The Ontario Securities Commission

PROPOSED OSC AMENDMENTS TO FORM 58-101F1 *CORPORATE GOVERNANCE DISCLOSURE* OF NATIONAL INSTRUMENT 58-101 *DISCLOSURE OF CORPORATE GOVERNANCE PRACTICES*

PROPOSED DISCLOSURE REQUIREMENTS REGARDING THE REPRESENTATION OF WOMEN ON BOARDS AND IN SENIOR MANAGEMENT

Supplement to the OSC Bulletin

January 16, 2014

Volume 37, Issue 3 (Supp-1)

(2014), 37 OSCB

The Ontario Securities Commission administers the
Securities Act of Ontario (R.S.O. 1990, c. S.5) and the
Commodity Futures Act of Ontario (R.S.O. 1990, c. C.20)

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Published under the authority of the Commission by:
Carswell, a Thomson Reuters business
One Corporate Plaza
2075 Kennedy Road
Toronto, Ontario
M1T 3V4

416-609-3800 or 1-800-387-5164

Contact Centre - Inquiries, Complaints: Fax: 416-593-8122
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Office of the Secretary: Fax: 416-593-2318

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Subscriptions are available from Carswell at the price of $649 per year.

Subscription prices include first class postage to Canadian addresses. Outside Canada, these airmail postage charges apply on a current subscription:

U.S.	$175
Outside North America	$400

Single issues of the printed Bulletin are available at $20 per copy as long as supplies are available.

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ISSN 0226-9325

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FORM 58-101F1 *CORPORATE GOVERNANCE DISCLOSURE* OF
NATIONAL INSTRUMENT 58-101
DISCLOSURE OF CORPORATE GOVERNANCE PRACTICES

1. REQUEST FOR PUBLIC COMMENT

We, the Ontario Securities Commission (OSC), are publishing for a 90-day comment period proposed amendments (the Proposed Amendments) to Form 58-101F1 *Corporate Governance Disclosure* (Form 58-101F1) of National Instrument 58-101 *Disclosure of Corporate Governance Practices* (NI 58-101).

The Proposed Amendments would require TSX-listed and other non-venture issuers to provide disclosure regarding the following matters on an annual basis:

- director term limits,
- policies regarding the representation of women on the board,
- the board's or nominating committee's consideration of the representation of women in the director identification and selection process,
- the issuer's consideration of the representation of women in executive officer positions when making executive officer appointments,
- targets regarding the representation of women on the board and in executive officer positions, and
- the number of women on the board and in executive officer positions.

The Proposed Amendments are set out in Appendix A to this notice and request for comment.

We invite comment on the Proposed Amendments generally. In addition, we have raised a number of questions for your specific consideration. Comments must be submitted in writing by **April 16, 2014**.

2. BACKGROUND

Ontario budget statement
On May 2, 2013, the Ontario government delivered its budget which included the following statement:

> The government strongly supports broader gender diversity on the boards and in senior management of major businesses, not-for-profit firms and other large organizations. In conjunction with others, including the OSC, the government will consider the best way for issuers to disclose their approaches to gender diversity, with a view to increasing the participation of women on boards and in senior management.

Request from the Minister of Finance and then Minister Responsible for Women's Issues
On June 14, 2013, the Minister of Finance, Charles Sousa, and the then Minister Responsible for Women's Issues, Laurel Broten (collectively, the Ministers), requested that the OSC undertake a public consultation process regarding disclosure requirements for gender diversity.

Specifically, the Ministers requested that the OSC:

- undertake a review and public consultation process over the summer considering a "comply or explain" disclosure regime for reporting issuers listed on the TSX relating to board and senior management gender diversity policies and practices, and
- provide recommendations regarding specific disclosure requirements for TSX-listed issuers and best practices for this type of approach to gender diversity by the fall of 2013.

OSC's consultation and review process

Consultation paper

On July 30, 2013, OSC staff published OSC Staff Consultation Paper 58-401 *Disclosure Requirements Regarding Women on Boards and in Senior Management* (the Consultation Paper) for an approximately 60-day comment period.[1]

The Consultation Paper set out a model of disclosure requirements for TSX-listed and other non-venture issuers (other than investment funds) which would have required them to provide disclosure on an annual basis in the following four areas:

- policies regarding the representation of women on the board and in senior management,
- consideration of the representation of women in the director selection process,
- consideration of the representation of women in the board evaluation process, and
- measurement regarding the representation of women in the organization and specifically on the board and in senior management.

The model of disclosure requirements followed a "comply or explain" approach. For example, the model contemplated an issuer either:

- confirming that it had a policy regarding the representation of women on the board or in senior management and providing details regarding the policy, or
- if the issuer did not have such a policy, explaining why not and identifying any risks or opportunity costs associated with the decision not to have such a policy.

The model did not impose any requirements for issuers to have a specified quota of women on boards and/or in senior management.

The purpose of the Consultation Paper was to seek feedback from investors, issuers, other market participants and advisors on the proposed model of disclosure requirements to inform our recommendations to the Minister of Finance and Minister Responsible for Women's Issues. The recommendations would in turn inform both government policy development and possible OSC rule-making as the government of Ontario moves forward with enhanced gender diversity disclosure to facilitate an increase in the participation of women on the boards and in senior management of TSX-listed issuers. The comment period for the Consultation Paper closed on October 4, 2013 and we received 92 comment letters from a variety of stakeholders.[2]

Public roundtable and other consultations

On October 16, 2013, the OSC convened a public roundtable to discuss the model of disclosure requirements set out in the Consultation Paper.[3]

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1 For the Consultation Paper, see: http://www.osc.gov.on.ca/en/SecuritiesLaw_sn_20130730_58-401_disclosure-requirements-women.htm

2 For comment letters received in response to the Consultation Paper, see: http://www.osc.gov.on.ca/en/41443.htm

3 For a transcript of the roundtable, see: http://www.osc.gov.on.ca/en/SecuritiesLaw_oth_20131016_58-401_transcript.htm

In addition to the roundtable, OSC staff consulted with the OSC's Securities Advisory Committee and participated in events held by other organizations, including the Canadian Board Diversity Council, the Institute of Corporate Directors, Women in Capital Markets, Women's Executive Network and the University of Toronto.

Survey of TSX-listed issuers

On November 5, 2013, OSC staff issued a survey to approximately 1,000 TSX-listed issuers regarding gender diversity. In particular, the survey asked questions regarding:

- the representation of women on boards and in senior management of the issuer,
- the issuer's adoption of any diversity policies, and
- the implementation and measurement of effectiveness of any such diversity policies.

We received 448 responses to the survey, translating to an approximately 45% response rate. The issuers that responded to the survey had a range of market capitalizations, with 29% having a market capitalization of less than $75 million and 26% having a market capitalization of $1 billion or more. The issuers also were from a range of industries, with 26% being from the diversified metals and mining industry, 17% being from the energy industry and 9% being from the financial industry.

The following is a high-level summary of the survey results based on the information provided by the respondents.

Subject of survey questions	**Survey responses**
Representation of women on the board and in executive officer positions	**The level of representation of women on boards and in executive officer positions at the respondents was low.** Board • 57% of respondents have no women directors, 28% have 1 women director and 3% have 3 women directors. • Only 3 issuers who responded have women representing 50% or more of their board membership. • In addition, only 3% of respondents have a woman chair of the board and 3% of respondents have a woman lead director. Executive officer positions • 53% of respondents indicate that women hold less than 10% of their executive officer positions.
Transparency regarding the representation of women	**The level of transparency regarding the representation of women by the respondents was low.** • 88% of the respondents do not publicly disclose the proportion of women employees in the whole organization. • 80% of the respondents do not publicly disclose the proportion of women in executive officer positions. • 61% of the respondents do not publicly disclose the proportion of women on the board.
Director term limits	**Most respondents did not have a policy regarding director term limits.** • 82% of respondents do not currently have a policy regarding term limits for their directors.

Subject of survey questions	Survey responses
New board appointees	**The level of director turnover at the respondents within the last year appeared to be low.** • 60% of respondents did not appoint any new directors at their last annual general meeting. • Of the respondents who did appoint new directors, 88% of the new directors were men.
Board policies	**Most respondents did not have a policy regarding the identification and nomination of women directors.** • 91% of respondents do not have a policy for the identification and nomination of women directors.
Talent management strategies	**Many respondents did not have a talent management strategy.** • 74% of respondents do not have a talent management strategy that demonstrates a commitment to diversity generally and which includes consideration of the representation of women in executive officer positions.
Implementation and assessment of effectiveness of policies and strategies	**A small proportion of the respondents who had either a board policy or a talent management strategy have procedures in place to ensure that the policy or strategy is implemented and its effectiveness is regularly assessed.** • 14% of the respondents with such a policy or strategy have procedures to ensure that it is implemented. • 15% of the respondents with such a policy or strategy regularly assess its effectiveness.
Targets	**Most of the respondents have not adopted targets regarding the representation of women on boards or in executive officer positions.** • 94% of respondents have not adopted a target regarding the representation of women on its board by a specific date. • 94% of respondents have not adopted a target regarding the representation of women in executive officer positions by a specific date.

Other research

Further, in addition to consulting with stakeholders, OSC staff reviewed:

- disclosure requirements regarding diversity in the U.S., U.K., Australia and other jurisdictions,
- voluntary initiatives regarding the advancement of women on boards and in senior management, and
- relevant academic and other research.

OSC'S report to the Minister of Finance and Minister Responsible for Women's Issues
On December 18, 2013, the OSC delivered OSC Report 58-402 *Report to Minister of Finance and Minister Responsible for Women's Issues - Disclosure Requirements Regarding Women on Boards and in Senior Management* (the Report).

After considering the feedback from stakeholders, the OSC recommended proposing amendments to NI 58-101, specifically to Form 58-101F1. The proposed amendments would follow a "comply or explain" approach and require non-venture issuers to provide disclosure regarding the representation of women on boards and in executive officer positions. In particular, the OSC made the following seven recommendations:

Recommendation #1	Require disclosure regarding director term limits or an explanation for the absence of such limits
Recommendation #2	Require disclosure of policies regarding the representation of women on the board or an explanation for the absence of such policies
Recommendation #3	Require disclosure of the board's or nominating committee's consideration of the representation of women in the director identification and selection process or an explanation for the absence of such consideration
Recommendation #4	Require disclosure of the consideration given to the representation of women in executive officer positions when making executive officer appointments or an explanation for the absence of such consideration
Recommendation #5	Require disclosure of targets adopted regarding the representation of women on the board and in executive officer positions or an explanation for the absence of such targets
Recommendation #6	Require disclosure of the number of women on the board and in executive officer positions
Recommendation #7	Conduct a review of compliance with any new disclosure requirements after issuers have provided this disclosure for three annual reporting periods

A copy of the Report is being published concurrently with this notice and request for comment.

3. SUMMARY OF FEEDBACK RECEIVED

Through our stakeholder consultations, we identified the following key themes:

Comments generally on the OSC's proposal in the Consultation Paper
- Many stakeholders supported the OSC's "comply or explain" model of disclosure requirements in the Consultation Paper.
- Most stakeholders recognized the value of diversity on boards and in senior management and the leadership attributes that women would bring to these roles.
- Many stakeholders believed that now is an appropriate time to take action.

Comments on specific components of the model of disclosure requirements
- Many stakeholders believed that the model of disclosure requirements set out in the Consultation Paper should be expanded to require issuers to disclose their targets regarding the representation of women on boards and in senior management.

- Most stakeholders thought that the contents of an issuer's gender diversity policy should be determined by the issuer and not mandated by the OSC.

- Some stakeholders supported requiring additional disclosure regarding the practices of the board's nominating committee in identifying and selecting new board candidates.

- Many stakeholders had concerns regarding the proposal to require disclosure about whether and how adherence to a policy regarding the representation of women on boards and/or in senior management, or achieving the objectives set out in such a policy, were assessed in connection with the annual evaluation of the effectiveness of the board and the nominating committee.

- Many stakeholders believed that regular renewal of board membership contributes to the effectiveness of a board and that director term limits may promote an appropriate level of board renewal.

- Many stakeholders agreed with limiting the scope of application of the proposed new disclosure requirements regarding women on boards and in senior management to TSX-listed issuers and other non-venture issuers.

Other areas of consideration

- Many stakeholders thought that the model of disclosure requirements should apply to diversity generally, rather than focusing on the representation of women on boards and in senior management.

- There was very limited advocacy from stakeholders for introducing quotas for women on boards and/or in senior management.

A more detailed discussion of the feedback received is set out in Part 3 of the Report.

4. PURPOSE OF PROPOSED AMENDMENTS

The Proposed Amendments are intended to encourage more effective boards and better corporate decision making by requiring greater transparency for investors and other stakeholders regarding the representation of women on boards and in senior management of TSX-listed and other non-venture issuers. This transparency is intended to assist investors when making investment and voting decisions.

5. SUMMARY OF PROPOSED AMENDMENTS

After considering the feedback we received from stakeholders, we are publishing for comment the Proposed Amendments which would require non-venture issuers to provide disclosure on annual basis in the areas set out below relating to women on boards and in senior management.

A. Background on disclosure requirements in NI 58-101

Reporting issuers are required to disclose their corporate governance practices under NI 58-101.[4] The disclosure is generally set out in an annual proxy circular.

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4 Certain types of reporting issuers (for example, investment funds) are excluded from the application of NI 58-101. See section 1.3 of NI 58-101.

Distinction based on listing
NI 58-101 contains two sets of disclosure requirements which depend on the listing status of the reporting issuer. A venture issuer is defined as a reporting issuer that does not have any of its securities listed or quoted on any of the Toronto Stock Exchange, a US marketplace, or a marketplace outside of Canada and the US other than the Alternative Investment Market of the London Stock Exchange or the PLUS markets operated by PLUS Markets Group plc. All other issuers, including TSX-listed issuers, are referred to as non-venture issuers.

Disclosure requirements for non-venture issuers
Non-venture issuers are required to comply with the disclosure requirements regarding their corporate governance practices set out in Form 58-101F1. Generally speaking, it is a "comply or explain" model. These issuers must either comply with the guidelines set out in National Policy 58-201 *Corporate Governance Guidelines* or explain how they otherwise achieve the objective of the guideline.

B. Application of proposed new disclosure requirements

The Proposed Amendments would apply to all TSX-listed and other non-venture issuers reporting in Ontario.

C. "Comply or explain" disclosure model

We think that corporate governance matters can effectively and flexibly be addressed with a "comply or explain" disclosure model. As a result, the Proposed Amendments would require disclosure regarding the representation of women on boards and in executive officer positions using a "comply or explain" approach. This is consistent with existing corporate governance disclosure requirements for TSX-listed and other non-venture issuers in Form 58-101F1.

D. Use of existing definition of "executive officer"

During our consultation, we noted that "senior management" is not a defined term and can be interpreted in a number of different ways. We propose using the existing term "executive officer" in NI 58-101 for purposes of the Proposed Amendments. We believe that using the existing term provides a clear definition that is used in other disclosure requirements and that in turn will facilitate compliance.

In NI 58-101, the term "executive officer" is defined to mean:
- a chair, vice-chair or president,
- a chief executive officer or chief financial officer,
- a vice-president in charge of a principal business unit, division or function including sales, finance or production, or
- an individual performing a policy-making function in respect of the issuer.

E. Specific disclosure requirements in Proposed Amendments

Disclosure regarding director term limits or an explanation for the absence of such limits
We agree with stakeholders that regular renewal of board membership contributes to the effectiveness of a board. Director term limits can promote an appropriate level of board renewal and in doing so provide opportunities for qualified board candidates, including those who are women.

We also recognize that there is a risk of loss of director independence where a director serves many years on a board and that in turn may compromise the board's ability to effectively supervise and challenge management of the issuer. However, there are different views on the appropriate term limit for a director and that a "one size fits all" approach may not take into account the particular circumstances of each issuer and its board. As a result, we think that boards which adopt director term limits should have the flexibility to set limits which take into account their particular circumstances.

Therefore, we are not proposing mandatory director term limits. Proposed Item 10 of Form 58-101F1 would require that non-venture issuers disclose whether or not the issuer has adopted term limits for the directors on its board. If the issuer has not adopted term limits, it should explain why it has not.

Disclosure of policies regarding the representation of women on the board or an explanation for the absence of such policies

The ability to recruit qualified directors is critical to an effective board. We think that it is important to consider a broad pool of qualified directors when considering possible new board candidates. Corporate decision-making benefits from a diversity of opinions and viewpoints. This diversity is enhanced when leadership roles are filled with individuals who have different professional experience, education, skill and genders, as well as other individual qualities and attributes.

