved in any large transaction. This in turn requires lawyers who can function in and manage interdisciplinary teams, partner with advisors in different jurisdictions and calibrate and weigh different kinds of risks.

Because the problems are more complex and clients are less deferential, the relationship between corporate clients — including in-house lawyers — and law firms is also evolving.

The legal departments of our largest clients look and function very similarly to law firms: they have deep subject matter expertise, knowledge management capabilities, innovation hubs, talent development, project management tools, and enabling technology.

This has fundamentally changed the dynamic of the relationship. Whereas the model was once external counsel doing transactions for clients, the model today is increasingly one of partnership between in-house lawyers and external lawyers, who share responsibility for the advice and outcome. Rather than solving problems for clients, we solve problems with clients, learning from each other.

For clients like BMO, the challenge is even greater, because the problems often straddle multiple sophisticated jurisdictions with increasing regulatory complexity. Whereas law firms can sometimes be

compartmentalized by geography, the opposite is true of in-house lawyers, who supervise matters in multiple jurisdictions and must bring a macro perspective to bear. As law firms, we have been forced to expand our mindsets and look at problems in a more GC-type way, with more imagination and fewer self-serving disclaimers.

Simon has been an exemplar in responding to these challenges, managing and influencing on a broad scale, recruiting and developing great talent, building a top-tier law firm organization within BMO and, on a very selective and disciplined basis, building relationships with lawyers and law firms externally who understand BMO's business, fit with the culture and can partner well with the group.

This is a notable achievement, and we're delighted it is being recognized today. Thank you. [APPLAUSE]

RICK WILLIAMS: Thank you, Cornell. We've had a terrific breadth and depth of coverage today — innovation, diversity, international treaties on regulatory controls, financial institutions. Now, it is our turn to

ask questions, and I'm going to start with one. Simon, this will be to you, but all of the Panelists can chime in. Cornell, this builds on what you also just said.

Heads of business units often try to avoid talking to the lawyers. Yet, Simon, you were saying that lawyers have to become partners with the business. How does the General Counsel become a partner with business leaders, to get them to see the General Counsel as an essential collaborator as opposed to somebody that's second-guessing and looking over their shoulders?

SIMON A. FISH: The approach will vary from organization to organization.

I was really fortunate, I have to say that I received the full support of my business colleagues from the outset. That support was ensured by the very manner in which I came to BMO. I was recruited to the bank directly by our CEO, Bill Downe. Following initial discussions with him, I met our Chair of the board of directors, Rob Prichard (who I am delighted to see in the audience this morning). Then I met a number of other senior business executives. The very process of my onboarding was known within the bank and our leaders' expression of confidence in me ensured a smooth transition.

I recognize that it's not always as easy for other GCs. No matter the circumstances of one's appointment, however, every GC is required to show one's value to business colleagues and to the organization every day. That requires serving effectively as both business partner and corporate Guardian.

NORMAN STEINBERG: I'm happy to add to what Simon has said. What we're seeing is more of our large Canadian clients, and in fact, globally, as well, is that the General Counsel is part of the executive management team, and as such, they're not just being asked about strictly legal issues; they're part of the process of defining where the organization goes and how it sets its goals.

> "Ensuring the corporation complies with all relevant laws and regulation is essential to the sustained health and welfare of the corporation itself. Providing practical legal advice and then maintaining an effective compliance program to ensure the advice is followed is precisely what the partner-guardian role demands of the GC." – *Simon Fish*

As outside counsel, I have always found that our role is not to come in supporting the General Counsel with "yes" or "no"; it's basically, I think, to help amplify the risk assessment on important decisions. Because when we're brought in there, the management team, if it's the board that we're addressing or the General Counsel, they don't want to hear "you can do it" or "you can't do it"; they want to understand actually what the risk assessment is. Because every decision involves the possibility of a go or no-go based on the risk assessment. That's the way *we* support the General Counsels of sophisticated organizations like Bank of Montreal that are already involved in the decision-making.

