

Atlantic Provinces' Joint Follow-up of Recommendations to the Atlantic Lottery Corporation

Overall Results:

Overall, 72% of recommendations had been implemented as at October 1, 2018

- Shareholder governments collectively completed 22% of the recommendations (2 of 9)
- ALC Board of Directors completed 100% of the recommendations (7 of 7)
- ALC management completed 100% of the recommendations (9 of 9)

Shareholder governments did not implement two recommendations intended to improve governance:

- Authorize updated governance practices so that Board members are not elected officials nor employees of government.
- Change the role of public servants on the Board to be non-voting, ex officio members in accordance with best practice.

This is consistent with their response to the recommendations in our October 2016 report. Failure to implement these recommendations risks impeding the Board's fiduciary duty to the corporation and its overall effectiveness in providing sound governance.

Five additional recommendations made to shareholder governments were also not complete:

- Complete an in-depth review of ALC's mandate.
- Periodically review the shareholder agreement and revise as warranted.
- Routinely collaborate and give ALC regular and timely policy direction.
- Define formal performance expectations for ALC that are clear and publicly communicated.
- Complete the ongoing review of the Council of Atlantic Premiers' pension plan and implement required changes.

Failure to implement these recommendations may hinder ALC's effectiveness in making timely business decisions and in the shareholders' ability to evaluate ALC's performance and future sustainability.

We are pleased that all recommendations made to the ALC Board and management were implemented.

We noted shareholder governments have made progress towards implementing our recommendations. However, more effort is required to ensure these key recommendations are implemented in a timely fashion. ALC is a profit-oriented Crown corporation operating in a rapidly evolving industry. In order to remain relevant into the future, it needs more timely strategic direction and policy guidance from the shareholder governments.

We encourage the shareholder governments to collectively expedite implementation of the remaining recommendations to improve governance and business agility of ALC and enhance its public accountability and transparency.

1 Atlantic Provinces' Joint Follow-up of Recommendations to the Atlantic Lottery Corporation

- 1.1 In the fall of 2018, the Auditors General of New Brunswick, Newfoundland and Labrador, Nova Scotia, and Prince Edward Island collaborated on a joint follow-up report on the status of implementing the 25 recommendations from the October 2016 report on the results of their joint audit of the Atlantic Lottery Corporation (ALC).
- 1.2 The October 2016 report included two chapters: one covering corporate governance and one on other operational areas.
- 1.3 **Chapter 2: Corporate Governance** – The objective was to determine whether the Atlantic Lottery Corporation's governance structures and processes created a framework for effective governance and were working well.
- 1.4 Our audit of corporate governance concluded the governance framework in place at that time was not equipped to deal with challenges facing ALC and the shareholder governments; the Board was not always provided with sufficient and timely information for effective decision making; and the Board composition may have made effective operations more challenging. The report included eight recommendations to the shareholder governments and five to the ALC Board of Directors.
- 1.5 **Chapter 3: Non-Governance** – The objective was to determine whether:
 - executive and employee compensation and benefits were appropriately managed;
 - travel, hospitality, and board expenses were managed in a transparent manner that promoted the appropriate use of shareholder money;
 - significant contracts were monitored to ensure services were received, and payments made, in accordance with contract terms;
 - ALC assessed the effectiveness of significant contracts in meeting its objectives and achieving enterprise value; and
 - ALC procured required services in an efficient and economical manner.
- 1.6 Our audit of non-governance concluded there were significant pay increases for executives without consulting with shareholder governments; travel, hospitality, and board expenses were not well-managed; and improvements

were needed around contract management and the purchase of services. The report included one recommendation to the shareholder governments, two to the ALC Board of Directors, and nine to ALC management.

- 1.7 Collectively, the four shareholder governments, as well as the ALC Board of Directors and management, were asked to assess the implementation status of the 25 recommendations as at October 1, 2018. Further information on our approach to this engagement can be found in Appendix III.

 **Board and management implemented all recommendations; shareholder governments collectively had many outstanding recommendations**

- 1.8 Overall, 72 percent of the 25 recommendations were implemented by October 1, 2018. The status of each recommendation is shown in Appendix I.

ALC Shareholder Governments				
Chapter	Complete	Not Complete	Do Not Intend to Implement	Total
Chapter 2: Governance	2	4	2	8
Chapter 3: Non-Governance	0	1	0	1
Total	2 22%	5 56%	2 22%	9 100%

ALC Board of Directors				
Chapter	Complete	Not Complete	Do Not Intend to Implement	Total
Chapter 2: Governance	5	0	0	5
Chapter 3: Non-Governance	2	0	0	2
Total	7 100%	0 0%	0 0%	7 100%

ALC Management				
Chapter	Complete	Not Complete	Do Not Intend to Implement	Total
Chapter 3: Non-Governance	9	0	0	9
Total	9 100%	0 0%	0 0%	9 100%

Overall Total	18 72%	5 20%	2 8%	25 100%
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- 1.9 We are pleased that the ALC Board of Directors and management completed 100 percent of the recommendations (16 of 16) made to them.