Proposed Item 11(a) of Form 58-101F1 would require that non-venture issuers disclose:

- whether the issuer has adopted a policy for the identification and nomination of women directors, or
- if the issuer has not adopted such a policy, why it has not.

If an issuer has adopted such a policy, proposed Item 11(b) of Form 58-101F1 would require the issuer to disclose:

- a short summary of its objectives and key provisions,
- the measures taken to ensure that the policy has been implemented effectively,
- annual and cumulative progress by the issuer on achieving the objectives of the policy, and
- whether and, if so how, the board or its nominating committee measures the effectiveness of the policy.

Disclosure of the board's or nominating committee's consideration of the representation of women in the director identification and selection process or an explanation for the absence of such consideration

We think that the process of board appointments should be more transparent. NI 58-101 already contains a disclosure requirement to describe the process by which the board identifies new candidates for board nominations. Issuers, however, are not generally disclosing whether the representation of women on the board is considered in the director identification and selection process in response to this requirement. In our view, issuers should disclose meaningful information about the appointment process and, in particular, how the board or nominating committee addresses gender diversity in the director identification and selection process. That disclosure should include the steps the board or the nominating committee takes to ensure that a diverse range of candidates is considered. Those steps could include, among other things, whether the issuer uses external recruitment firms for the identification of board candidates, relies on the existing board members' personal networks and whether the existing number of women on the board is a factor considered in assessing potential new board candidates.

Proposed Item 12 of Form 58-101F1 would require that non-venture issuers disclose:

- whether and, if so how, the board or nominating committee considers the level of representation of women on the board in identifying and nominating candidates for election or re-election to the board, or
- if the issuer does not consider the level of representation of women on the board in identifying and nominating candidates for election or re-election to the board, the issuer's reasons for not doing so.

Disclosure of the consideration given to the representation of women in executive officer positions when making executive officer appointments or an explanation for the absence of such consideration
A focus on diversity in employee recruitment, development and promotion can facilitate identifying, developing and promoting employees with a broad range of skills and expertise needed to execute an issuer's corporate goals. Intentionally accessing a broad pool of talent, including women, will encourage the development of a more diverse range of candidates qualified for executive officer positions, which may in turn lead to improved direction, leadership, growth and performance of reporting issuers.

We believe that investors and other stakeholders would benefit from having greater transparency into whether an issuer considers the representation of women in executive officer positions when making executive officer appointments as this may be representative of the issuer's approach to diversity more generally.

Proposed Item 13 of Form 58-101F1 would require that non-venture issuers disclose:
- whether and, if so how, the issuer considers the level of representation of women in executive officer positions when making executive officer appointments, or
- if the issuer does not consider the level of representation of women in executive officer positions when making executive officer appointments, the issuer's reasons for not doing so.

Disclosure of targets adopted regarding the representation of women on the board and in executive officer positions or an explanation for the absence of such targets
We agree with stakeholders that aspirational targets adopted by issuers can result in a higher level of representation of women on boards and in executive officer positions. We also believe that it is the interest of issuers to set their own targets so that they can effect change through means best suited to their particular circumstances. In our view, a "target" would mean a number or percentage, or a range of numbers and percentages, adopted by the issuer, of women on the issuer's board or in executive officer positions of the issuer by a specific date. Proposed Item 14(a) of Form 58-101F1 incorporates this definition of a "target".

Transparency regarding the targets set by issuers to investors and other stakeholders will provide for some level of accountability by issuers and that in turn may result in measurable change in the levels of representation of women on boards and in executive officer positions.

Proposed Item 14(b) of Form 58-101F1 would require non-venture issuers to disclose whether the issuer has adopted target(s) regarding women on the issuer's board and if not, why it has not.

Proposed Item 14 (c) of Form 58-101F1 would require non-venture issuers to disclose whether the issuer has adopted target(s) regarding women in executive officer positions of the issuer and if not, why it has not.

If the issuer has adopted target(s) referred to in either proposed Item 14(b) or (c) of Form 58-101F1, proposed Item 14(d) of Form 58-101F1 would require non-venture issuers to disclose the annual and cumulative progress of the issuer in achieving its target(s).

Disclosure of the number of women on the board and in executive officer positions
We agree with stakeholders that measurement is a critical component of our proposed disclosure model as reporting on an issuer's gender diversity profile can be an indication of the effectiveness of the policies and strategies referred to above and facilitates accountability by the issuer. This type of reporting also provides greater transparency to investors and other stakeholders and enables them to make comparisons among issuers.

Proposed Item 15 of Form 58-101F1 would require that non-venture issuers disclose:
- the number and proportion (in percentage terms) of directors on the issuer's board who are women, and
- the number and proportion (in percentage terms) of executive officers (as defined above) of the issuer, including all subsidiary entities of the issuer, who are women.

The Proposed Amendments also include an amendment to the Instructions to Form 58-101F1 to permit issuers to disclose any additional information that is relevant in order to understand the context of the information provided in response to proposed Item 15 of Form 58-101F1.

See Appendix A for the text of the Proposed Amendments.

Specific requests for comment

We would appreciate feedback on the Proposed Amendments generally as well as on the following questions:

1. **Are the scope and content of the Proposed Amendments appropriate? Are there additional or different disclosure requirements that should be considered? Please explain.**

2. **Should the Proposed Amendments be phased in, with only larger non-venture issuers being required to comply with them initially? If so, which issuers should be required to comply with the Proposed Amendments initially? Should the test be based on an issuer's market capitalization or index membership? When should smaller non-venture issuers be required to comply with the Proposed Amendments?**

3. **Do you agree that the Proposed Amendments requiring non-venture issuers to provide disclosure regarding term limits will encourage an appropriate level of board renewal?**

4. **In support of disclosure regarding director term limits, should there be greater transparency regarding the number of new directors appointed to an issuer's board and whether those new appointees are women? Specifically, should there be an additional disclosure requirement that non-venture issuers disclose: (i) the number of new directors appointed to the issuer's board at its last annual general meeting and (ii) of these new appointments, how many were women?**

5. **Item 11 of the Proposed Amendments requires disclosure of policies regarding the representation of women on the board or an explanation for the absence of such policies. The term "policy" can be interpreted broadly. Should the proposed disclosure item explicitly indicate that the term "policy" can include both formal written policies and informal unwritten policies? What are the challenges for non-venture issuers reporting publicly on informal unwritten policies adopted by their boards?**

6. ALTERNATIVES CONSIDERED

Based on the mandate and scope of this project, the focus of our review and consultation was limited to considering a "comply or explain" disclosure regime for TSX-listed issuers relating to board and senior management gender diversity policies and practices.

We note that the model of disclosure requirements set out in the Consultation Paper did not include requirements to disclose:

- whether the issuer has adopted term limits for the directors on its board, nor
- whether the issuer has adopted targets regarding the number or proportion of women on its board or in executive officer positions of the issuer.

As noted in Part 3 of this notice and request for comment, we received significant positive stakeholder feedback for disclosure of this information and have therefore included additional disclosure requirements in the Proposed Amendments to respond to stakeholder comments. See proposed Items 10 and 14 of Form 58-101F1.

We also note that the Consultation Paper did not impose any requirements for issuers to have a specified quota of women on boards and/or in senior management. We received very limited advocacy from stakeholders for introducing quotas for women on boards and/or in senior management. The Proposed Amendments do not include any requirements for issuers to adopt such quotas.

7. RELATED INSTRUMENTS

The Proposed Amendments are related to the following Instruments and Policy:

- National Instrument 51-102 *Continuous Disclosure Obligations*,
- National Instrument 58-101 *Disclosure of Corporate Governance Practices*, and
- National Policy 58-201 *Corporate Governance Guidelines*.

8. ANTCIPATED COSTS AND BENEFITS

There are two primary sets of stakeholders that will be affected by the Proposed Amendments.

TSX-listed and other non-venture issuers
TSX-listed and other non-venture issuers will be subject to additional corporate governance disclosure requirements than they are currently, which may result in higher compliance costs. However, we do not expect the increase in compliance costs to be significant.

The Proposed Amendments will provide greater transparency regarding the representation of women on boards and in executive officer positions. We anticipate that the benefits of such transparency will exceed the cost for issuers to provide the disclosure required under the Proposed Amendments.

Investors
The disclosures contemplated by the Proposed Amendments are intended to provide investors and other stakeholders with information on the issuer's approach to advancing the representation of women on boards and in senior management, which in turn may assist investors in making investment and voting decisions.

9. RELIANCE ON UNPUBLISHED MATERIALS

In developing the Proposed Amendments, we did not rely upon any significant unpublished study, report or other written materials.

10. AUTHORITY FOR AMENDMENTS

The following provisions of the *Securities Act* (Ontario) (the Act) provide the Ontario Securities Commission (the OSC) with the authority to adopt the Proposed Amendments.

- Paragraph 143(1)22 of the Act authorizes the OSC to make rules prescribing requirements in respect of the preparation and dissemination and other use, by reporting issuers, of documents providing for continuous disclosure that are in addition to the requirements under the Act, including requirements in respect of, (i) an annual report, (ii) an annual information form, and (iii) supplemental analysis of financial statements.

- Paragraph 143(1)39 of the Act authorizes the OSC to make rules requiring or respecting the media, format, preparation, form, content, execution, certification, dissemination and other use, filing and review of all documents required under or governed by the Act, the regulations or the rules and all documents determined by the regulations or the rules to be ancillary to the documents, including, (i) applications for registration and other purposes, (ii) preliminary prospectuses and prospectuses, (iii) interim financial statements and financial statements, (iv) proxies and information circulars, and (v) take-over bid circulars, issuer bid circulars and directors' circulars.

11. HOW TO PROVIDE FEEDBACK

We invite interested parties to make written submissions on the Proposed Amendments. You must submit your comments in writing by **April 16, 2014**. If you are sending your comments by email, you should also send an electronic file containing the submissions in Microsoft Word.

Please address and send your comments to the address below:

The Secretary
Ontario Securities Commission
20 Queen Street West
22nd Floor
Toronto, Ontario M5H 3S8
Fax: 416-593-2318
Email: comments@osc.gov.on.ca

Please note that all comments received during the comment period will be made publicly available. We will post all comments received during the comment period to the Ontario Securities Commission website at www.osc.gov.on.ca to improve the transparency of the policy-making process.

In addition to considering the comments received during the comment period, we will also take into account the comments submitted in respect of the Consultation Paper.

12. QUESTIONS

Please refer your questions to any of the following staff:

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January 16, 2014.

APPENDIX A

AMENDMENT INSTRUMENT
FOR
FORM 58-101F1 *CORPORATE GOVERNANCE DISCLOSURE*

1. **Form 58-101F1 *Corporate Governance Disclosure* is amended by this Instrument.**

2. **Form 58-101F1 is amended by adding the following after Item 9:**

10. *Term limits* (Ontario only) – Disclose whether or not the issuer has adopted term limits for the directors on its board. If the issuer has not adopted term limits, disclose why it has not.

11. *Policies regarding the representation of women on the board* (Ontario only) –

(a) Disclose whether the issuer has adopted a policy for the identification and nomination of women directors. If the issuer has not adopted such a policy, disclose why it has not.

(b) If an issuer has adopted a policy referred to in (a), disclose the following in respect of the policy:
(i) a short summary of its objectives and key provisions,
(ii) the measures taken to ensure that the policy has been implemented effectively,
(iii) annual and cumulative progress by the issuer on achieving the objectives of the policy, and
(iv) whether and, if so how, the board or its nominating committee measures the effectiveness of the policy.

12. *Consideration of the representation of women in the director identification and selection process* (Ontario only) – Disclose whether and, if so how, the board or nominating committee considers the level of representation of women on the board in identifying and nominating candidates for election or re-election to the board. If the issuer does not consider the level of representation of women on the board in identifying and nominating candidates for election or re-election to the board, disclose the issuer's reasons for not doing so.

13. *Consideration given to the representation of women in executive officer appointments* (Ontario only) – Disclose whether and, if so how, the issuer considers the level of representation of women in executive officer positions when making executive officer appointments. If the issuer does not consider the level of representation of women in executive officer positions when making executive officer appointments, disclose the issuer's reasons for not doing so.

14. *Issuer's targets regarding the representation of women on the board and in executive officer positions* (Ontario only) –

(a) For purposes of this Item, a "target" means a number or percentage, or a range of numbers and percentages, adopted by the issuer of women on the issuer's board or in executive officer positions of the issuer by a specific date.

(b) Disclose whether the issuer has adopted target(s) regarding women on the issuer's board. If the issuer has not adopted such target(s), disclose why it has not.

(c) Disclose whether the issuer has adopted target(s) regarding women in executive officer positions of the issuer. If the issuer has not adopted such target(s), disclose why it has not.

(d) If the issuer has adopted target(s) referred to in either Item 14(b) or (c), disclose the annual and cumulative progress of the issuer in achieving its target(s).

15. Number of women on the board and in executive officer positions (Ontario only) –

(a) Disclose the number and proportion (in percentage terms) of directors on the issuer's board who are women.

(b) Disclose the number and proportion (in percentage terms) of executive officers of the issuer, including all subsidiary entities of the issuer, who are women.

3. **Form 58-101F1 is amended by adding the following after the paragraph 3.1 in the Instructions:**

(4) An issuer may disclose any additional information that is relevant in order to understand the context of the information disclosed by the issuer under Item 15(a) or (b) of this Form.

(5) An issuer may incorporate information required to be disclosed under Items 10 to 15 by reference to another document. The issuer must clearly identify the reference document or any excerpt of it that the issuer incorporates into the disclosure provided under Items 10 to 15. Unless the issuer has already filed the reference document or excerpt under its SEDAR profile, the issuer must file it at the same time as it files the document containing the disclosure required under this Form.

4. **This Instrument only applies to disclosure required to be prepared under Part 2 of National Instrument 58-101 *Disclosure of Corporate Governance Practices* and included in documents required to be prepared, filed, delivered or sent under National Instrument 51-102 *Continuous Disclosure Obligations* for periods relating to financial years ending on or after •.**

5. **This Instrument comes into force on •.**

OSC REPORT 58-402

REPORT TO MINISTER OF FINANCE AND MINISTER RESPONSIBLE FOR WOMEN'S ISSUES
DISCLOSURE REQUIREMENTS REGARDING WOMEN ON BOARDS AND IN SENIOR MANAGEMENT

December 18, 2013

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EXECUTIVE SUMMARY

This is a report of the Ontario Securities Commission (OSC or we) to the Minister of Finance and the Minister Responsible for Women's Issues on disclosure requirements regarding women on boards and in senior management of TSX-listed and other non-venture issuers.

OSC's mandate and project scope

On May 2, 2013, the Ontario government delivered its budget. Among other things, the budget highlighted the government's support for broader gender diversity on the boards and in senior management of major businesses. The budget stated that, in conjunction with others, including the OSC, the government will consider the best way for firms to disclose their approaches to gender diversity, with a view to increasing the participation of women on boards and in senior management.

In support of the objective set out in the budget, on June 14, 2013, the Minister of Finance, Charles Sousa, and the then Minister Responsible for Women's Issues, Laurel Broten, requested that the OSC:

- undertake a review and public consultation process over the summer considering a "comply or explain" disclosure regime for reporting issuers listed on the TSX relating to board and senior management gender diversity policies and practices, and
- provide recommendations regarding specific disclosure requirements for TSX-listed issuers and best practices for this type of approach to gender diversity by fall.

Consultation

OSC staff developed a proposed model of disclosure requirements for non-venture issuers (other than investment funds) which would have required them to provide disclosure regarding the representation of women on boards and in senior management. The model followed a "comply or explain" approach, which would allow issuers to develop policies and practices regarding the representation of women that were tailored to their particular circumstances. The model did not impose any requirements for issuers to have a specified quota of women on boards and/or in senior management.

OSC staff consulted with stakeholders on the model of disclosure requirements through three primary channels.

Channel	Consultation process
Consultation Paper	On July 30, 2013, OSC staff published OSC Staff Consultation Paper 58-401 *Disclosure Requirements Regarding Women on Boards and in Senior Management* (the Consultation Paper) for an approximately 60-day comment period. The comment period closed on October 4, 2013 and we received 92 comment letters from a variety of stakeholders.
Roundtable and other stakeholder events	On October 16, 2013, the OSC convened a public roundtable to discuss the model of disclosure requirements set out in the Consultation Paper. The roundtable was moderated by OSC Chair Howard Wetston, OSC Executive Director Maureen Jensen and OSC Vice-Chair Mary Condon. Approximately 120 people attended the roundtable. In addition, OSC staff consulted with the OSC's Securities Advisory Committee and participated in events held by other organizations.