STEPHEN PINCUS: It depends in large part on your starting point. Simon referenced Ben Heineman's comments about he's caught between the anxiety of feeling you don't want to be left out of the room, or the anxiety of going into the room. Whether it's outside counsel or inside counsel, if your starting point is an identification with your client or with your organization, and your goal is to create something, whether it's a product inside the organization or a process or an acquisition or a transaction of some kind, and you fully identify with that, and that's where you come in from, then you're not entering the conversation as "Dr. No." You're not there simply as the outsider who is saying, "Here's where you're crossing the boundary." Rather, your goal is to achieve what your client – internal or external – wants to achieve. Then when you *do* say "no," you're perceived as – and I think you are – doing it because it's not in the interests of the organization, and you're moving *with* the client as opposed to in the opposite direction.

DALE R. PONDER: I would observe that reputations are built based on personal experience, and while the executive team may well know what a General Counsel delivers by way of value, in big organizations, inevitably there are going to be people whose experience with lawyers was not so great, and so you have to be a bit strategic about winning them over and giving them a different experience, and it's about relationship building and communication, just as so much else in business and life is.

CORNELL WRIGHT: Three quick points. First, I agree that culture is key and that having a strong, credible General Counsel helps to establish a culture where the critical role of lawyers in solving big difficult problems is recognized. Secondly, in that culture, it's very important that problems not be bucketed into "legal problems" and "business problems"; the reality is that most problems are multidisciplinary, and there has to be an integrated approach. Thirdly – and this is a point for lawyers – the yes/no binary approach that lawyers sometimes take can be self-defeating. Business can't earn sufficient returns with zero risk; what's required is calibration of the risks so that the business and lawyers together can make an informed decision on whether and how to proceed.

ANDREW GERLACH: I'm Andrew Gerlach; a partner of Rodgin Cohen's at Sullivan & Cromwell.

Just one observation on culture. In order for it to work, it has to be top-down. It has to be reflected at the board level and supported by the board level, and Simon, your experience in coming on board here reflects the fact that this board, at this company, at this financial institution, takes culture very seriously, understands the importance of the legal function within the organization. That is not something that we see at all of our clients. There are many different examples of a differing perspective, but one is that the General Counsel, including at sometimes large institutions, has a reporting line that does not go to the CEO or does not go to senior people within the C-suite, and does not have direct access to the board or members of the board. That is reflective of a different type of culture, and you can tell — it's very easy to see the differences a BMO-like culture and its respect for the legal function and other clients for which there is a very different set of reporting lines.

RICK WILLIAMS: Does the audience have any questions?

[AUDIENCE MEMBER]: Thank you. Cal Golden from Goodmans. I just want to follow up the remarks that you made, Simon, about ensuring that the General Counsel is an active participant at the table at key meetings.

How do you ensure, when you're sitting at the table, that you can bring the kind of radar to the benefit of your executives unless you have in place an effective, modern compliance program that meets the criteria that the Competition Bureau put out specific guidance on this; so have others. There are *new* innovative challenges that bring about *new* competitive dynamics and *new* techniques to *sometimes* chill competitive innovation. How does the General Counsel do this unless he or she has put in place a serious compliance program that *also* encourages information and whistleblowing as the Competition Bureau has advocated, as the Securities Commission has advocated — isn't that a vital necessity to ensure that your seat at the table is truly effective?

SIMON A. FISH: Thank you for the question, Cal. The short answer is, I don't believe you can. Ensuring the corporation complies with all relevant laws and regulation is essential to the sustained health and welfare of the corporation itself. Providing practical legal advice and then maintaining an effective compliance program to ensure the advice is followed is precisely what the partner-guardian role demands of the GC.

DALE R. PONDER: There was a time when compliance was considered a "look back" function. Today, compliance needs to be forward-looking. I think it requires — a more sophisticated approach, and let's use that word, "imagination," again.

RICK WILLIAMS: Another question?

[AUDIENCE MEMBER]: Good morning. I'm Gary Maavara. I'm General Counsel with Corus Entertainment. Simon, congratulations!

