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<p>CORPORATE MEETINGS LAW AND PRACTICE Nathan and Voore Release No. 5 • August 2025</p>
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Release Updates

This publication is a guide to the meetings of shareholders and directors in Canada and the legal principles relating to the preparation for, and the conduct of, any corporate meeting. It provides easy access to legal information on problems that could arise before, during or following a meeting. It also includes national coverage of the law concerning contested meetings, quorum requirements, voting rights, notice and disclosure requirements, proxies, shareholder proposals and meeting procedures.

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What's New in this Update

This release features the addition of an updated version of Appendix Q—The Toronto Stock Exchange - Toronto Stock Exchange Company Manual. Part IV—Maintaining a Listing—General Requirements. This release also features updates to Appendix IF—Issues in Focus including an updated version of the following memorandum: § IF:15 Can a director be removed without a quorum present at a shareholders' meeting? This release also features updates to Appendix PS—Procedural Summaries including updates to summaries pursuant to the *Canada Business Corporations Act*.

Highlights:

- **Issues in Focus—Can a director be removed without a quorum present at a shareholders' meeting—**Counsel represents a director of a corporation who was removed from his appointment at a general meeting of the members. There was a lot of confusion during the voting process and the issue of a lack of quorum arose. Counsel asks the chances of success of an application to the court to set aside the director's removal.
- **Meetings of Directors Pursuant to Canada Business Corporations Act—Disclosure of Interest under the heading Case Law: Section 120—**Justice Kurz observed that both s. 132(1) of the *OBCA* and s. 120(1) of the *CBCA* require a director or officer to disclose any conflicts of interest regarding a "material contract or transaction". Justice Kurz noted that in *Venini v. Venini*, 2023 ABKB 524 (Alta. K.B.), Justice Marion considered the meaning of the term, "transaction" in section 120 of the *ABCA* regarding conflicts of interest. That provision is substantively the same as *OBCA* s. 132 and *CBCA* s. 120. Justice Marion concluded that the term should be given a liberal rather than narrow or technical interpretation. While the term is not defined in the *ABCA*, it is used liberally in the *ABCA*. That was equally true for the *OBCA* and *CBCA*. Cruise argued that he did not have an "interest in a material contract or transaction" or an economic interest in removing Penelas because it did not change Penelas' equal shareholding rights in NT&T. Justice Kurz explained that exceedingly narrow view of a conflict of interest ignored the facts regarding the advantages that Cruise granted himself and the disadvantages that his ouster imposed on Penelas. Justice Kurz did not accept that disclosure would have made no difference because NT&T knew of his conflict and any disclosure would not have affected any vote. Rather, adopting a broad interpretation of the term "transaction", Justice Kurz agreed that Cruise's signing of the resolutions amounted to transactions, as cited in the relevant NT&T and Stanmech by-laws as well as s. 132 of the *OBCA* and s. 120 of the *CBCA*. He should not have been in a position to be the sole vote to oust Penelas when he had a clear economic interest in the vote. That

placed him in a clear conflict of interest. Justice Kurz concluded that there was a strong *prima facie* case that the ouster of Penelas through the corporate manoeuvres would be set aside, whether on technical grounds or based on Cruise's conflict of interest in removing Penelas: *Penelas v. Cruise*, 2024 ONSC 6679, 2024 CarswellOnt 18765, 2024 A.C.W.S. 6149 (Ont. S.C.J.).