Channel	Consultation process
Survey of TSX-listed issuers	On November 5, 2013, OSC staff issued a survey to approximately 1,000 TSX-listed issuers regarding gender diversity. In particular, the survey asked questions regarding: • the representation of women on boards and in senior management of the issuer, • the issuer's adoption of any diversity policies, and • the implementation and measurement of effectiveness of any such diversity policies. We received 448 responses to the survey.

Recommendations

Objectives
The recommendations in this report are intended to encourage more effective boards and better corporate decision making by requiring greater transparency for investors and other stakeholders regarding the representation of women on boards and in senior management of non-venture issuers. This transparency is intended to assist investors when making investment and voting decisions.

Recommendations
After considering the feedback from stakeholders, we recommend that the OSC publish for comment proposed amendments to National Instrument 58-101 *Disclosure of Corporate Governance Practices* (the Corporate Governance Disclosure Rule). The proposed disclosure requirements would follow a "comply or explain" approach and require non-venture issuers to provide disclosure regarding the representation of women on boards and in executive officer positions. In particular, we are making the following seven recommendations regarding the proposed disclosure requirements:

Recommendation #1	Require disclosure regarding director term limits or an explanation for the absence of such limits
Recommendation #2	Require disclosure of policies regarding the representation of women on the board or an explanation for the absence of such policies
Recommendation #3	Require disclosure of the board's or nominating committee's consideration of the representation of women in the director identification and selection process or an explanation for the absence of such consideration
Recommendation #4	Require disclosure of the consideration given to the representation of women in executive officer positions when making executive officer appointments or an explanation for the absence of such consideration
Recommendation #5	Require disclosure of targets adopted regarding the representation of women on the board and in executive officer positions or an explanation for the absence of such targets
Recommendation #6	Require disclosure of the number of women on the board and in executive officer positions
Recommendation #7	Conduct a review of compliance with any new disclosure requirements after issuers have provided this disclosure for three annual reporting periods

1. INTRODUCTION

This is a report of the OSC to the Minister of Finance and the Minister Responsible for Women's Issues on disclosure requirements regarding women on boards and in senior management of TSX-listed and other non-venture issuers.

Structure of report
This report is structured as follows:

- Part 1 discusses the OSC's mandate, project scope and the consultation and review process undertaken.
- Part 2 summarizes the current corporate governance framework under Ontario securities legislation.
- Part 3 discusses the key themes identified from our consultation and review process.
- Part 4 sets out our recommendations for future courses of action.

1.1 OSC's mandate and project scope

Ontario government initiative
On May 2, 2013, the Ontario government delivered its budget which included the following statement:

> The government strongly supports broader gender diversity on the boards and in senior management of major businesses, not-for-profit firms and other large organizations. In conjunction with others, including the OSC, the government will consider the best way for issuers to disclose their approaches to gender diversity, with a view to increasing the participation of women on boards and in senior management.

Request for OSC to undertake consultation
On June 14, 2013, the Minister of Finance, Charles Sousa, and the then Minister Responsible for Women's Issues, Laurel Broten, requested that the OSC undertake a public consultation process regarding disclosure requirements for gender diversity.

Specifically, they requested that the OSC:

- undertake a review and public consultation process over the summer considering a "comply or explain" disclosure regime for reporting issuers listed on the TSX relating to board and senior management gender diversity policies and practices, and
- provide recommendations regarding specific disclosure requirements for TSX-listed issuers and best practices for this type of approach to gender diversity by fall.

Consistent with existing requirements relating to the disclosure of corporate governance practices, the focus is on TSX-listed and other non-venture issuers due to concerns about the potential regulatory burden on reporting issuers listed on the TSX Venture Exchange.

1.2 OSC's consultation process

Consultation paper published on July 30, 2013
On July 30, 2013, OSC staff published the Consultation Paper (OSC Staff Consultation Paper 58-401 *Disclosure Requirements Regarding Women on Boards and in Senior Management*) for an approximately 60-day comment period.

The Consultation Paper set out a model of disclosure requirements for TSX-listed and other non-venture issuers (other than investment funds) which would have required them to provide disclosure on an annual basis in the following four areas:

- policies regarding the representation of women on the board and in senior management,
- consideration of the representation of women in the director selection process,
- consideration of the representation of women in the board evaluation process, and
- measurement regarding the representation of women in the organization and specifically on the board and in senior management.

The model of disclosure requirements followed a "comply or explain" approach. For example, the model contemplated an issuer either:

- confirming that it had a policy regarding the representation of women on the board or in senior management and providing details regarding the policy, or
- if the issuer did not have such a policy, explaining why not and identifying any risks or opportunity costs associated with the decision not to have such a policy.

The model did not impose any requirements for issuers to have a specified quota of women on boards and/or in senior management.

The purpose of the Consultation Paper was to seek feedback from investors, issuers, other market participants and advisors on the proposed model of disclosure requirements to inform our recommendations to the Minister of Finance and Minister Responsible for Women's Issues. The recommendations would in turn inform both government policy development and possible OSC rule-making as the government of Ontario moves forward with enhanced gender diversity disclosure to facilitate an increase in the participation of women on the boards and in senior management of TSX-listed issuers.

The comment period closed on October 4, 2013 and we received 92 comment letters from a variety of stakeholders. We thank everyone who commented. A high level summary of the comments is set out in Part 3 of this report. In addition, the comment letters are available on the OSC's website at: http://www.osc.gov.on.ca/en/41443.htm

Roundtable discussion held on October 16, 2013

On October 16, 2013, the OSC convened a public roundtable to discuss the model of disclosure requirements set out in the Consultation Paper. The roundtable was moderated by Chair Howard Wetston, Executive Director Maureen Jensen and Vice-Chair Mary Condon. It included the following external panellists: Aaron Dhir (Osgoode Hall Law School), Pamela Jeffery (Canadian Board Diversity Council), Alex Johnston (Catalyst Canada), Éric Lamarre (McKinsey & Company Canada), Jim Leech (Ontario Teachers' Pension Plan), Stan Magidson (Institute of Corporate Directors), Kathleen Taylor (Royal Bank of Canada) and Annette Verschuren (NRStor Inc. and Cape Breton University).

Approximately 120 people attended the roundtable. A transcript of the roundtable can be found on the OSC's website at: http://www.osc.gov.on.ca/en/SecuritiesLaw_oth_20131016_58-401_transcript.htm

Other consultations

In addition to the roundtable, OSC staff consulted with the OSC's Securities Advisory Committee and participated in events held by other organizations, including the Canadian Board Diversity Council, the Institute of Corporate Directors, Women in Capital Markets, Women's Executive Network and the University of Toronto.

The feedback received from the consultation process has been incorporated into our recommendations to the Ministers.

1.3 OSC's review process

Survey of TSX-listed issuers
On November 5, 2013, OSC staff issued a survey to approximately 1,000 TSX-listed issuers regarding gender diversity. In particular, the survey asked questions regarding:

- the representation of women on boards and in senior management of the issuer,
- the issuer's adoption of any diversity policies, and
- the implementation and measurement of effectiveness of any such diversity policies.

We received 448 responses to the survey, translating to an approximately 45% response rate. The issuers that responded to the survey had a range of market capitalizations, with 29% having a market capitalization of less than $75 million and 26% having a market capitalization of $1 billion or more. The issuers also were from a range of industries, with 26% being from the diversified metals and mining industry, 17% being from the energy industry and 9% being from the financial industry.

The following is a high-level summary of the survey results based on the information provided by the respondents.

Subject of survey questions	Survey responses
Representation of women on the board and in executive officer positions	**The level of representation of women on boards and in executive officer positions at the respondents was low.** <u>Board</u> • 57% of respondents have no women directors, 28% have 1 women director and 3% have 3 women directors. • Only 3 issuers who responded have women representing 50% or more of their board membership. • In addition, only 3% of respondents have a woman chair of the board and 3% of respondents have a woman lead director. <u>Executive officer positions</u> • 53% of respondents indicate that women hold less than 10% of their executive officer positions.
Transparency regarding the representation of women	**The level of transparency regarding the representation of women by the respondents was low.** • 88% of the respondents do not publicly disclose the proportion of women employees in the whole organization. • 80% of the respondents do not publicly disclose the proportion of women in executive officer positions. • 61% of the respondents do not publicly disclose the proportion of women on the board.
Director term limits	**Most respondents did not have a policy regarding director term limits.** • 82% of respondents do not currently have a policy regarding term limits for their directors.

Subject of survey questions	Survey responses
New board appointees	**The level of director turnover at the respondents within the last year appeared to be low.** • 60% of respondents did not appoint any new directors at their last annual general meeting. • Of the respondents who did appoint new directors, 88% of the new directors were men.
Board policies	**Most respondents did not have a policy regarding the identification and nomination of women directors.** • 91% of respondents do not have a policy for the identification and nomination of women directors.
Talent management strategies	**Many respondents did not have a talent management strategy.** • 74% of respondents do not have a talent management strategy that demonstrates a commitment to diversity generally and which includes consideration of the representation of women in executive officer positions.
Implementation and assessment of effectiveness of policies and strategies	**A small proportion of the respondents who had either a board policy or a talent management strategy have procedures in place to ensure that the policy or strategy is implemented and its effectiveness is regularly assessed.** • 14% of the respondents with such a policy or strategy have procedures to ensure that it is implemented. • 15% of the respondents with such a policy or strategy regularly assess its effectiveness.
Targets	**Most of the respondents have not adopted targets regarding the representation of women on boards or in executive officer positions.** • 94% of respondents have not adopted a target regarding the representation of women on its board by a specific date. • 94% of respondents have not adopted a target regarding the representation of women in executive officer positions by a specific date.

Other areas of review
In addition to consulting with stakeholders, OSC staff reviewed:

- disclosure requirements regarding diversity in the U.S., U.K., Australia and other jurisdictions,
- voluntary initiatives regarding the advancement of women on boards and in senior management, and
- relevant academic and other research.

2. CURRENT CORPORATE GOVERNANCE FRAMEWORK

As noted in the Consultation Paper, the OSC's corporate governance framework is comprised of two main components:

- guidelines regarding corporate governance practices, and
- disclosure requirements regarding corporate governance practices.

2.1 Corporate governance guidelines

National Policy 58-201 *Corporate Governance Guidelines* (the Corporate Governance Policy) contains guidelines for corporate governance practices of reporting issuers (other than investment funds). The guidelines are not intended to be prescriptive, but rather reporting issuers are encouraged to consider the guidelines in developing their own corporate governance practices that are tailored to their particular circumstances.

The guidelines largely focus on certain attributes of an issuer's board of directors:

- director independence,
- the board mandate and responsibilities, and
- the composition and responsibilities of board committees.

2.2 Corporate governance disclosure requirements

Reporting issuers are required to disclose their corporate governance practices under the Corporate Governance Disclosure Rule.[1] The disclosure is generally set out in an annual proxy circular.

Distinction based on listing of securities
The Corporate Governance Disclosure Rule contains two sets of disclosure requirements which depend on the listing status of the reporting issuer.

A venture issuer is defined as a reporting issuer that does not have any of its securities listed or quoted on any of the Toronto Stock Exchange, a US marketplace, or a marketplace outside of Canada and the US other than the Alternative Investment Market of the London Stock Exchange or the PLUS markets operated by PLUS Markets Group plc. All other issuers are referred to as non-venture issuers.

- **Non-venture issuers** - Non-venture issuers are required to comply with the disclosure requirements regarding their corporate governance practices set out in Form 58-101F1 *Corporate Governance Disclosure*. Generally speaking, it is a "comply or explain" model. These issuers must either comply with the guidelines set out in the Corporate Governance Policy or explain how they otherwise achieve the objective of the guideline.

- **Venture issuers** - Venture issuers are required to comply with the disclosure requirements regarding their corporate governance practices set out in Form 58-101F2 *Corporate Governance Disclosure (Venture Issuers)*. The disclosure requirements are generally less extensive than those for non-venture issuers. Venture issuers must disclose their corporate governance practices in areas addressed by the guidelines set out in the Corporate Governance Policy, but they are not required to compare their practices against the guidelines.

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[1] Certain types of reporting issuers (for example, investment funds) are excluded from the application of the Corporate Governance Disclosure Rule. See section 1.3 of the Corporate Governance Disclosure Rule.

2.3 Guidelines and disclosure requirement relevant to diversity

Guidelines
Currently, there is no guideline in the Corporate Governance Policy that explicitly addresses the representation of women on boards and in senior management. However, there are guidelines that may have some relevance for board diversity.

In particular, the Corporate Governance Policy states that prior to nominating or appointing individuals as directors, the board should adopt a process involving the following steps:

- consider what competencies and skills the board, as a whole, should possess, and
- assess what competencies and skills each existing director possesses.

Disclosure requirement
Currently, reporting issuers are not required to explicitly disclose the percentage of women on their boards or in senior management or their policies on gender diversity.

Reporting issuers are, however, required to describe the process by which the board identifies new candidates for board nominations under the Corporate Governance Disclosure Rule. Refer to item 6(a) of Form 58-101F1 and item 5(ii) of Form 58-101F2.

On December 2, 2010, certain members of the Canadian Securities Administrators (the CSA) published CSA Staff Notice 58-306 *2010 Corporate Governance Disclosure Compliance Review*, in which it provided guidance on this disclosure requirement. CSA staff indicated that, when preparing this disclosure, issuers should consider whether the board considers diversity of experience, background and views when considering a candidate for appointment or election to the board.

3. KEY THEMES IDENTIFIED FROM REVIEW

Through our stakeholder consultations, we identified a number of key themes, which we have grouped into the following categories below:

- comments generally on the OSC proposal,
- comments on specific components of the model of disclosure requirements, and
- other areas of consideration.

3.1 Comments generally on the OSC proposal

Many stakeholders supported the OSC's "comply or explain" model of disclosure requirements in the Consultation Paper.

Many stakeholders agreed with the OSC's decision to not impose any requirements for issuers to have a specified quota of women on boards and/or in senior management. Instead, they indicated the "comply or explain" model of disclosure requirements was an appropriate approach for addressing the representation of women on boards and in senior management. Stakeholders thought that the model would:

- provide greater transparency for investors, which in turn would enable them to make more informed voting and investment decisions, and
- allow investors and other stakeholders to measure progress in this area over time.

This approach would also afford issuers flexibility in determining the manner in which they address the representation of women on their boards and in senior management to take into account their particular circumstances. A recent TD Economics report suggests that other jurisdictions which have adopted a "comply or explain" approach in this area, such as Finland and Australia, appear to be achieving measurable change in terms of improving the representation of women on boards and in senior management.[2] However, other stakeholders have questioned whether a "comply or explain" approach will result in meaningful change in the near to mid term.

Many stakeholders also agreed with limiting the scope of application of the proposed new disclosure requirements regarding women on boards and in senior management to TSX-listed issuers and other non-venture issuers at this time. Some stakeholders noted that this would provide an opportunity for TSX-listed issuers and other non-venture issuers to be leaders in this area.

While most stakeholders were supportive of adopting a "comply or explain" disclosure model, a limited number of stakeholders did not think that disclosure alone was sufficient to achieve measurable change. These stakeholders recommended mandatory quotas for women on boards and/or in senior management of TSX-listed issuers. Please see section 3.3 below.

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[2] TD Economics, *Get On Board Corporate Canada* (March 7, 2013), online: <http://www.td.com/document/PDF/economics/special/GetOnBoardCorporateCanada.pdf>.

Most stakeholders recognized the value of diversity on boards and in senior management and the leadership attributes that women would bring to these roles.

Most stakeholders agreed that the "business case" for having women on boards and in senior management has been successfully established. They believed that diversity promotes stronger "organizational health" leading to improved direction, leadership, growth and performance of reporting issuers. Some stakeholders thought that Canada's relatively lower productivity, competitiveness and innovation levels may be directly linked to the underutilization of women who represent 50% of the workforce.

Stakeholders validated studies demonstrating that women and men have complementary but different leadership attributes. For example, McKinsey & Company published *Women as a Valuable Asset* in April 2012.[3] It states:

> In order to define what causes a positive correlation between the proportion of women in the top management and organizational and financial performance of the companies, McKinsey conducted a survey of approximately 800 executives of companies from different countries in 2009. It turned out that certain leadership behaviors that allow companies to achieve success in the post-crisis environment are typical of men, while the other leadership behaviors are more characteristic of women. And only a combination of different leadership behaviors contributes to balanced development of a company.

Most stakeholders agreed that having a diversity of views and avoiding "group think" at the board and in senior management represent good corporate governance practices.

Many stakeholders believed that now is an appropriate time to take action.