Simon, you mentioned something in your remarks which I thought was really important, and that is not only asking if something is legal, but asking whether it's right or not. I'd be interested in hearing more from you on what criteria do you apply to that test?

SIMON A. FISH: Well, I make all those determinations myself. [LAUGHTER]

We apply a set of carefully constructed decision-making frameworks and rigorous processes that help ensure that our decisions are not only legal but are also right. Each operating business is served by a chief legal officer and a chief compliance officer and their respective teams. These individuals are integrated (whilst maintaining their independence) into strategic and business decision-making processes of the operating group they support. They are party to robust, candid discussion with business leaders.

Where questions of ethics and business conduct arise, the Chief Ethics Officer, another member of my team, will be engaged. Similarly, the Office of the Ombudsman can be called upon in certain circumstances. Additionally, I chair the bank's Reputation Risk Management Committee. This is a management committee made up of members of the entire Executive Committee that considers matters potentially harmful to the reputation and brand of the organization. It is focused entirely on "doing what's right" — for our customers, employees and shareholders, and the community in which we operate.

RICK WILLIAMS: Any other questions?

[AUDIENCE MEMBER]: In making these determinations of what is legal and what is right, it is necessary have access to reliable information to make the determination. What have you done, Simon, in your career, that has assisted you in making sure that you have the right information to provide the analysis you need?

SIMON A. FISH: How do I ensure that I have sight of all of the facts? I have in my office a very large, heavy-weighted cricket bat. [LAUGHTER]

When anyone comes to my office, I have a tendency to pick it up and just have it close at hand. [LAUGHTER]

I don't believe any information has ever been withheld from me. [LAUGHTER]

More seriously, I don't believe one ever knows with absolute certainty. Beyond carrying out a degree of due diligence, I think one has to rely on an environment which encourages and rewards the free flow of information (no matter how unwelcome it may be) and candid discourse amongst colleagues. Responsibility for such an environment starts with the C-suite. We have to create that environment where people are comfortable in sharing information on a whole range of issues or whatever's on their minds.

In addition to that, it's important to make yourself available. I spend more time in conversation than I do almost anything else. That includes not only being present at one location. One has to travel a great deal; one has to be at every point in the organization and within its operations throughout the world to really help foster that environment where people feel comfortable in coming up to you and saying, "There is an issue I'd like to raise."

RICK WILLIAMS: It seems to me that the headline out of this program is going to be that Simon keeps a cricket bat in his office [LAUGHTER] and walks around with it and recommends that all Canadian leaders at least have a hockey stick in their office [LAUGHTER], and when important meetings are coming up, at least have it close by, if not swinging a little bit.

Since we're among friends today, Simon, I'm going to ask you to share one thing, and that is to tell us something about your non-work life that we don't know.

SIMON A. FISH: Hmm! [LAUGHTER]

DALE R. PONDER: Or I will! [LAUGHTER]

SIMON A. FISH: Well, I have a wide range of interests that lie somewhat dormant: personal travel, art, and history. While I no longer play either, I remain an avid follower of cricket and rugby. But I'm a convert to all North American sports, as well. [LAUGHTER]

So, I follow those, too.

RICK WILLIAMS: That's terrific. Thank you, Simon, and thank you, all of you, for coming today and being part of this celebration. [APPLAUSE]

Stephen Pincus

Senior Partner

Goodmans LLP

Stephen Pincus is a Senior Partner at Goodmans, a member of its Executive Committee and Head of its Capital Markets Practice.

Widely recognised as one of Canada's leading lawyers, Stephen has played a pioneering role in the development of Canada's capital markets and is well known for his leadership of many complex and innovative domestic and cross-border transactions.

Examples of Stephen's M&A transactions include: Canada's first SPAC qualifying acquisition; its largest investment bank merger in more than a decade; its first mutually initiated merger of REITs; the privatization and recapitalization of a major Canadian defence equipment manufacturer; the takeover of its largest wine company; the consolidation and sale of its largest seniors company; the buy-out of its largest funeral homes company; the merger of two of the world's leading hotel operators; and the global roll-up of eleven media content companies.