- 1.10 Collectively, in the two years since the initial report, the shareholder governments of New Brunswick, Newfoundland and Labrador, Nova Scotia, and Prince Edward Island completed 22 percent of the recommendations (two of nine) made to them.
- 1.11 Consistent with their response to the recommendations in our October 2016 report, shareholder governments did not intend to implement or fully implement 22 percent of the recommendations (two of nine).
- 1.12 The remaining five recommendations were assessed as not complete as at October 1, 2018. Shareholder governments told us they have made progress in implementing the five recommendations, and for many are waiting for final review and approval by senior levels of government before considering them to be fully implemented. Although we do not provide any assurance on the collective and individual responses to recommendations assessed as not complete, we provide a summary of the responses to these recommendations in Appendix II.
- 1.13 The recommendations made collectively to the shareholder governments address important components of governance and help ensure ALC has a clear mandate, performance expectations, and clear policy direction for strategic and business planning. Although we recognize recommendations to the shareholder governments may be more involved and time consuming to implement, it is important these recommendations be collectively actioned by all shareholder governments in a timely manner to improve governance and business agility of ALC, as well as enhance its public accountability and transparency.



Shareholder governments did not intend to implement two recommendations to improve governance

- 1.14 As noted above, the shareholder governments did not intend to implement two recommendations. In our October 2016 report the shareholder governments did not agree with one recommendation and part of one other.
- 1.15 The four shareholder governments collectively did not intend to fully implement recommendation 2.12 which recommended:
- updated governance structures and processes, including a competency-based Board selection process;
 - director terms greater than one year; and
 - Board members not being elected officials nor employees of government.

- 1.16 Atlantic Lottery Corporation By-laws have been updated to require staggered three-year terms for directors. The four shareholder governments use competency-based processes to appoint eight independent, voting, provincial shareholder representatives to the ALC Board, while the remaining four positions are held by senior public servants.
- 1.17 We noted in Chapter 2 of our October 2016 report that having elected officials or employees of government as Board members was not recommended practice in the public sector; the dual role and expectations as both a Board member and a government employee may hinder the effectiveness of governance of the corporation. We provided an example in which the Board with government employee Board members unanimously approved By-law amendments related to changes in the director appointment process, then those same four Board members, acting in their capacity as shareholder representatives, did not accept the changes they had just approved.
- 1.18 The four shareholder governments collectively did not intend to implement recommendation 2.13 which recommended changing the role of public servants (i.e., government shareholder representatives) on the ALC Board to be non-voting, ex officio members in accordance with best practice. As noted in their response in our October 2016 report, the shareholder government representatives did not agree with this recommendation and did not intend to implement it.
- 1.19 Shareholder government representatives told us they believe it is in their best interest to continue to have government employees on the Board as voting directors. We recognise there is value in having public servants representing government on the Board. For complex areas such as gaming, they can speak to government priorities and address government concerns directly with the Board.
- 1.20 However, these roles should be separate from the role of a voting corporate director. The dual role poses a conflict between the fiduciary duty to the corporation and policy interests of their employer. Having public servants as voting board members may place those directors in a position to approve a good corporate decision that may not be a decision they would support as a government representative, or alternatively, make a decision at the provincial gaming level that could negatively impact ALC.



Shareholder governments did not complete five recommendations

- 1.21 As noted above, five recommendations were assessed as not complete as at October 1, 2018.
- 1.22 The four shareholder governments collectively assessed recommendation 2.1 as not complete. We recommended the shareholder governments complete

an in-depth review of ALC's mandate that considered how ALC fits into each government's gaming policy and public policy objectives, and the organizational structures required to achieve these. We further recommended ALC's mandate be updated as required. Not completing this recommendation increases the risk that ALC may not have a clear and consistent mandate that outlines its autonomy to make appropriate and timely business decisions.

- 1.23 The four shareholder governments collectively assessed recommendation 2.2 as not complete. We recommended the shareholder governments periodically review the Unanimous Shareholder Agreement and Corporate By-laws and revise as warranted. The shareholder agreement is an important governance document and provides ALC with its authority and operating mandate. Not completing this recommendation increases the risk that key terms and conditions do not reflect the current environment at ALC.
- 1.24 The four shareholder governments collectively assessed recommendation 2.3 as not complete. We recommended the shareholder governments routinely collaborate and give ALC regular and timely policy direction to use in its strategic and business planning processes. Not completing this recommendation increases the risk that ALC will have unclear or inconsistent government direction which could lead to significant business inefficiencies. It could also result in ALC operating outside of its approved mandate.
- 1.25 The four shareholder governments collectively assessed recommendation 2.5 as not complete. We recommended the shareholder governments define formal performance expectations for ALC that are clear and publicly communicated. We further recommended that these performance expectations be updated annually as part of the shareholder governments' oversight and strategic direction. Not completing this recommendation increases the risk that ALC may not have clear performance expectations or could have performance expectations which conflict with the expectations of shareholders. Formal and publicly communicated performance expectations also increase public accountability and transparency.
- 1.26 The four shareholder governments collectively assessed recommendation 3.2 as not complete. We recommended the shareholder governments complete the ongoing review of the Council of Atlantic Premiers pension plan and implement the required changes. Not completing this recommendation may impact the sustainability and cost of ALC's pension plan.