Many stakeholders noted that the low level of representation of women on boards and in senior management of reporting issuers has been an issue for many years and any attempts to address this issue have had little impact to date. Stakeholders commented that the current voluntary approach to addressing these issues has not been effective.

International studies show that Canada's performance regarding the representation of women on boards and in senior management of reporting issuers has been lagging behind other countries. For example, the GMI index, which is a comprehensive international survey of 4,300 companies in 45 countries around the globe, ranked Canada 6th in 2009 and 2010 in terms of gender diversity on boards, but in 2011 Canada's standing declined to 9th position.[4]

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[3] McKinsey & Company, *Women as a Valuable Asset* (April, 2012), online: <http://www.mckinsey.com/client_service/infrastructure/people/~/media/mckinsey%20offices/russia/pdfs/women_as_a_valuable%20asset_eng.ashx>.

[4] TD Economics, *supra* note 2.

In addition, stakeholders highlighted the following:

<u>Directors</u>

- In 2011, 10.3% of directors of public companies were women, which represents a zero increase from 2009. [5] In addition, in 2011, women represented only 10.9% of board members of companies on the S&P/TSX Composite index.[6]
- 43% of companies on the S&P/TSX Composite index did not have a single female board member and 28% had only one female board member.[7]

<u>Senior management</u>

- In 2012, women held 18.1% of senior officer positions (as compared to 17.7% in 2010) and, specifically, held 15% of those positions in public companies in 2012 (as compared to 14.3% in 2010). [8]
- Although nearly one-third of companies have 25% or more women senior officers, nearly another one-third continue to have no women senior officers.[9] In particular, 35.9% of public companies had no women senior officers in 2012.[10]

At the roundtable, the representative from the Canadian Board Diversity Council stated that, based on their analysis, women will not have equal representation in the boardroom until 2097 at the current rate of progress. Similarly, the representative from Catalyst Canada noted that it will take approximately two decades at the current rate of progress to achieve the target of 25% of women directors at FP500 public companies. That target could be achieved within five years if approximately 90 new women directors were appointed each year (subject to the number of current women directors remaining).

There was consistent acknowledgement by stakeholders that disclosure regarding the representation of women on boards and in senior management would serve as a catalyst for change.

3.2 Comments on specific components of the model of disclosure requirements

Many stakeholders believed that the model of disclosure requirements set out in the Consultation Paper should be expanded to require issuers to disclose their targets regarding the representation of women on boards and in senior management.

Many stakeholders believed that issuers should be required to disclose their targets for women on boards and in senior management or explain why they have not set targets. Many of these stakeholders also thought that issuers should be required to disclose their annual and cumulative progress towards meeting these targets.

Stakeholders noted that the disclosure of specific targets would facilitate the advancement of women on boards and in senior management by providing greater transparency.

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5 Catalyst, *2011 Catalyst Census: Financial Post 500 Women Board Directors* (March 8, 2012), online: <http://www.catalyst.org/knowledge/2011-catalyst-census-financial-post-500-women-board-directors>.

6 TD Economics, *supra* note 2.

7 *Ibid.*

8 Catalyst, *2012 Catalyst Census: Financial Post 500 Women Senior Officers and Top Earners* (February 19, 2013), online: <http://www.catalyst.org/knowledge/2012-catalyst-census-financial-post-500-women-senior-officers-and-top-earners>.

9 *Ibid.*

10 *Ibid.*

In addition, some stakeholders noted that the disclosure of targets was required in other jurisdictions. For example, under the *ASX Corporate Governance Council Principles and Recommendations*, companies should disclose in each annual report the measurable objectives for achieving gender diversity set by the board in accordance with its diversity policy and progress towards achieving them or explain why it has not done so.

These stakeholders acknowledged that the model of disclosure requirements set out in the Consultation Paper contemplated an issuer disclosing measurable objectives of any policy regarding the representation of women on the board and in senior management, as well as annual and cumulative progress by the issuer on achieving the objectives of the policy and where the objectives were measurable, the progress in quantitative terms. While many of these stakeholders expressed support for this requirement, they believed that it needed to be expanded to include an explicit requirement regarding the disclosure of targets.

Most stakeholders thought that the contents of an issuer's gender diversity policy should be determined by the issuer and not mandated by the OSC.

Stakeholders noted that in the model of disclosure requirements set out in the Consultation Paper, if an issuer had adopted a policy regarding the representation of women on boards and in senior management, the issuer would be required to disclose the key provisions of the policy or the policy itself. The model of disclosure requirements did not mandate or recommend any specific provisions to be included in the policy. Rather it was to be left to the issuer to determine the content of the policy.

Most stakeholders believed that this approach is consistent with the existing principles based approach to corporate governance. They noted that this flexibility would enable issuers to create diversity policies and set targets tailored to their particular circumstances. Some stakeholders suggested that setting out guidelines or best practices for diversity policies may be helpful.

Some stakeholders supported requiring additional disclosure regarding the practices of the board's nominating committee in identifying and selecting new board candidates.

The model of disclosure requirements set out in the Consultation Paper contemplated requiring disclosure of whether, and if so how, the board or its nominating committee considers the level of representation of women on the board in identifying and nominating candidates for election or re-election to the board. If the issuer does not take the representation of women into account in this process, the issuer would have been required to explain why not and identify any risks or opportunity costs associated with the decision not to do so.

Some stakeholders supported expanding on this disclosure requirement by mandating disclosure regarding:
- whether the use of search firms was considered by the nominating committee to find board candidates, including women, who are not already part of the existing directors' personal networks, and/or
- any competency and skills matrix developed by the board or nominating committee and whether gender diversity is identified in that matrix.

Many stakeholders had concerns regarding the proposal to require disclosure about whether and how adherence to a policy regarding the representation of women on boards and/or in senior management, or achieving the objectives set out in such a policy, were assessed in connection with the annual evaluation of the effectiveness of the board and the nominating committee.

Stakeholders noted that an issuer is currently required to disclose whether the board, its committees and individual directors are regularly assessed with respect to their effectiveness and contribution, and if no assessments are regularly conducted, the issuer must describe how effectiveness is assessed.

There was very limited support from stakeholders for expanding on this disclosure requirement. Many stakeholders noted that board evaluations need to be candid, open and honest and, if any aspects of the evaluation are disclosed, the usefulness of the assessment process would be compromised.

Many stakeholders believed that regular renewal of board membership contributes to the effectiveness of a board and that director term limits may promote an appropriate level of board renewal.

Stakeholders noted the importance of board renewal and identified concerns regarding the potential loss of independence when directors are not subject to any term limits. They believed that the lack of board renewal may negatively impact the board's effectiveness.

Some stakeholders also noted that more frequent turnover of directors would create greater opportunities for others, including women, seeking these positions.

A few stakeholders suggested imposing mandatory term limits on directors. However, other stakeholders believed that it would be more appropriate to require issuers to disclose whether they have adopted a policy regarding term limits for the directors on their boards.

3.3 Other areas of consideration

Many stakeholders thought that the model of disclosure requirements should apply to diversity generally, rather than focusing on the representation of women on boards and in senior management.

Many stakeholders thought that issuers should consider diversity more generally, rather than focusing on the representation of women on boards and in senior management. However, many of these stakeholders also acknowledged that it was appropriate to limit the measurement disclosure requirements to the number of women on the board and in senior management of an issuer at this time.

There was very limited advocacy from stakeholders for introducing quotas for women on boards and/or in senior management.

A limited number of stakeholders recommended mandatory quotas for women on boards and in senior management. For example, one stakeholder suggested that TSX-listed issuers should be required to have at least three women on their board within a specified timeframe or face delisting from the TSX. The stakeholders who advocated for quotas took the view that disclosure regarding gender diversity in leadership roles is unlikely to increase the representation of women on boards and in senior management significantly or in the near term and suggested that a "comply or explain" disclosure-based approach may not be sufficiently effective in achieving a meaningful increase in these numbers.

The model set out in the Consultation Paper did <u>not</u> impose any requirements for issuers to have a specified quota of women on boards and/or in senior management. Rather, it was a "comply or explain" disclosure model that would have required issuers to provide disclosure regarding the representation of women on the board and in senior management.

Some stakeholders believed that a “comply or explain” disclosure model would be an appropriate “first step”. If there has been limited progress after three years following the implementation of the disclosure requirements, these stakeholders suggested that the OSC consider stronger measures.

4. RECOMMENDATIONS

4.1 Objectives and summary of recommendations

The recommendations in this report are intended to encourage more effective boards and better corporate decision making by requiring greater transparency for investors and other stakeholders regarding the representation of women on boards and in senior management of non-venture issuers. This transparency is intended to assist investors when making investment and voting decisions. Investors have sought more information on these matters and, based on our consultations, would welcome action in this area.

The majority of stakeholders consulted as part of this initiative agreed that the representation of women on boards and in senior management engages legitimate corporate governance initiatives that affect the public interest. They would like to see the OSC support the evolution of corporate governance to align the interests of reporting issuers, investors and other stakeholders to the extent possible. Most of them believe that this can best be achieved through a "comply or explain" disclosure model that allows non-venture issuers to develop policies and practices that are tailored to their particular circumstances.

After considering the feedback from stakeholders, we recommend that the OSC publish for comment proposed amendments to the Corporate Governance Disclosure Rule. The proposed disclosure requirements would follow a "comply or explain" approach and require non-venture issuers to provide disclosure regarding the representation of women on boards and in executive officer positions.

In particular, we are making the following seven recommendations regarding the proposed disclosure requirements:

Recommendation #1	Require disclosure regarding director term limits or an explanation for the absence of such limits
Recommendation #2	Require disclosure of policies regarding the representation of women on the board or an explanation for the absence of such policies
Recommendation #3	Require disclosure of the board's or nominating committee's consideration of the representation of women in the director identification and selection process or an explanation for the absence of such consideration
Recommendation #4	Require disclosure of the consideration given to the representation of women in executive officer positions when making executive officer appointments or an explanation for the absence of such consideration
Recommendation #5	Require disclosure of targets adopted regarding the representation of women on the board and in executive officer positions or an explanation for the absence of such targets
Recommendation #6	Require disclosure of the number of women on the board and in executive officer positions
Recommendation #7	Conduct a review of compliance with any new disclosure requirements after issuers have provided this disclosure for three annual reporting periods

A more detailed discussion of each of these recommendations is set out below.

4.2 Propose new disclosure requirements

After considering the feedback from stakeholders, we recommend that the OSC publish for comment proposed amendments to the Corporate Governance Disclosure Rule that would require non-venture issuers to provide disclosure on annual basis in the areas set out below relating to women on boards and in senior management.

A. Meaning of senior management

"Senior management" is not a defined term and can be interpreted in a number of different ways. For the purposes of this disclosure, we recommend using the existing term "executive officer" in the Corporate Governance Disclosure Rule. We believe that using the existing term provides a clear definition that is used in other disclosure requirements and that in turn will facilitate compliance.

The term "executive officer" is defined to mean:

- a chair, vice-chair or president,
- a chief executive officer or chief financial officer,
- a vice-president in charge of a principal business unit, division or function including sales, finance or production, or
- an individual performing a policy-making function in respect of the issuer.

B. "Comply or explain" disclosure model

As discussed in Part 1 of this report, the scope of our consultation was to consider a "comply or explain" disclosure regime for reporting issuers listed on the TSX relating to board and senior management gender diversity policies and practices. That is consistent with existing corporate governance disclosure requirements for TSX-listed and other non-venture issuers under the Corporate Governance Disclosure Rule.

Many stakeholders indicated that a "comply or explain" disclosure model was an appropriate approach as it would provide greater transparency for investors and other stakeholders while also providing flexibility by allowing issuers to take into account their particular circumstances when determining the manner in which they address the representation of women on their boards and in senior management.

We agree with these stakeholders' comments and believe that corporate governance matters can effectively and flexibly be addressed with a "comply or explain" disclosure model. As a result, we recommend requiring disclosure regarding the representation of women on boards and in executive officer positions using a "comply or explain" approach.

C. Specific disclosure requirements

Recommendation #1 – Require disclosure regarding director term limits or an explanation for the absence of such limits

We agree with stakeholders that regular renewal of board membership contributes to the effectiveness of a board. Director term limits can promote an appropriate level of board renewal and in doing so provide opportunities for qualified board candidates, including those who are women.

We also recognize that there is a risk of loss of director independence where a director serves many years on a board and that in turn may compromise the board's ability to effectively supervise and challenge management of the issuer. However, there are different views on the appropriate term limit for a director and that a "one size fits all" approach may not take into account the particular circumstances of each issuer and its board. As a result, we think that boards which adopt director term limits should have the flexibility to set limits which take into account their particular circumstances.

Therefore, we are not proposing mandatory director term limits. We recommend that non-venture issuers be required to disclose whether or not the issuer has adopted term limits for the directors on its board. If the issuer has not adopted term limits, it should why explain it has not.

Recommendation #2 – Require disclosure of policies regarding the representation of women on the board or an explanation for the absence of such policies

The ability to recruit qualified directors is critical to an effective board. We think that it is important to consider a broad pool of qualified directors when considering possible new board candidates. Corporate decision-making benefits from a diversity of opinions and viewpoints. This diversity is enhanced when leadership roles are filled with individuals who have different professional experience, education, skill and genders, as well as other individual qualities and attributes.

As a result, we recommend that non-venture issuers be required to disclose:

- whether the issuer has adopted a policy for the identification and nomination of women directors, or
- if the issuer has not adopted such a policy, why it has not.

If an issuer has adopted such a policy, it should disclose:

- a short summary of its objectives and key provisions,
- the measures taken to ensure that the policy has been implemented effectively,
- annual and cumulative progress by the issuer on achieving the objectives of the policy, and
- whether and, if so how, the board or its nominating committee measures the effectiveness of the policy.

Recommendation #3 – Require disclosure of the board's or nominating committee's consideration of the representation of women in the director identification and selection process or an explanation for the absence of such consideration

We think that the process of board appointments should be more transparent. As noted above, the Corporate Governance Disclosure Rule already contains a disclosure requirement to describe the process by which the board identifies new candidates for board nominations. Issuers, however, are not generally disclosing whether the representation of women on the board is considered in the director identification and selection process in response to this requirement. In our view, issuers should disclose meaningful information about the appointment process and, in particular, how the board or nominating committee addresses gender diversity in the director identification and selection process. That should include the steps the board or the nominating committee takes to ensure that a diverse range of candidates is considered. Those steps could include, among other things, whether the issuer uses external recruitment firms for the identification of board candidates, relies on the existing board members' personal networks and whether the existing number of women on the board is a factor considered in assessing potential new board candidates.

In order to provide greater transparency in this area, we recommend that non-venture issuers be required to disclose:

- whether and, if so how, the board or nominating committee considers the level of representation of women on the board in identifying and nominating candidates for election or re-election to the board, or
- if the issuer does not consider the level of representation of women on the board in identifying and nominating candidates for election or re-election to the board, the issuer's reasons for not doing so.

Recommendation #4 – Require disclosure of the consideration given to the representation of women in executive officer positions when making executive officer appointments or an explanation for the absence of such consideration
A focus on diversity in employee recruitment, development and promotion can facilitate identifying, developing and promoting employees with a broad range of skills and expertise needed to execute an issuer's corporate goals. Intentionally accessing a broad pool of talent, including women, will encourage the development of a more diverse range of candidates qualified for executive officer positions, which may in turn lead to improved direction, leadership, growth and performance of reporting issuers.

We believe that investors and other stakeholders would benefit from having greater transparency into whether an issuer considers the representation of women in executive officer positions when making executive officer appointments as this may be representative of the issuer's approach to diversity more generally.

As a result, we recommend that non-venture issuers be required to disclose:
- whether and, if so how, the issuer considers the level of representation of women in executive officer positions when making executive officer appointments, or
- if the issuer does not consider the level of representation of women in executive officer positions when making executive officer appointments, the issuer's reasons for not doing so.

Recommendation #5 – Require disclosure of targets adopted regarding the representation of women on the board and in executive officer positions or an explanation for the absence of such targets
We agree with stakeholders that aspirational targets adopted by issuers can result in a higher level of representation of women on boards and in executive officer positions. We also believe that it is the interest of issuers to set their own targets so that they can effect change through means best suited to their particular circumstances. For purposes of this discussion, a "target" would mean a number or percentage, or a range of numbers and percentages, adopted by the issuer, of women on the issuer's board or in executive officer positions of the issuer by a specific date.

Transparency regarding the targets set by issuers to investors and other stakeholders will provide for some level of accountability by issuers and that in turn may result in measurable change in the levels of representation of women on boards and in executive officer positions.