Examples of Stephen's IPOs include: Canada's largest income securities IPO; its largest SPAC IPO; its first cross-border income fund; one of its largest equity offerings ever; its first healthcare REIT; its first cross-border REIT; its first offering of income participating securities; its first high-dividend common share IPO of a U.S. business; its first specialty SPAC; and the first non-U.S. IPO in the world of a U.S. REIT.

According to *Lexpert*, Stephen is dubbed by Bay Street as *Canada's King of REITs*.

Stephen also advises boards of directors and activist shareholders on corporate governance and proxy fights. He was retained by Industry Canada to lead a major governance study.

Stephen is a director of Kew Media Group Inc; founding Chairman and a director of the Canada Africa Chamber of Business; Co-Chair of SenbridGe; a member of the Board of Governors of the Jewish Agency for Israel; a member of the Canadian General Counsel Awards Advisory Board; and a member of the Corporate and Securities Advisory Board of Practical Law — Canada.

Stephen holds a BA Honours (English and Philosophy), an MBA/LLB (Gold Medalist) and an ICD.D, He has lectured at Osgoode Hall Law School and Schulich School of Business.

Goodmans LLP

Goodmans is recognized as one of Canada's pre-eminent business law firms, offering market-leading expertise in M&A, corporate and transaction finance, private equity, REITs and income securities, real estate, tax, restructuring, litigation and other business-related specialties.

The firm represents a broad range of Canadian and foreign clients, from entrepreneurial businesses to multinational corporations, financial institutions, private equity firms, pension funds and governments, and has a reputation for handling challenging problems, often international in scope, that demand creative solutions.

Goodmans' lawyers are consistently recognized by leading surveys of clients and peers conducted by *Lexpert*, *Lexpert/American Lawyer Media*, *Chambers and Partners*, *Euromoney*, *International Financial Law Review*, *Law Business Research*, *Best Lawyers in Canada* and *The Legal 500 Canada*. Examples include:

- In 2017, Goodmans was named Canada's Law Firm of the Year at the *International Financial Law Review's* 12th annual Americas awards.
- *IFLR 1000* also ranks our Capital Markets, M&A and Restructuring and Insolvency practices top tier and also recognizes our strength in Banking and Finance and Project Finance.
- *The Best Lawyers in Canada 2017* ranks 86 Goodmans lawyers across 39 practice areas, as among the best lawyers in Canada.
- *The 2017 Lexpert/American Lawyer Guide to the Leading 500 Lawyers in Canada* lists 27 Goodmans partners among the leading Canadian lawyers excelling in 19 practice areas of law.
- *The Canadian Legal Lexpert Directory 2017* recognizes 80 Goodmans lawyers as being top-tier in their fields and leaders in 31 distinct areas of law.
- *The Legal 500 Canada* (2017) recognizes Goodmans in 13 practice areas. The firm was ranked Tier 1 in the areas of Capital Markets, Corporate/M&A, Real Estate and Restructuring and Insolvency.
- *Who's Who Legal: Canada 2016* recognizes 40 Goodmans lawyers across 17 practice areas, as among the best lawyers in Canada.

Norman Steinberg

Chair Emeritus – Canada

Norman Steinberg is Chair Emeritus of Norton Rose Fulbright Canada.

Norm is the former Chair of Norton Rose Fulbright Canada and the former Global Chair of Norton Rose Fulbright, one of the largest law firms in the world with 4,000 lawyers located in 58 cities around the world.

His career has focused on M&A, corporate finance and corporate governance and he has led legal teams in some of Canada's biggest M&A transactions.

Norm is Vice Chair of the Montreal Symphony Orchestra; Vice Chair of the McGill University Health Centre Foundation; Co-Chair of the 2007 Centraide (United Way) Campaign of Greater Montreal; former Chair of the Mount Royal Club of Montreal and the Canadian Club of Montreal; Co-Chair on a recent capital campaign of the Montreal Museum of Fine Arts and the Canadian Co-Chair of the Australia-Canada Economic Leadership Forum.

Norm holds a B.Sc. (1971) and a B.C.L. (1976) from McGill University. He joined the firm in 1976 and became partner in 1984. He received the distinction Advocatus Emeritus (Ad. E.) from the Quebec Bar Association.

NORTON ROSE FULBRIGHT

Norton Rose Fulbright

Norton Rose Fulbright is a global law firm. We provide the world's preeminent corporations and financial institutions with a full business law service. We have more than 4,000 lawyers and other legal staff based in more than 50 cities across Europe, the United States, Canada, Latin America, Asia, Australia, Africa, the Middle East, and Central Asia.

Recognized for our industry focus, we are strong across all the key industry sectors: financial institutions; energy; infrastructure, mining and commodities; transport; technology and innovation; and life sciences and healthcare. Through our global risk advisory group, we leverage our industry experience with our knowledge of legal, regulatory, compliance and governance issues to provide our clients with practical solutions to the legal and regulatory risks facing their businesses.

Wherever we are, we operate in accordance with our global business principles of quality, unity and integrity. We aim to provide the highest possible standard of legal service in each of our offices and to maintain that level of quality at every point of contact.

Norton Rose Fulbright Verein, a Swiss verein, helps coordinate the activities of Norton Rose Fulbright members but does not itself provide legal services to clients. Norton Rose Fulbright has offices in more than 50 cities worldwide, including London, Houston, New York, Toronto, Mexico City, Hong Kong, Sydney, and Johannesburg.

Dale R. Ponder

Firm Managing Partner & Chief Executive

OSLER

Osler, Hoskin & Harcourt LLP

Dale Ponder is the Firm's National Managing Partner and Co-Chair, and also serves on the Firm's Executive Committee. As a senior member of the Firm's Mergers and Acquisitions practice, she has had extensive experience throughout her career leading transactions relating to public and private merger and acquisition matters and advising boards of public companies.

Dale's practice background has focused on M&A, securities regulation, and corporate governance. She has represented Canadian market leaders in various industry sectors with cross-border and international business interests, including the financial services, mining, consumer, and pension plan sectors. In the course of her practice, she has been recognized as a leading corporate and M&A lawyer by various peer ranking publications, including *Chambers Global: The World's Leading Lawyers for Business*, the *Lexpert/American Lawyer Guide to the Leading 500 Lawyers in Canada, Lexpert's Leading Corporate Lawyers* and *Best Lawyers in Canada.*

Dale has spoken extensively on leadership in professional services industries and has been recognized repeatedly as one of WXN's Top 100 Powerful Women in Canada and as one of the Top 25 by Canada's Women of Influence organization. She was also the recipient of the 2017 Toronto Lawyers Association Award of Distinction, the 2016 Israel Cancer Research Fund Business Award of Distinction and a 2013 Lexpert Zenith award.

Dale is a member of the boards of CREIT and Morneau Shepell, the Governors' Council of St. Michael's Hospital Foundation, the CGCA Advisory Board and the Caldwell Partners Top 40 Under 40 Advisory Board, and is a mentor in the Women's Executive Network.

Osler, Hoskin & Harcourt LLP

Osler, Hoskin & Harcourt LLP is a leader in Canadian business law with a singular focus — your business. Osler is recognized for providing business-critical advice and strategic counsel in key industry sectors, and in transactions and litigation for some of the world's largest enterprises; and is a leading full-service law firm practising nationally and internationally from its offices in Toronto, Montréal, Calgary, Ottawa, Vancouver, and New York.

Osler's collaborative "one firm" approach draws on the expertise of over 400 lawyers to provide responsive, proactive, and practical legal solutions driven by clients' business needs. Our approach is based on teamwork and cooperation across offices and practice areas to deliver superior legal advice efficiently and effectively.