As a result, we recommend that non-venture issuers be required to disclose:
- whether the issuer has adopted target(s) regarding women on the issuer's board and if not, why it has not,
- whether the issuer has adopted target(s) regarding women in executive officer positions of the issuer and if not, why it has not, and
- if the issuer has adopted any target(s), the annual and cumulative progress of the issuer in achieving its target(s).

Recommendation #6 – Require disclosure of the number of women on the board and in executive officer positions
We agree with stakeholders that measurement is a critical component of our proposed disclosure model as reporting on an issuer's gender diversity profile can be an indication of the effectiveness of the policies and strategies referred to above and facilitates accountability by the issuer. This type of reporting also provides greater transparency to investors and other stakeholders and enables them to make comparisons among issuers.

In that regard, we recommend that non-venture issuers be required to disclose:
- the number and proportion (in percentage terms) of directors on the issuer's board who are women, and
- the number and proportion (in percentage terms) of executive officers (as defined above) of the issuer, including all subsidiary entities of the issuer, who are women.

Issuers would be permitted to disclose any additional information that is relevant in order to understand the context of the information above.

4.3 Conduct review of compliance with any new disclosure requirements

Recommendation #7 – Conduct a review of compliance with any new disclosure requirements after issuers have provided this disclosure for three annual reporting periods
After considering the feedback from stakeholders, we recommend that OSC staff conduct an issue-oriented review of compliance with any new disclosure requirements after issuers have provided this disclosure for three annual reporting periods. One of the key objectives of the review would be to assess the effectiveness of the disclosure requirements.

The review would be in addition to our ongoing continuous disclosure review program.

Outcomes of the review could include:

- changes in the disclosure made by the issuers in the review sample, either on a historical or prospective basis,
- the publication of staff guidance on compliance with the disclosure requirements, and/or
- the recommendations for further amendments to the Corporate Governance Disclosure Rule or other regulatory action.

5. QUESTIONS

Please refer your questions to any of the following staff:

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OSC REPORT 58-402
REPORT TO MINISTER OF FINANCE AND MINISTER RESPONSIBLE FOR WOMEN'S ISSUES
DISCLOSURE REQUIREMENTS REGARDING WOMEN ON BOARDS AND IN SENIOR MANAGEMENT
<u>APPENDIX 1 – CONSULTATION PAPER</u>

OSC STAFF CONSULTATION PAPER 58-401
DISCLOSURE REQUIREMENTS REGARDING WOMEN ON BOARDS AND IN SENIOR MANAGEMENT

July 30, 2013

TABLE OF CONTENTS

1. INTRODUCTION

1.1 Consultation paper

A. Purpose of consultation

Ontario government initiative
On May 2, 2013, the Ontario government delivered its budget which included the following statement:

> The government strongly supports broader gender diversity on the boards and in senior management of major businesses, not-for-profit firms and other large organizations. In conjunction with others, including the OSC, the government will consider the best way for firms to disclose their approaches to gender diversity, with a view to increasing the participation of women on boards and in senior management.

On June 14, 2013, the Minister of Finance, Charles Sousa, and the then Minister Responsible for Women's Issues, Laurel Broten, requested that the Ontario Securities Commission (the OSC) undertake a public consultation process regarding disclosure requirements for gender diversity. Specifically, they requested that the OSC undertake a review and public consultation process over the summer considering a "comply or explain" disclosure regime for reporting issuers listed on the TSX relating to board and senior management gender diversity policies and practices and provide recommendations regarding specific disclosure requirements for TSX-listed reporting issuers and best practices for this type of approach to gender diversity by fall. Consistent with existing requirements relating to the disclosure of corporate governance practices, the focus is on TSX-listed (and other non-venture) issuers due to concerns about the potential regulatory burden on reporting issuers listed on the TSX Venture Exchange.

Focus of consultation
Corporate decision-making benefits from a diversity of opinions and viewpoints. This diversity is enhanced when leadership roles are filled with individuals who have different professional experience, education, skill and individual qualities and attributes such as gender, age, ethnicity and cultural background.

The focus of this consultation is on advancing the representation of women on boards and in senior management. We are considering implementing disclosure requirements for reporting issuers (other than venture issuers and investment funds) regarding women on boards and in senior management.

Purpose of consultation
The purpose of this consultation paper is to seek feedback from investors, issuers, other market participants and advisors on these disclosure requirements to inform our recommendations to the Minister of Finance and Minister Responsible for Women's Issues. The Ministers noted the following in their letter to the OSC:

> We expect these OSC recommendations to play a significant role in informing both government policy development and possible OSC rule-making as the government of Ontario moves forward with enhanced gender diversity disclosure to facilitate an increase in the participation of women on the boards and in senior management of major issuers.

The comment period will end on **September 27, 2013.** In addition to any general comments, we are specifically asking the following questions:

Specific consultation questions
As noted in Part 4 of this consultation paper, we are seeking feedback on the following questions:

- What are effective policies for increasing the number of women on boards and in senior management?

- What type of disclosure requirements regarding women on boards and in senior management would be most appropriate and useful?

- Are the proposed scope and content of the model disclosure requirements described in Part 4 of this consultation paper appropriate? Are there additional or different disclosure requirements that should be considered? Please explain.

- What type of statistics, data and/or accompanying qualitative information regarding the representation of women in their organization should non-venture issuers be required to disclose? Should such disclosure be reported for the non-venture issuer only or for all of its subsidiary entities also?

- What practices should we recommend for facilitating increased representation of women on boards and in senior management?

    - For example, should we recommend that non-venture issuers have a gender diversity policy? If so, should we set out recommended content for the policy?

    - Should non-venture issuers be required to comply with the recommended practices or explain why they have not complied (i.e. a "comply or explain" model of disclosure)?

B. Structure of consultation paper

This consultation paper is structured as follows:
- Part 1 discusses the status of women on boards and in senior management in Canada.
- Part 2 summarizes the current corporate governance framework under Ontario securities legislation.
- Part 3 summarizes the approach to gender diversity disclosure taken in other jurisdictions.
- Part 4 discusses a model of disclosure requirements regarding women on boards and in senior management of non-venture issuers.
- Part 5 explains how stakeholders can provide feedback.

1.2 Status of women on boards and in senior management in Canada

Understanding the current landscape in Canada is important when considering potential policy approaches to facilitating increased representation of women on boards and in senior management of reporting issuers.

Statistics on representation of women
There are a number of publicly available reports that discuss gender diversity in Canada. The following provides a high-level snapshot on the current level of representation of women on boards and in senior management.

(1) Catalyst data

Representation of women on boards
Catalyst has reported that the representation of women on Canadian boards is growing very slowly. On March 8, 2012, Catalyst issued the *2011 Catalyst Census: Financial Post 500 Women Board Directors*[1] which noted that public companies continue to have the lowest representation of women on their boards as compared to private companies, crown corporations and cooperatives. In 2011, 10.3% of directors of public companies were women, which represents a zero increase from 2009.

Representation of women in senior management
On February 19, 2013, Catalyst issued the *2012 Catalyst Census: Financial Post 500 Women Senior Officers and Top Earners*[2]. It provided statistics to gauge women's advancement into leadership and highlighted:

- In 2012, women held 18.1% of senior officer positions (as compared to 17.7% in 2010) and, specifically, held 15% of those positions in public companies in 2012 (as compared to 14.3% in 2010).
- Although nearly one-third of companies have 25% or more women senior officers, nearly another one-third continue to have no women senior officers. In particular, 35.9% of public companies had no women senior officers in 2012.

(2) GMI Ratings

GMI Ratings' 2013 Women on Boards Survey[3] noted that progress on most measures of representation of women in Canada continues to be slow by international standards. The survey includes data as of March 1, 2013 on 5,977 companies in 45 different countries. The survey states:

> The percentage of female directors on Canadian boards in our universe has remained flat since our last survey, at 13.1%. Moreover, a look back to the inception of our data collection on this topic shows an increase in female directors of less than 1 percentage point since 2009, when the percentage stood at 12.4%. Currently, while two-thirds of Canadian companies in our sample have at least one woman on the board, less than 20% (18.6%) have at least three women, and these percentages have been fairly stable over the last three years.

(3) TD Economics report

A report issued by TD Economics on March 7, 2013, *Get On Board Corporate Canada*[4] (the TD Economics report), indicated that in 2011:

- Women represented only 10.9% of board members of companies on the S&P/TSX Composite index.
- 43% of companies on the S&P/TSX Composite index did not have a single female board member and 28% had only one female board member.

The TD Economics report noted that research by Catalyst comparing 2009 to 2011 showed that women filled only 15% of entrant board seats for 273 publicly traded companies in the FP500.

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1 Catalyst, *2011 Catalyst Census: Financial Post 500 Women Board Directors* (March 8, 2012), online: <http://www.catalyst.org/knowledge/2011-catalyst-census-financial-post-500-women-board-directors>.

2 Catalyst, *2012 Catalyst Census: Financial Post 500 Women Senior Officers and Top Earners* (February 19, 2013), online: <http://www.catalyst.org/knowledge/2012-catalyst-census-financial-post-500-women-senior-officers-and-top-earners>.

3 GMI Ratings, *GMI Ratings' 2013 Women on Boards Survey* (May 1, 2013), online: <http://www3.gmiratings.com/home/2013/05/gmi-ratings-2013-women-on-boards-survey/>.

4 TD Economics, *Get On Board Corporate Canada* (March 7, 2013), online: <http://www.td.com/document/PDF/economics/special/GetOnBoardCorporateCanada.pdf>.

Voluntary initiatives
Catalyst issued a call to action for Canadian corporations to increase the overall proportion of FP500 board seats held by women to 25% by 2017.

Companies that accept the call to action made in the Catalyst Accord pledge to:
- increase the percentage of women on their boards by 2017, and
- provide interim representation goals to Catalyst on a confidential basis.

Public sector legislated quotas in Quebec
Currently, there are no mandated quotas for female board representation in Canada outside of Quebec. As of December 2011, provincial crown corporations in Quebec were required to have 50% female representation on their boards.

Federal Government's advisory council
The Federal Government has recognized the issue of gender diversity on boards. On April 5, 2013, the Minister of Public Works and Government Services and Minister for Status of Women, Rona Ambrose, introduced an advisory council comprised of leaders from the private and public sectors to advance the participation of women on corporate boards.

The Minister noted that "board diversity is not about quotas or tokenism. Board diversity is about better corporate decisions, better responses to market demographics, and better financial performance. It is also about the future, and having more women in key leadership positions to serve as role models for young women and girls."[5]

The role of the advisory council is to:
- provide advice on how industry can increase women's representation on corporate boards,
- suggest how industry and government can track and measure progress in this initiative and what tools, if any, government should employ to achieve this goal, and
- make recommendations by the fall of 2013 on how the government could recognize leaders in industry and applaud companies that have succeeded in reaching their targets.

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[5] Status of Women Canada, News Release *"Harper Government Increasing Participation of Women on Boards"* (April 5, 2013), online: <http://news.gc.ca/web/article-eng.do?crtr_sj1D=&crtr_mnthndVl=4&mthd=advSrch&crtr_dpt1D=&nid=730519&crtr_lc1D=&crtr_tp1D=&crtr_yrStrtVl=2013&crtr_kw=&crtr_dyStrtVl=5&crtr_aud1D=&crtr_mnthStrtVl=4&crtr_page=1&crtr_yrndVl=2013&crtr_dyndVl=5>.

2. CURRENT CANADIAN APPROACH

2.1 Corporate governance framework under securities legislation

The OSC's corporate governance framework is comprised of two main components:

- guidelines regarding corporate governance practices, and
- disclosure requirements regarding corporate governance practices.

A. Corporate governance guidelines

National Policy 58-201 *Corporate Governance Guidelines* (the Corporate Governance Policy) contains guidelines for corporate governance practices of reporting issuers (other than investment funds). The guidelines are not intended to be prescriptive, but rather reporting issuers are encouraged to consider the guidelines in developing their own corporate governance practices.

The guidelines largely focus on certain attributes of an issuer's board of directors:

- director independence,
- the board mandate and responsibilities, and
- the composition and responsibilities of board committees, such as the nominating committee.

B. Corporate governance disclosure requirements

Reporting issuers are required to disclose their corporate governance practices under National Instrument 58-101 *Disclosure of Corporate Governance Practices* (the Corporate Governance Disclosure Rule). The disclosure is generally set out in an annual proxy circular.

Distinction based on listing of securities
The Corporate Governance Disclosure Rule contains two sets of disclosure requirements which depend on the listing status of the reporting issuer.

A venture issuer is defined as a reporting issuer that does not have any of its securities listed or quoted on any of the Toronto Stock Exchange, a US marketplace, or a marketplace outside of Canada and the US other than the Alternative Investment Market of the London Stock Exchange or the PLUS markets operated by PLUS Markets Group plc.

All other issuers are referred to as non-venture issuers.

Non-venture issuers
Non-venture issuers are required to comply with the disclosure requirements regarding their corporate governance practices set out in Form 58-101F1 *Corporate Governance Disclosure*. Generally speaking, it is a "comply or explain" model. These issuers must either comply with the guidelines set out in the Corporate Governance Policy or explain how they otherwise achieve the objective of the guideline.

Venture issuers
Venture issuers are required to comply with the disclosure requirements regarding their corporate governance practices set out in Form 58-101F2 *Corporate Governance Disclosure (Venture Issuers)*. The disclosure

requirements are generally less extensive than those for non-venture issuers. Venture issuers must disclose their corporate governance practices in areas addressed by the guidelines set out in the Corporate Governance Policy, but they are not required to compare their practices against the guidelines.

C. Guidelines and disclosure requirement relevant to diversity

Guidelines
Currently, there is no guideline in the Corporate Governance Policy that explicitly addresses the representation of women on boards and in senior management. However, there are guidelines that may have some relevance for board diversity.

In particular, the Corporate Governance Policy states:

- The board should appoint a nominating committee composed entirely of independent directors.
- Prior to nominating or appointing individuals as directors, the board should adopt a process involving the following steps:
    - Consider what competencies and skills the board, as a whole, should possess, and
    - Assess what competencies and skills each existing director possesses.

Disclosure requirement
Currently, reporting issuers are not required to explicitly disclose the percentage of women on their boards or in senior management or their policies on gender diversity.

Reporting issuers are, however, required to describe the process by which the board identifies new candidates for board nominations under the Corporate Governance Disclosure Rule. Refer to item 6(a) of Form 58-101F1 and item 5(ii) of Form 58-101F2.

On December 2, 2010, the CSA published CSA Staff Notice 58-306 *2010 Corporate Governance Disclosure Compliance Review*, in which it provided guidance on this disclosure requirement. CSA staff indicated that, when preparing this disclosure, issuers should consider whether the board considers diversity of experience, background and views when considering a candidate for appointment or election to the board.

3. APPROACHES TO DIVERSITY RELATED DISCLOSURE TAKEN IN OTHER JURISDICTIONS

Other jurisdictions have adopted or are considering adopting guidelines and/or disclosure requirements regarding diversity. We refer to the approaches in other jurisdictions as they are relevant to the policy issues raised in this consultation paper.

Information included in this paper about the regulatory regimes in those jurisdictions is general in nature and is not intended to present a comprehensive review of the law in those jurisdictions.

3.1 US approach

In 2009, the SEC amended Regulation S-K to require disclosure of additional factors that are considered by a nominating committee when identifying nominees for director, such as board diversity. The final rule became effective as of February 28, 2010.

Item 407(c)(2)(vi) of Regulation S-K requires registrants to describe:
- the nominating committee's process for identifying and evaluating nominees for director,
- whether, and if so how, the nominating committee (or the board) considers diversity in identifying nominees for director, and
- if the nominating committee (or the board) has a policy with regard to the consideration of diversity in identifying director nominees, how this policy is implemented and how the nominating committee (or the board) assesses the effectiveness of its policy.

As noted in the final release 33-9089, *Proxy Disclosure Enhancements*, the SEC did not define diversity for the following reason:

> We recognize that companies may define diversity in various ways, reflecting different perspectives. For instance, some companies may conceptualize diversity expansively to include differences of viewpoint, professional experience, education, skill and other individual qualities and attributes that contribute to board heterogeneity, while others may focus on diversity concepts such as race, gender and national origin. We believe that for purposes of this disclosure requirement, companies should be allowed to define diversity in ways that they consider appropriate. As a result we have not defined diversity in the amendments.[6]

On May 22, 2013, Commissioner Luis A. Aguilar delivered a speech, *Merely Cracking the Glass Ceiling is Not Enough: Corporate America Needs More than Just A Few Women in Leadership*, in which he commented on this disclosure requirement:

> As some of you may know, in response to the demands of shareholders and others seeking greater information about diversity on corporate boards, in 2009, the SEC adopted a new rule that requires U.S. publicly-traded companies to disclose in their annual proxy statements whether, and if so how, a corporate board or nominating committee considers diversity in identifying nominees for director. If the company has a policy regarding the consideration of

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[6] US Securities and Exchange Commission, Release No. 33-9089, *Proxy Disclosure Enhancements* (December 16, 2009), online: <http://www.sec.gov./rules/final/2009/33-9089.pdf>.

diversity in identifying director nominees, the proxy statement must disclose how this policy is implemented, as well as how the company assesses the effectiveness of its policy. This requirement is not limited to companies with a written policy; and companies with *de facto* policies regarding board diversity must disclose such policies as well.