At Osler, we believe that our clients want and deserve legal advisors with a singular dedicated client focus who invest the time to understand your organization and your business needs, understand that the priority is always the objectives of the client and can deliver stand-out expertise and experience to the project in order to optimize the prospects of success — and, importantly, can make a difference on the tough calls required, particularly in time-constrained situations.

Our clients include industry and business leaders in all segments of the market and at various stages in the growth of their businesses. For over 150 years, we've built a reputation for solving problems and removing obstacles.

The structural elements of our firm, and the innovation we bring in the delivery of legal services, are shaped by the constantly evolving needs of our clients and Osler's internal culture.

We are constantly evolving and expanding our service offerings and expertise to ensure that we are able to service our clients as their organization and business evolves and transforms, and as the digital economy grows. Examples of this evolution and expansion include our emerging companies practice, our mobile payments and loyalty, digital marketing, FinTech, privacy and data management practices.

Today, Osler continues to maintain its trusted advisor status with Canadian and international business leaders. We empower ambitious organizations that are expanding, protecting and transforming their businesses — a mission we are proud to say that began over 150 years ago.

H. Rodgin Cohen

Senior Chairman

SULLIVAN & CROMWELL LLP

The primary focus of Rodgin Cohen's practice is acquisition, regulatory, enforcement and securities law matters for U.S. and non-U.S. banking and other financial institutions and their trade associations, and corporate governance matters for a wide variety of organizations.

Mr. Cohen and S&C are at the vanguard of critical issues and developments affecting financial institutions, and S&C has long been the firm of choice for leading global financial institutions.

For forty years, Mr. Cohen has worked on refinancings, capital raising, restructurings and acquisitions, both for companies experiencing financial distress and/or regulatory difficulties, and for companies providing financing or as acquirors. During the 2008 Financial Crisis, Mr. Cohen and Sullivan & Cromwell represented numerous major global financial institutions.

Mr. Cohen focuses on a wide variety of regulatory and enforcement matters involving the financial services industry. He works with all the bank regulatory agencies, as well as multiple other governmental agencies, on behalf of numerous U.S. and non-U.S. financial institutions and trade associations.

In the acquisitions area, Mr. Cohen has been engaged in most of the major bank acquisitions in the United States, representing clients in transactions of enormous strategic significance. He has also served as lead counsel in a number of major acquisitions in the insurance industry, including ACE-Chubb, Anthem-WellPoint and Manulife-Hancock.

In addition, Mr. Cohen has advised a number of major foreign banks in connection with the establishment of offices in the U.S. Mr. Cohen also advised the Bank of East Asia in its sale of an 80 percent interest in its U.S. bank to CIBC. The approval was the first of its kind for a Chinese bank and paves the way for other leading Chinese banks to acquire control of depository institutions in the United States.

Mr. Cohen provides corporate governance advice to Anthem, Boeing, Textron, and Travelers. He has advised various corporations in dealing with activists, including, most recently, Bank of New York/Mellon — Trian and Ally-Lion Capital. He also provides cybersecurity advice to a large number of financial and non-financial institutions, both regular clients and as special assignments.

In the securities area, Mr. Cohen worked on the first public offering in the United States by a non-U.S. bank (Barclays) and on a number of other offerings in the United States by non-U.S. banks.

Mr. Cohen is or has been a member of the FDIC Systemic Resolution Advisory Committee, the National Security Agency Cyber Awareness Panel, the Treasury Advisory Committee on the Auditing Profession, The New York State Commission to Modernize the Regulation of Financial Services and the Board of Trustees for the United States Council for International Business. He was one of the leading participants in the bank negotiations to free the Iranian hostages and in the development of a new protocol for international payments.

Sullivan & Cromwell LLP

Sullivan & Cromwell LLP provides the highest quality legal advice and representation to clients around the world. The results the Firm achieves have set it apart for more than 130 years and have become a model for the modern practice of law. Today, S&C is a leader in each of its core practice areas and in each of its geographic markets.