This disclosure requirement is an important first step in providing investors with the diversity disclosures that they have been requesting. However, it is really only a first step. Because the rules do not define diversity, and companies may define diversity in various ways – companies are not always providing the disclosures investors have wanted. Numerous investors have made it clear that they are particularly interested in board policies regarding gender, racial, and ethnic diversity. And, for our capital markets to work, it is that information that they want to have in making voting and investment decisions. It is important that investors receive the specificity of disclosure that they seek…

I commend the companies that are bringing greater transparency to their diversity, including their board diversity – and I look forward to 100% of the companies doing so. Given the evidence of the impact diversity on boards has on the bottom line and the boardroom changes taking place with our counter-parts across the globe, gender diversity – and diversity in general – should be a priority for U.S. companies and their boards. [7]

3.2 Australian approach

A. ASX Corporate Governance Council Principles and Recommendations

The ASX made amendments to the *ASX Corporate Governance Council Principles and Recommendations* for listed companies in 2010. This document sets out eight core principles. Each principle is explained in detail, with commentary about implementation in the form of recommendations. These recommendations are not mandatory. They are intended to provide a reference point for companies about their corporate governance structures and practices.

Principle 2 (Structure the board to add value) and Principle 3 (Promote ethical and responsible decision-making) focus on diversity.

Principle 2 – structure the board to add value
Principle 2 states that companies should have a board of an effective composition, size and commitment to adequately discharge its responsibilities and duties. There are two recommendations that are relevant to diversity.

Recommendation	Description
Recommendation 2.4 Nomination committee	The board should establish a nomination committee. The commentary to this recommendation states that the nomination committee should consider whether succession plans are in place to maintain an appropriate mix of skills, experience, expertise and diversity on the board. It also states that the board should be large enough to incorporate a variety of perspectives and skills.

[7] Aguilar, Luis A., *Merely Cracking the Glass Ceiling is Not Enough: Corporate America Needs More than Just A Few Women in Leadership* (May 22, 2013), online: <http://www.sec.gov/News/Speech/Detail/Speech/1365171515760>.

Recommendation	Description
Recommendation 2.6 Reporting	Among other recommendations, a statement as to the mix of skills and diversity for which the board of directors is looking to achieve in membership of the board should be included in the corporate governance statement in the annual report.

Principle 3 – promote ethical and responsible decision-making
Principle 3 states that companies should actively promote ethical and responsible decision-making. There are four recommendations that are relevant to diversity.

Recommendation	Description
Recommendation 3.2 Diversity policy	Companies should establish a policy concerning diversity and disclose the policy or a summary of that policy. The policy should include requirements for the board to establish measurable objectives for achieving gender diversity for the board to assess annually both the objectives and progress in achieving them. <u>Commentary</u> The commentary on this recommendation states that diversity includes, but is not limited to, gender, age, ethnicity and cultural background. The measurable objectives should identify ways in which the achievement of gender diversity is measured, for example, the proportion of women employed by (or consultants to) the company, in senior executive positions and on the board. Where companies establish a diversity policy, they should also introduce appropriate procedures to ensure that the policy is implemented properly, which may include additional measurable objectives in relation to other aspects of diversity as identified in the policy. There also should be an internal review mechanism to assess the effectiveness of the policy. <u>Suggested content for diversity policy</u> This recommendation is accompanied by suggestions for the content of a diversity policy. They include: • Commitment to diversity and articulation of the corporate benefits arising from employee and board diversity and the importance of benefiting from all available talent. • Commitment to and identification of ways to promote a corporate culture which embraces diversity when determining the composition of employees, senior management and the board, including recruitment of employees and directors from a diverse pool of qualified candidates. • Identification of factors that should be taken into account in the selection processes and whether professional intermediaries should be used to identify or assess candidates. • Identification of programs that assist in the development of a broader pool of skilled and experienced board candidates including initiatives focused on skills development such as executive mentoring programs or more targeted practices relating to career advancement such as those that develop skills and experience that prepare employees for senior

Recommendation	Description
	management and board positions. • Articulation of a corporate culture which not only supports workplace diversity but also recognizes that employees at all levels of the company may have domestic responsibilities. • Transparency of board processes, review and appointments. • The extent to which the achievement of measurable objectives should be tied to key performance indicators for the board, the CEO and senior executives.
Recommendation 3.3 Measurable objectives for gender diversity	Companies should disclose in each annual report the measurable objectives for achieving gender diversity set by the board in accordance with the diversity policy and progress towards achieving them.
Recommendation 3.4 Representation of women	Companies should disclose in each annual report the proportion of women employees in the whole organization, women in senior executive positions and women on the board.
Recommendation 3.5 Reporting on diversity	An explanation of any departure from these recommendations should be included in the corporate governance statement in the annual report. In addition, the diversity policy or a summary of its main provisions should be made publicly available, ideally by posting it to the company's website in a clearly marked corporate governance section.

B. ASX listing rules

Under listing rule 4.10.3, companies must include in their annual report a statement disclosing the extent to which they have followed the recommendations. It is a "comply or explain" model of disclosure. Companies must identify the recommendations not followed and give reasons for not following them.

3.3 UK approach

A. Report – Women on Boards

As part of a larger policy initiative to make companies more accountable to shareholders and the public, the 2010 UK government commissioned Lord Davies of Abersoch to determine what was preventing women becoming board members and to develop a strategy to increase the number of women on the boards of listed companies.

The report *Women on Boards* was published on February 24, 2011. The report examines the obstacles that prevent more women from reaching senior positions in business, considers the business case for having gender-diverse boards and sets out recommendations for achieving urgent change. *Women on Boards 2013* was published in April 2013 and provides an update of the progress on this policy initiative.

The initial report set out 10 recommendations to increase the number of women on boards:

(1) Targets. All Chairs of FTSE 350 companies should set out the percentage of women they aim to have on their boards in 2013 and 2015. FTSE 100 boards should aim for a minimum of 25% female representation by 2015 and there is an expectation that many will achieve a higher figure. Chairs should announce their aspirational goals within the next six months (by September 2011). Also the report expects all Chief Executives to review the percentage of women they aim to have on their Executive Committees in 2013 and 2015.

(2) Measurement. Quoted companies should be required to disclose each year the proportion of women on the board, women in senior executive positions and female employees in the whole organization.

(3) Diversity policy. The Financial Reporting Council should amend the UK Corporate Governance Code to require listed companies to establish a policy concerning boardroom diversity, including measurable objectives for implementing the policy, and disclose annually a summary of the policy and the progress made in achieving the objectives.

(4) Corporate governance statement. Companies should report on the matters in recommendations 1, 2 and 3 in their 2012 Corporate Governance Statement whether or not the underlying regulatory changes are in place. In addition, Chairs will be encouraged to sign a charter supporting the recommendations.

(5) Nomination committee. In line with the UK Corporate Governance Code provision B.2.4 "A separate section of the annual report should describe the work of the nomination committee, including the process it has used in relation to board appointments", Chairs should disclose meaningful information about the company's appointment process and how it addresses diversity in the company's Annual Report including a description of the search and nominations process.

(6) Role of investors. Investors play a critical role in engaging with company boards. Therefore investors should pay close attention to recommendations 1 to 5 when considering company reporting and appointments to the board.

(7) Recruitment. Companies are encouraged periodically to advertise non-executive board positions to encourage greater diversity in applications.

(8) Executive search firms. Executive search firms should draw up a Voluntary Code of Conduct addressing gender diversity and best practice which covers the relevant search criteria and processes relating to FTSE 350 board level appointments.

(9) Pools of board candidates. In order to achieve these recommendations, recognition and development of two different populations of women who are well-qualified to be appointed to UK boards needs to be considered:

- Executives from within the corporate sector, for whom there are many different training and mentoring opportunities, and
- Women from outside the corporate mainstream, including entrepreneurs, academics, civil servants and senior women with professional service backgrounds, for whom there are many fewer opportunities to take up corporate board positions.

(10) Steering board. The steering board will meet every six months to consider progress against these measures and will report annually with an assessment of whether sufficient progress is being made.

B. UK Corporate Governance Code

In response to the Lord Davies' report, the Financial Reporting Council amended *The UK Corporate Governance Code* in September 2012. The code is not a rigid set of rules, but rather a guide to a number of key components of effective board practice. It consists of principles and provisions. It applies to all companies with a Premium listing of equity shares regardless of whether they are incorporated in the UK or elsewhere.

Principles B.2 (Appointments to the Board) and B.6 (Evaluation) are relevant to diversity.

Principle B. 2 – Appointments to the Board
The main principle is that there should be a formal, rigorous and transparent procedure for the appointment of new directors to the board. The two key supporting principles are:

- The search for board candidates should be conducted, and appointments made, on merit, against objective criteria and with due regard for the benefits of diversity on the board, including gender.
- The board should satisfy itself that plans are in place for orderly succession for appointments to the board and to senior management, so as to maintain an appropriate balance of skills and experience within the company and on the board and to ensure progressive refreshing of the board.

In the provisions relating to these principles, the code indicates that a separate section of the annual report should describe the work of the nomination committee, including the process it has used in relation to board appointments. This section should include a description of the board's policy on diversity, including gender, any measurable objectives that it has set for implementing the policy and progress on achieving the objectives. An explanation should be given if neither an external search consultancy nor open advertising has been used in the appointment of a chair or a non-executive director. Where an external search consultancy has been used, it should be identified in the annual report and a statement made as to whether it has any other connection with the company.

Principle B.6 – Evaluation
The main principle is that the board should undertake a formal and rigorous annual evaluation of its own performance and that of its committees and individual directors. One of the supporting principles is that the evaluation of the board should consider:

- the balance of skills, experience, independence and knowledge of the company on the board,
- its diversity, including gender,
- how the board works together as a unit, and
- other factors relevant to its effectiveness.

C. Listing rules

Listing Rules 9.8.6 R (for UK incorporated companies) and 9.8.7 R (for overseas incorporated companies) require that in the case of a company that has a Premium listing of equity shares, the following items be included in its annual report and accounts:

- a statement of how the listed company has applied the main principles set out in the code, in a manner that would enable shareholders to evaluate how the principles have been applied, and
- a statement as to whether the listed company has:
    - complied throughout the accounting period with all relevant provisions set out in the code, or
    - not complied throughout the accounting period with all relevant provisions set out in code and, if so, setting out (1) those provisions, if any, it has not complied with, (2) in the case of provisions whose requirements are of a continuing nature, the period within which, if any, it did not comply with some or all of those provisions and (3) the company's reasons for non-compliance.

3.4 Approaches in Europe generally

A. European Commission proposal for diversity disclosure

On April 16, 2013, the European Commission issued a proposal for a *Directive of the European Parliament and of the Council amending Council Directives 78/660/EEC* (the Fourth Council Directive) *and 83/349/EEC as regards disclosure of non-financial and diversity information by certain large companies and groups*. Article 46A of the Fourth Council Directive sets rules for the content of the corporate governance statement to be prepared by listed companies.

One of the key objectives of the proposal is to increase diversity on the boards of companies through enhanced transparency in order to facilitate effective oversight of management and robust governance of the company.

The proposal would introduce a new paragraph 1(g) to Article 46A which will require large listed companies to provide information about their diversity policy, including:

- a description of the company's diversity policy for its administrative, management and supervisory bodies with regard to aspects such as age, gender, geographical diversity and educational and professional background,
- the objectives of the policy,
- the implementation of the policy, and
- the results obtained.

The information will be included in the corporate governance statement. Companies not having a diversity policy will be obliged to explain why this is the case. This approach is in line with the general EU corporate governance framework.

The proposed disclosure requirement has been designed with a non-prescriptive mind-set and leaves significant flexibility for companies to disclose relevant information in the manner that they consider to be most useful. The requirement would apply to large listed companies as the costs for requiring small and medium-sized enterprises to apply the new rules could outweigh the benefits.

Complementary to these provisions, on November 14, 2012, the European Commission issued a proposal for a *Directive of the European Parliament and of the Council on improving the gender balance among non-executive directors of companies listed on stock exchanges and related measures*. The proposal sets out a 40% objective by 2020 of women in non-executive board-member positions in publicly listed companies, with the exception of small and medium-sized enterprises.

B. Other European countries

In August 2012, Credit Suisse Research Institute published a paper, *Gender diversity and corporate performance*.[8] It summarized the policies on gender diversity in various countries. The following is an excerpt from that summary:

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[8] Credit Suisse Research Institute, *Gender diversity and corporate performance* (August 2012), online: <https://www.credit-suisse.com/newsletter/doc/gender_diversity.pdf>.

Country	Policy
Austria	In mid March 2011, the Austrian government agreed to the implementation of female quotas for supervisory boards of state-owned companies. A quota of 25% is to be brought in by 2013 with an increase to 35% by 2018. No sanctions for non-compliance have been set. The hope is that private companies will follow the example set by the state-owned enterprises.
Belgium	Belgium's parliament adopted a plan in June 2011 to force public enterprises, and companies that are listed on the stock exchange, to give women 30% of the seats on management boards. Under the new rules, each time a board member leaves he or she is to be replaced by a woman until the quota is fulfilled. Companies will have six years to reach the target, with small and medium-sized enterprises (SMEs) given eight years. Members of boards that do not reach the quota will lose the benefits that come with their jobs.
Denmark	From 2008 the "comply or explain" code has required that diversity must be taken into account in all appointments.
Finland	As of 1 January 2010, all listed companies have been required to have at least one man and one woman on the board. There are no penalties for non-compliance beyond the need to explain why the target has not been met.
France	Parliament passed a bill in mid January 2011 applying a 40% quota for female directors of listed companies by 2017. The quota also includes a target of 20% by 2014. The sanctions for noncompliance are that nominations would be void and fees suspended for all board members.
Germany	The German Corporate Governance Code was amended in May 2010 to include a statement recommending boards of directors consider diversity when recruiting to fill board positions. The government has discussed setting an aim of 30% representation by 2018.
Iceland	Passed a quota law in 2010 (40% from each sex by September 2013) applicable to publicly owned and publicly limited companies with more than 50 employees.
Italy	A third of a company's board must be women by 2015 or the business will face fines of up to EUR 1 m, or USD 1.3 m, and the nullification of board election.
Netherlands	Government guidelines suggest that a minimum 30% of the board members of all companies with more than 250 employees should be women. If this goal is not reached by January 2016, companies must prepare a plan on how they intend to achieve it.
Norway	In February 2002, the government gave a deadline of July 2005 for private listed companies to raise the proportion of women on their boards to 40%. By July 2005, the proportion was only at 24%, and so in January 2006 legislation was introduced giving companies a final deadline of January 2008, after which they would face fines or even closure. Full compliance was achieved by 2009.
Poland	The corporate governance code recommends balanced gender representation on boards.

Country	Policy
Spain	Passed a gender equality law in 2007 obliging public companies and IBEX 35-quoted firms with more than 250 employees to attain a minimum 40% share of each sex on their boards by 2015. Companies reaching this quota will be given priority status in the allocation of government contracts but there are no formal sanctions.
Sweden	The "comply or explain" code requires companies to strive for gender parity on boards. Quotas have been discussed but not set.

4. MODEL OF DISCLOSURE REQUIREMENTS REGARDING WOMEN ON BOARDS AND IN SENIOR MANAGEMENT

We are putting forward for consultation purposes a model of disclosure requirements regarding women on boards and in senior management. The model has three key elements:

- the application of the disclosure requirements,
- the disclosure requirements, and
- a related definition.

4.1 Application of disclosure requirements

We have been asked to consider requiring non-venture issuers to provide disclosure regarding the representation of women on boards and in senior management as part of their annual summary of their corporate governance practices. At this time, we are not considering similar requirements for venture issuers.

4.2 Model of disclosure requirements

We are considering amending the Corporate Governance Disclosure Rule to require that non-venture issuers (other than investment funds)[9] provide disclosure on an annual basis in the following four areas:

- policies regarding the representation of women on the board and in senior management,
- consideration of the representation of women in the director selection process,
- consideration of the representation of women in the board evaluation process, and
- measurement regarding the representation of women in the organization and specifically on the board and in senior management.

These types of disclosures are intended to provide investors and other stakeholders with information on the issuer's approach to advancing the representation of women on boards and in senior management, which in turn may impact investment and voting decisions.

Policy regarding the representation of women on the board and in senior management
An issuer should disclose whether it has a policy for advancing the participation of women in senior management roles and/or for the identification and nomination of female directors.

If a policy has been adopted, the issuer should:

- provide a summary of its key provisions or disclose the policy,
- set out how the policy is intended to advance the participation of women on the board and in senior management of the issuer,
- explain how the policy has been implemented,
- describe any measurable objectives that have been established under the policy,
- disclose annual and cumulative progress by the issuer on achieving the objectives of the policy and where the objectives are measurable, disclose progress in quantitative terms, and
- describe how the board or its nominating committee measures the effectiveness of the policy.

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9 The Corporate Governance Disclosure Rule does not apply to investment funds. See section 1.3(a) of the rule.

If the issuer does not have such a policy, it should explain why not and identify any risks or opportunity costs associated with the decision not to have such a policy.

Consideration of the representation of women in the director selection process
Current requirement regarding director selection process
An issuer is already required to describe the process by which the board identifies new candidates for board nominations.

Model for an additional related requirement
An issuer should explicitly indicate whether, and if so how, the board or its nomination committee considers the level of representation of women on the board in identifying and nominating candidates for election or re-election to the board. If the issuer does not take the representation of women into account in this process, it should explain why not and identify any risks or opportunity costs associated with the decision not to do so.

Consideration of the representation of women in board evaluation
Current requirement regarding board evaluation
An issuer is already required to disclose whether or not the board, its committees and individual directors are regularly assessed with respect to their effectiveness and contribution. If assessments are regularly conducted, the issuer must describe the process used for the assessments. If assessments are not regularly conducted, the issuer must describe how the board satisfies itself that the board, its committees and its individual directors are performing effectively.

Model for an additional related requirement
If an issuer has a policy regarding the representation of women on the board and/or in senior management, it should disclose whether and how adherence to the policy or achieving any objectives set out in the policy are assessed in connection with the annual evaluation of the effectiveness of the board and the nominating committee.

Measurement
Issuers should disclose the proportion (in percentage terms) of:
- female employees in the whole organization,
- women in senior executive positions, and
- women on the board.

Issuers may also provide any other information or explanation that is relevant in order to properly understand the quantitative information disclosed.

4.3 Related definition

Definition of senior executive positions
As noted above, the model for disclosure requirements contemplates reporting on the number of women in "senior executive positions", among others. "Senior executive positions" is not a defined term and can be interpreted in a number of different ways.

The term "executive officer" is currently used in the Corporate Governance Disclosure Rule and means:
- a chair, vice-chair or president,
- a vice-president in charge of a principal business unit, division or function including sales, finance or production, or
- an individual performing a policy-making function in respect of the issuer.

Rather than introducing another concept, we are proposing that, for the purposes of measurement, issuers should disclose the proportion of women that are executive officers of an issuer.

Specific consultation questions

- What are effective policies for increasing the number of women on boards and in senior management?
- What type of disclosure requirements regarding women on boards and in senior management would be most appropriate and useful?
- Are the proposed scope and content of the model disclosure requirements appropriate? Are there additional or different disclosure requirements that should be considered? Please explain.
- What type of statistics, data and/or accompanying qualitative information regarding the representation of women in their organization should non-venture issuers be required to disclose? Should such disclosure be reported for the non-venture issuer only or for all of its subsidiary entities also?
- What practices should we recommend for facilitating increased representation of women on boards and in senior management?
    - For example, should we recommend that non-venture issuers have a gender diversity policy? If so, should we set out recommended content for the policy?
    - Should non-venture issuers be required to comply with the recommended practices or explain why they have not complied (i.e. a “comply or explain” model of disclosure)?

5. HOW TO PROVIDE FEEDBACK

We are publishing this consultation paper for public comment. In addition to the written consultation process, we plan to engage with stakeholders on this matter by convening a roundtable (or similar forum) in fall 2013. The details of any public consultation sessions will follow.

5.1 Written comments

You must submit your comments in writing by **September 27, 2013**. If you are sending your comments by email, you should also send an electronic file containing the submissions in Microsoft Word.

Please address and send your comments to the address below.

The Secretary
Ontario Securities Commission
20 Queen Street West
22nd Floor
Toronto, Ontario M5H 3S8
Fax: 416-593-2318
Email: **comments@osc.gov.on.ca**

Please note that all comments received during the comment period will be made publicly available. We will post all comments to the OSC website at www.osc.gov.on.ca to improve the transparency of the policy-making process.

5.2 Questions

Please refer your questions to:

Monica Kowal, General Counsel
Tel: 416-593-3653
Email: mkowal@osc.gov.on.ca

Jo-Anne Matear, Manager, Corporate Finance Branch
Tel : 416-593-2323
Email: jmatear@osc.gov.on.ca

OSC REPORT 58-402
REPORT TO MINISTER OF FINANCE AND MINISTER RESPONSIBLE FOR WOMEN'S ISSUES
DISCLOSURE REQUIREMENTS REGARDING WOMEN ON BOARDS AND IN SENIOR MANAGEMENT
APPENDIX 2 – TRANSCRIPT FROM ROUNDTABLE DISCUSSION HELD ON OCTOBER 16, 2013

This is the unedited transcript of the roundtable discussion of OSC Staff Consultation Paper 58-401 Disclosure Requirements Regarding Women on Boards and in Senior Management on October 16, 2013 which we received directly from the transcriber. We are posting the transcript in this form to make it available as soon as possible.

ONTARIO SECURITIES COMMISSION

LA COMMISSION DES VALEURS MOBILIÈRES DE L'ONTARIO

ROUNDTABLE DISCUSSION RE

WOMEN ON BOARDS AND SENIOR MANAGEMENT

DATE: Wednesday, October 16, 2013

HELD AT: Ontario Securities Commission
22nd Floor, 20 Queen Street West
Toronto, Ontario

BEFORE:

Howard Wetston (OSC Chair)

Maureen Jensen (OSC Executive Director)

Mary Condon (OSC Vice-Chair)

PANELISTS:

Aaron Dhir (Osgoode Hall Law School)

Pamela Jeffery (Canadian Board Diversity Council)

Alex Johnston (Catalyst Canada)

Eric Lamarre (McKinsey & Company Canada)

Jim Leech (Ontario Teachers’ Pension Plan)

Stan Magidson (Institute of Corporate Directors)

Kathleen Taylor (Royal Bank of Canada)

Annette Verschuren (NRStor/Cape Breton University)

--- Upon commencing at 9:00 a.m.

CHAIR WETSTON: Good morning to all, and welcome to the Roundtable on our Consultation Paper, "The Representation of Women on Boards and Senior Management of TSX-listed Companies".

Special thanks to you all here, this impressive group of panelists who bring their professional and personal perspectives to our discussion.

As you all know, we issued a Consultation Paper for comment on July 30th. We received 90 comment letters. I mention this only to suggest that there is such a great level of interest in this matter.

A few comments by way of introduction, and then I will deal with some housekeeping matters.

Public companies, TSX-listed companies, are of enormous importance to Canada's capital markets and to the national interest. The representation of women on these boards and in senior management engages legitimate corporate governance initiatives that affect the national interest. Indeed, the momentum to improve corporate governance has increased in many countries, and the composition of boards is one area where there is impetus for change.

In the U.K., I reviewed this report, and a number of you have seen this, by the Association of Chartered Certified Accountants, ACCA. In that report, they stated as follows: that the increased attention on the participation of women acknowledges the importance of gender diversity in broadening the skills and perspectives of boards and accessing - and this is important - a talent pool that has been under utilized.

Corporate governance is being reformed as the international business landscape is being reshaped by an accommodation of market volatility, globalization and innovation. Collectively, these forces are driving new societal values, needs and expectations. Amid all this momentum for change, we are seeing governments and regulators respond with corporate governance reforms. This is essentially an exercise in legitimacy and modernization and potentially addresses important economic and social realities. So listening here is essential, and an open line of consultation is critical, which brings us back to this Roundtable this morning.

So I am co-moderator; I am not chairing this Panel. So I am with Mary Condon, who is Vice-Chair, and Executive Director Maureen Jensen on my right. We have brought together a great panel to share their insights and discuss the proposals in our Consultation Paper. I'm just going to introduce them very quickly and then do some housekeeping.

Aaron Dhir, Associate Professor at Osgoode Hall Law School; Pam Jeffery, who is the founder of the Canadian Board Diversity Council; Alex Johnston, Executive Director of Catalyst Canada; Eric Lamarre, Managing Director and Partner, McKinsey & Company Canada; Jim Leech, who is President and CEO of Ontario Teachers' Pension Plan; Stan Magidson, who is the President and CEO of the Institute of Corporate Directors - he's spent some time with us a number of years ago at the OSC; Kathleen Taylor, the newly appointed Chair of the Board of the Royal Bank of Canada; and Annette Verschuren, my Cape Breton friend, Chair and CEO of NRStor and Chancellor of Cape Breton University and a number of corporate boards, Air Canada and Liberty Mutual out of Boston, based in Montreal.

So I want to thank all of you for participating in our Roundtable. We certainly appreciate your generosity with your time, your expertise and your ideas.

So we're going to explore some of the major themes identified in our paper; namely, the business case for advancing the representation of women in boards and in senior management; number two, effective policies and practices for increasing the number of women on boards and in senior management; and three, the types of disclosure requirements that would be most useful and whether our proposed model as enunciated in our Consultation Paper is appropriate.

Our hope is that today's discussion will further our understanding of the issues and inform our final recommendations which will be made to the Minister of Finance and Minister Responsible For Women's Issues in Ontario.

So here is how the agenda will unfold. Eric Lamarre will begin with short remarks about the business case for increasing the representation of women. Next, Maureen will moderate the discussion on effective policies and practices. Mary will then lead the dialogue about disclosure requirements.

Panelists are welcome to take part in these discussions throughout the agenda. Our discussion is being transcribed, and the full transcript will be posted on the OSC website after it has been edited.

During each segment, the audience can write questions on cards provided. Staff will bring them to the Moderator. There also will be time at the end of the agenda for Q&A.

So obviously, the call-out is cell phones. Please turn them off, if you don't mind. We are taking photos at this event which may be posted on our website or used for OSC corporate materials. If anyone objects, please let us know. Note that this is a public event and members of the media are in attendance, and we're pleased that that is the case.

So I think I can now turn over the segment of this consultation to Mr. Lamarre.

Thank you for coming. And over to you, sir.

MR. LAMARRE: Good morning, everybody.

We started at McKinsey research on gender diversity back in 2007 and actually published five major research papers. They were called "Women Matter", 1, 2, 3, 4 and 5.

In the No. 1 research paper we had tried to look at the empirical evidence of women's representation on management teams and boards and whether there was an empirical correlation with financial performance of these companies. We found that relationship, and others that had done the same kind of analysis later on have also found the same thing.

What we found most interesting, though, in doing that research is we found another relationship which was really between high-level representation of women on management teams and boards and what we call "organizational health", which is really a number of dimensions that characterize whether an organization is healthy. So you will imagine things like employee mobilization, a sense of direction, a sense of renewal. On every single one, on every single dimension, the companies that had a higher representation of women in their organization and boards had stronger organizational health. In particular, three dimensions really stood out: a stronger sense of direction in the organization, a more supportive leadership, and a higher motivation level of employees.

For us, that was actually an important finding because we had known all along in our research that strong organizational health correlated with company performance.

In "Women Matter" Nos. 2 and 3, we started to ask ourselves why was there this link, and so we looked at the leadership behaviour or attributes that women have versus men, and they are different.

Three stood out. Women tend to be more

focussed on people development, they tend to be sharper in setting expectations and fairer on rewards, and they are perceived as stronger role models. All three of these started to resonate with our research of stronger direction orientation, stronger sense of leadership, and a higher degree of motivation.

So it started to make sense that a higher mix of women in the organization and on boards would translate into a set of leadership attributes that they displayed that are different than men, complementary, and started to make for a stronger organization. So that linkage to the organizational make-up started to unveil itself.

In "Women Matter" Nos. 4 and 5, the last two pieces of research, we asked ourselves: Well, if this is evident and largely recognized, why isn't it happening in organizations? What's missing? Why isn't that make-up increasing faster than we see it today?

This is where we started to really focus on not just the top of the organization, which is the board and the executive team, but throughout the organization and this notion of looking at a pipeline and figuring out from the day of recruiting all the way to seats on the boards where are all the bottlenecks in the organization.

In that analysis, we found that some of these bottlenecks tended to be country-specific, cultural elements of a given country; many were company-specific. So a bank would have different bottlenecks than a consulting firm, for example, at a different place, different biases, and it started to suggest a set of actions that are more targeted in nature.

What was true, though, is what made the difference in the end in companies that were performing better is CEO commitment, visible commitment with clear targets and clear actions set by the CEO; a measurement system, not just measurement of the fraction of women on boards and senior management teams but throughout the entire organization, to really pinpoint where the bottlenecks are and to unlock the bottlenecks in the organizations, so a stronger set of measurement systems to point to the opportunities in the organization, to improve performance; and then a set of initiatives are targeted, so development programs, HR processes, supporting infrastructure. Often different, because the bottleneck would be different.

And so that's what we found in our

research.

In summary, strong empirical evidence, that was clear. Really, it boils down to different leadership attributes that women bring versus men, and I am sure if we were looking through a different diversity lens we would find probably something similar although possibly different characteristics.

Lastly, a winning formula: CEO commitment, strong measurement system of the bottlenecks in the pipeline, and a set of targeted actions that are sustained over time.

CHAIR WETSTON: Thank you so much. That is very helpful. We're going to go to our next speaker.

MS. JENSEN: What we have decided to do is split the morning up. Mary and I are going to take different parts of this discussion to lead it. So the first piece follows the questions that were asked in the Consultation Paper. I'm going to ask some questions around the policies and practices to the panel members, and then Mary will move on and then talk about disclosure, what kind of disclosure and a measurement.

So we'll start off with the structural barriers around board appointments. I'm going to ask

Annette to start.

The question is: What are the root causes for the lower level of representation of women on boards and senior management? In your remarks, if you could particularly talk about the need for people to be CEOs, to be considered for boards.

MS. VERSCHUREN: Thank you. Great, Eric, to go behind you because I am in total agreement with what you are saying.

I ran Home Depot for 15 years, and I saw barriers for women in the marketing departments, in the operations departments, et cetera, and we instituted succession planning and really focussed on getting women taking those risks, getting women into these positions. We have to build the pool because more and more will float to the top as a start.

So the visibility of women is really important, and I think women can do more to become visible. I believe stepping up and really becoming more visible and marketing themselves better I think is a really positive thing.

I think they need to take on the tougher assignments. And it has to come from the CEO, it really does. I believe future companies are going to be judged on their corporate responsibility, how they deal with the environment. The social agenda is causing changes, needed changes in terms of board seats and senior executives of teams.

I think one of the things that I did, I have been a board member since I was 30 years old, and it was because Crown corporations wanted to have more women on their boards, and I took advantage of that.

I also took advantage of a great friend of mine, Purdy Crawford. When I joined Imasco, I made a deal with him. I said let me get operational experience; put me in a corporate staff position, but I really want operational experience. And I got to run the Den for Men, which is a small retail chain, and that resulted in building confidence, running a small operation, but that operational experience really gave me a lot of confidence. So ask for it more. I think women need to do that, and I see a movement in that direction, which I really am excited about.

You need to understand the P&L, there's no question, in terms of really recognizing that that has to be a problem.

Other barriers? Look, I have been in the coal mining business, I've been in the tobacco business, I've been in home improvement. These are not sectors dominated by women. They are tough, they are challenging, but I did well in them, and I did well, I believe, because I was comfortable and challenged in them. I was alone many times.

But women see things through a different lens, and I believe the lens is changing in corporate boards. I think the social agenda, whether it is the environment, whether it is the organizational health of an organization, all these things are becoming more important, and women are very good at this, as you have proven in your six studies. How many more do you need to do? And how many studies have you done on men's performance at board levels alone? I think that would be an interesting discussion as well because I really believe a combination of men and women is so absolutely strong, not one group dominant. I see great progress.

I was talking to one of the Commissioners. To give kudos to my Cape Breton partner over here, there are six women Commissioners, and they say that the mood in that boardroom is so open, so direct and so positive for the men and women in that organization.

So I think shareholders are starting to look more closely at social responsibility, I really do. I think capitalism as we knew it in the past is changing, and I think women can really help out in that movement, and I think that we are extraordinarily important to help companies get to where they need to.