S&C's success is the result of the quality of its lawyers, the most broadly and deeply trained collection of attorneys in the world. The Firm's lawyers work as a single partnership without geographic division. S&C hires the very best law school graduates and trains them to be generalists within broad practice areas. The Firm promotes lawyers to partner almost entirely from among its own associates. The result is a partnership with a unique diversity of experience, exceptional professional judgment and a demonstrated history of innovation.

Clients of the Firm are nearly evenly divided between U.S. and non-U.S. entities. They include industrial and commercial companies; financial institutions; private funds; governments; educational, charitable and cultural institutions; and individuals, estates and trusts. S&C's client base is exceptionally diverse, a result of the Firm's extraordinary capacity to tailor work to specific client needs.

S&C comprises more than 875 lawyers who serve clients around the world through a network of 13 offices, located in leading financial centers in Asia, Australia, Europe, and the United States. The Firm is headquartered in New York.

Cornell Wright

Co-Head of M&A Practice

TORYS LLP

Cornell Wright, co-head of the M&A Practice at Torys LLP, is a leading corporate lawyer with extensive experience in M&A and corporate finance transactions. He has acted as lead counsel for some of Canada's largest companies on their most significant transactions. He also advises senior management, boards of directors, and shareholders on corporate governance matters.

Cornell has acted for bidders, targets, and controlling shareholders in the full spectrum of public and private merger and acquisition transactions, including negotiated and contested acquisitions and divestitures, minority investments, and carve-out transactions.

Cornell is a member of the firm's Executive Committee.

Recognition

Best Lawyers' *Best Lawyers in Canada* – Leading lawyer in corporate law and mergers and acquisitions law (2015–2017)

Chambers & Partners' *Chambers Canada* – Leading lawyer in Ontario, corporate/commercial (2016–2017)

Legal Media Group/Euromoney's *IFLR1000 The Guide to the World's Leading Financial Law Firms* – Leading Canadian lawyer in capital markets (2016), financial and corporate (2016) and M&A (2017)

Representative Work

- Loblaw in its C$12.4 billion acquisition of Shoppers Drug Mart Corporation, one of Canada's most recognized retail brands
- Loblaw in its C$170 million acquisition of QHR Corporation
- Brookfield Asset Management in the spinoff of its commercial property operations to create Brookfield Property Partners L.P.
- Scotiabank in its C$2.3 billion acquisition of DundeeWealth Inc.

Community Involvement

Cornell is a director and Vice Chair of the National Ballet of Canada and a trustee of University Health Network, Canada's largest academic health sciences centre.

He is also a special advisor to the Loran Scholars Foundation and a former director of The Learning Partnership.

Torys LLP

Torys LLP is a full-service business law firm with a reputation for quality, innovation, and teamwork. Our experience, our collaborative practice style, and the insight and creativity we bring to our work, have made us our clients' choice for their largest and most complex transactions, as well as for general matters where judgment and strategic advice are key.

We provide Canadian, U.S., and global legal services in a range of key practices including: lending and finance, capital markets, private equity, real estate, mergers and acquisitions, intellectual property, competition, litigation and dispute resolution, regulatory, tax and pensions, and employment.

Our expertise extends to a number of key industry sectors including: financial services, life sciences, infrastructure, technology, retail and consumer products, energy (oil and gas, power), mining and metals, and manufacturing.

Torys has a strong collegial culture and team-based approach to managing and resolving legal issues. We are a tight-knit group that knows each other well and enjoys working together. We draw on the strength of our culture and structure to deliver the best of our firm to every client.

We approach billing as a key aspect of our partnership with clients, and to us that means providing exceptional quality and service at a cost that reflects its value. We welcome the opportunity to discuss fee arrangements that best suit particular circumstances. An increasing amount of our work is now priced using an alternative to hourly billing.

Torys is consistently recognized as one of Canada's leading law firms. In a recent *Chambers Global Guide*, Chambers & Partners praised Torys as an "outstanding firm with world-leading expertise and exceptional bench strength". Their most recent survey ranked 51% of our partners as "leading lawyers."

The firm operates from offices in Toronto, Montréal, New York, Calgary, and our Legal Services Centre in Halifax, Nova Scotia.