I think, as I said, the roles of companies are evolving.

Just on CEOs, only 40 percent of CEOs are board members. I think it is wonderful to have operational experience on a board, no question about that, but I see really great strength in specialty areas, CFOs of companies. I see legal, I see the marketing teams, HR. Anybody that has gone through a major re-organization with an HR leader, it's quite amazing. So I think we have to recognize that this is changing, and I again go back to international experience being extraordinarily important. So I don't think we should get caught up on having to be a CEO.

I ran a division of Home Depot, it was a big responsibility, but I got on these boards and I contributed to these boards and felt comfortable on these boards as I got through them. But, look, I think it is time, it is time that we expand this. We have been at the same point for too long. So I think the business case is there, has been there for many, many years, and I think it is time really to get on with it.

MS. JENSEN: Any other comments? Do you want to pick at the thread on root causes for the number of women on boards that we have in corporate Canada, or should we just move on to the next question? I encourage people in the audience to write questions, and we will then pose them through this practice here.

Next, I would like to move on to Kathleen and ask you: What do you believe are effective policies and practices for increasing the number of women on boards in Canada?

MS. TAYLOR: The best practices around diversity and gender of all kinds are many and varied, I would say. Lots of companies do extremely well although there doesn't seem to be a model blueprint, but there are some factors that stand out.

Eric and Annette have mentioned, dealing first with women executives in management ranks, for sure the diversity agenda begins with the CEO. We talk about tone from the top in all matters of governance, and diversity policies of an organization are no different.

When you are a female CEO, it is pretty obvious either in your company or in your industry, as was my case in hospitality, that the diversity agenda could start with you. It was very easy for people to look to you for guidance in that area. But it's true whether you are a male or female CEO.

So if we turn our attention to the RBC case, Gord Nixon is the champion of the diversity initiative at RBC, has been for 12 years. When he first took over as CEO, he established a Diversity Council, made this an important feature for the time that he spent with his senior managers, and so very senior people in all the business divisions participate on the Diversity Council with real accountabilities, real goals as part of their day-to-day management. So very visibly driven from the top of the business.

The second area that I talk to people about is the need for diversity to be fully integrated into the talent management processes of an organization. Diversity is something that you do sometimes very tactically, sometimes a side-of-the-desk endeavour. It will largely be a marginal activity for most people, but if it is focussed really at the heart of your talent management processes, your people development process, your succession plans for the executive ranks, and you have real, tangible medium- and long-term goals around diversity, people pay attention to that, they work toward it, it's meaningful. People in the organization can come to rely on that focus, and it really sends a message of energy and renewal throughout an organization.

There are a number of issues within the talent processes: sponsorship, mentorship – people talk about those; having programs that are devoted to those, that highlight the need for that. Men and women, we all need coaches in our lives, people who can help us as we move along. But really formalizing those elements.

And then the last one, also a very broad area, is corporate culture. You have to be fostering a culture of diversity that drives inclusiveness.

At RBC, one of the core values is diversity drives growth and innovation, and there is a fundamental belief that the organization gets stronger every day as a result of the focus on diversity and the inclusion that goes along with diversity. It is really those two taken together that will drive a very, very powerful element.

If we move that along to what is happening in the boardrooms as we choose directors, I think many of the same rules would apply. The board chair needs to be focussed on thought diversity at the board level, and with that comes gender diversity as well as all other kinds of diversity, which I know we'll talk a little bit about later today, and so the board chair, the nominating governance committee has to have this as a focus, and the board itself can play an overriding key role in making sure that it keeps its eyes focussed on that.

We have had a diversity guideline at RBC for many, many years now targeting more than 25 percent women; we're almost at 30 percent right at the moment, five of us on the board now female. And I think that that's an important factor.

I do think it is also important to say you can't get too fixated on percentages. The most important thing for boards is to have the right people at the table at the right time constantly focussed on renewal and diverse expertise, and so as you go through that, percentages will fluctuate, but within a range. There is nothing wrong with focussing on that and coming to some company-specific determination of what constitutes critical mass.

I think that one of the things we see in business and boards is that when women are there in sufficient numbers there is a catalyst for change in that thought process, and so it is important to think about what the size and shape of that is for your organization and get to the right point on that.

Also, this is a little bit outside the context of what a board can do, but to Annette's point, I think that our corporate leaders in Canada can be doing more to encourage our young executives to take on board work earlier on in their lives. I joined the RBC board when I was 44 - very, very young, I thought, at that time; I certainly think now, looking back.

But the learning experience, from an executive development perspective, that I was able to bring back to my main role as the leader of Four Seasons was absolutely invaluable. I think if we think of these types of external engagements as career development, as executive development, no different than an Executive MBA for some people, in many cases it can be more valuable in the form of hands-on experience. Freeing up a lot of our very talented young people to get on with the business and helping to engage with other companies will indeed start to begin the process of changing.

MS. JENSEN: You've talked about the importance of CEO commitment to gender diversity at the board level and the chair's commitment. Both you and Annette talked about issues on the supply side, how to ensure that you have board-ready women available.

Let's talk a bit about the demand side. And this is open to anyone. What do you think are some of the practical ways that a company can encourage diversity at the board table? For example, the nominating committee, what are some of the things they can do differently than are being done today?

MS. TAYLOR: I think there are a lot of new things going on. I happened to be at an event last evening with a large group of women, and we were talking about searches that various companies have going on at the moment, and a couple of the women indicated that the searches that they are working on for their boards are women only, and so they have asked their search firms. This has become a focus for them. Now, whether this is a board need or in response to the initiatives that are going on here, we can debate that and talk about it, but there is no question this has become top of mind.

But even if that is not where your board is at, ensuring that your search firm -- and I do think that the use of external advisors when you are trying to hone in on the best candidates is a useful thing to do. Making sure that they know that your board is focussed on the best available candidates from all areas of the economy, men, women, other visible minority candidates, whatever it is, just getting the best list, but also making sure they are focussed on a diverse list so that you are not simply focussed on one type of person. I think that is one thing that is a very easy thing to do as each board goes out for its next search.

MR. DHIR: So, so far this has been a really helpful discussion, both on root causes and then on corresponding practices.

On root causes, back to that, perhaps one thing that hasn't yet come out in the discussion is the issue of implicit cognitive bias and the biases that we all share. Harvard University has a wonderful online tool where you can measure your own bias. In thinking about today's meeting before getting on the plane, I ran one for myself and was quite amazed to see how biased I really am.

So the issue then becomes: How do we address this in corporate cultures?

Eric, I know you've thought a lot about this so I was wondering if you could bring that to the table.

MR. LAMARRE: We were discussing this just before the start of the event. I think this is an area where we haven't done enough research to understand where are the biases in the organization. I don't think anybody is going into their job saying, "Oh, I'm going to make sure I don't promote any women today." Nobody does that - at least, nobody in any organization that I know.

But actually, when you start to look at the data, and we have done some of this in our own organization just to look at how we were recruiting, for example, and how many times out of a sample set we would give offers and no offers and see whether there was a gender bias but any other type of biases in that, and just supplying this information back to the recruiters, to the partners doing recruiting so that they could self-diagnose their own bias in the organization.

So I think this is an area. There are a lot of initiatives we can take, you know, more programs this, more programs that, but I think we haven't hit enough at the core of this, and I am increasingly going in that camp, that there are some inherent biases in organizations that we are not aware of as individuals, but when the data is played back in a manner that opens your eyes, then you become consciously aware, and then there is a chance for change in behaviour.

So I would like to see more on that, to provide tools to organizations so that their management line, not just the top five or ten in the organization but everybody in a management position, can have a chance to figure out what those biases might be.

MS. JOHNSTON: I don't think we have got a wealth of information on the bias, but one of the things we do and a number of people do is try to create a body of evidence, and one of the things we have been doing for a number of years is tracking MBA grads, men and women, since 2008.

What is useful about the evidence, about what companies can do with that evidence, I'll just table three quick points. What we found when we looked at men and women with comparable work experience going into their MBA with comparable MBA credentials and with similar aspirations and we isolate the things like kids, no kids, willingness to take on international assignments, right out of the gate women are being offered jobs at a slightly lower level than their male counterparts, on average a $5,000 salary difference in compensation out of their MBA degree.

What I found really instructive last fall was a report we put out on hot jobs. We looked at the critical components of career advancement, and one of the things we identified was hot job experience. All of the participants - we are talking about 10,000 - out of about a thousand participating in this report said they were getting hot job experience. A "hot job" is mission-critical to the organization, significant budget, significant number of direct reports.

What we found is women were being put into management training programs early and were there for longer than their male counterparts, but once they moved out of those they weren't getting comparable file experience to advance.

So a couple of things happened.

We looked at the details. On average, men's budgets were twice that of their female counterparts, three times the number of direct reports, substantially more exposure to senior executives. Everyone in this room understands the value of those three things.

What that enables companies to do is not say I understand my biases, but I need to look in the organization at where these barriers are starting and figure out how we are making our decisions. It enables companies to have the right kind of conversation.

There are tons of things you can do in companies, and I know RBC has taken a really keen interest in unconscious bias to develop better strategies. As a starting point, get the evidence and start to look in your company at the critical places whether career advancement starts to sort of go on two different paths, address those, and you will find that your talent development starts to be a lot more effective and successful than it is today.

MS. TAYLOR: I think one of the keys around the subject of unconscious bias is the stigma associated with the concept of unconscious bias. Really, all of us, as you point out, Aaron, come every day with a set of biases that were formed as a result of our experiences, our history and our upbringing. Some of those are good biases, but some of them can get in the way of sound decision-making.

I think, to Alex's point, it is the awareness around what are potential biases in the workplace and then work to target those and work through them, because they will always exist. It is not an idea that people will come with blank sheets of paper to work and somehow be moulded. Everyone brings their own experiences, as diverse as that may be, which is the power of a collective, but then figuring out how to get everyone to accept that those biases are part of how they are made, part of what creates the value as an individual and working with them to make sure they are not getting in the way of good decision-making is a very, very important step.

MS. JENSEN: And it is important, I think, to realize that diversity at the board table - and I just mean diversity of thought and diversity of bias - makes for better decision-making because you don't all have one bias.

In particular on boards, I have a question from the audience. Should term limits be mandated for board members to help with the demand side of women on boards? Anyone want to talk about that?

MS. TAYLOR: I think term limits as a matter of governance have been thought to be advantageous for boards for some time, not specifically as it relates to the diversity issue but more as it relates to the renewal issue and the need for a constant evaluation of independence of a board from management. So this is a conversation that has been going on for a long time. It is now new in the arena of diversity. Whether it will help to promote more diversity I think does depend a little bit on how it is then used as you move into the next generation.

MS. JENSEN: Yes, it's been a discussion that's been under way for a long time for a variety of reasons.

MR. LAMARRE: I would actually look at this almost the other way around. I think in any job that we do, any job, there is usually a bit of a ramp-up period before you start to be effective. I don't know exactly how long for a board member, but let's call it a couple of years. And there is certain period of time at which point you are no longer effective because you've been in it so long you can't see things anymore.

CHAIR WETSTON: It's called your "best before date".

MR. LAMARRE: Exactly. I don't know what that date is for board members. So, for me, the notion of term limits is just good governance. That's it, full stop. It doesn't need to be viewed as a mechanism to drive more diversity on boards although it can obviously help for that, but that would seem to be the wrong reason to do it. The right reason to do it is to get a more effective board.

MS. VERSCHUREN: I agree with Eric a hundred percent. I have seen chairs make changes on boards that I've been on that had the seven years and then stay for life. It is changing, and as there are more demands on boards I think there is going to be a natural turnover. People are going to want the best people on their board, and that should automatically happen. We have many good boards, a lot of good internal surveys. We judge each other's performance, and shareholders judge us. So that would be my comment as well.

VICE-CHAIR CONDON: So is the question of term limits, then, something that securities regulators in our roles should be focussing on? It is not something that we directly raised in our Consultation Paper, which is, as we know, focussed more on disclosure obligations, but is that something that securities regulators have a role to do in terms of moving the dial on corporate governance practices?

MR. MAGIDSON: I think that certainly there is a lot of merit in considering term limits, but I would suggest I think what we're talking about here generally is what I will call "behavioural science". I don't think this is an accounting exercise.

The perspective we have at the ICD is generally not to legislate what you must do, but rather, encourage good governance practices. So I would suggest that term limits is certainly something boards should really consider and see whether it is the right answer for their companies and boards.

We prefer to see much more rigourous board evaluations done such that there really is rigour in terms of do we have the best people on our board, or, to borrow Howard's phrase, have they reached their "best before" dates. I think that that would be a way of actually pruning things in your boardrooms so that you actually had the right configuration that corresponds to your matrix in a high-performance board.

So certainly, it is part of a potential toolkit, and some companies may consider it is the right way to go. It's easy, it's kind of calculable. There is no discretion; it happens. But we generally don't favour the idea of governments know what's right for the particular business.

MR. DHIR: I agree with Stan that term limits are something that boards should consider.

Picking up on Mary's point, I think that a potential disclosure provision on term limits could assist companies in nudging them towards that consideration.

I do think it is an important part of the puzzle, one part that has to work in conjunction with the other items we have talked about. I am just mindful of the Consultation Paper, and at page 5 it talks about the TD economics report, which showed that from 2009 to 2011 women filled only 15 percent of the entrance seats. So we have to be mindful of that as well.

MS. JENSEN: So we are talking about gender diversity on public companies, so I think I would like to turn it over now to Jim and pose a question about: What role do investors play in encouraging diversity at the board table and, in particular, institutional investors, because they are so dominant in the Canadian market?

MR. LEECH: Certainly. As a global investor, we have always had the long-held view that good governance is good business. We kind of start with that. Companies with good governance practices usually make better decisions. So, how do you get the board to be making the best decisions, or what is the composition of that body to have the proper debates and proper analysis, et cetera?

Our conclusion on that is that we must try to make sure and encourage companies to get qualified directors and to choose them from as diverse a pool as possible because we think diversity of views at the table and getting away from group-think gets you to the right place.

Diversity to us is not just gender, but that is the question on the table. I think, from our perspective, a diverse pool means nationality, gender, all of the experiences that you have. But we are talking about gender today.

Looking at the Canadian experience, it is not a very good track record. We have been slow to increase diversity on the boards, and gender diversity is probably the best place to start.

We were asked the question, to respond to the paper that the OSC put out, and our view is, looking at the evidence, it is clear to us, the McKinsey Report and others, that better boards have more diversity, and that's what we as institutional shareholders should be pushing.

MS. JENSEN: I would like to also then ask the table - and I will focus first on Annette and then to the rest of the group - what do you think should be the role of the securities regulator in mandating diversity at the board level?

MS. VERSCHUREN: I think this question is bit of a diversion. Look, I think the real issue for which we are here today is to improve Canadian companies, and I am convinced beyond a reasonable doubt that putting more diversity on these boards, having more women in C-suites really improves the performance of companies.

And shareholders are demanding more transparency. They are. I think it is going to help investors make decisions when they see what the make-up of their -- and every time I look at a board I look at senior corporate officers and I look at what the make-up of the board is. I think, to Jim's point, we're becoming more global, we are becoming more diverse. We really need this to happen.

The facts are that we're not making any progress. The facts are that of public companies in 2009 10.3 percent have women on their boards, and today it is that same number. So who is going to do something about this? Catalyst has taken an initiative.

In a perfect world, I would love a bunch of CEOs, a bunch of chairs in Canada to drive this, to push it. I really think what they are doing in the U.K., the 30 Percent Club, is very interesting and very positive. That would be a perfect world. But in the absence of that...

We are not seeing progress even in Crown corporations. I think they have gone down three percent, co-operatives up a little bit, private companies a little bit better over that period of time, but we are not making progress. So comply or explain, I think the concept of it creates transparency.

Some companies have a long way to go, but if you go from zero to one, wow, what an impact that would be. I saw some numbers that Alex put together, just one additional person on the board, and the outstanding boards that have none, bring the number up to close to 15, 20 percent. So from one to two.

It is true having more diversity on boards really does enrich the conversations, does enrich the diversity of thought and I really think filters through better decisions on the issues.

There are so many good reasons why businesses should be on board. I argue about productivity a lot, and I say: Why is Canada's productivity lower than other countries? Do we have enough participation from our all groups? Do we have enough leadership at the top representing the strength of this country?

I think we are held back a bit because we don't have the diversity of thinking at the tops of our organizations. And I see some sectors doing better than others.

Gord Nixon, putting you as Chair of the Board, Kathleen, was just a great day in Canada. It was a real event for all of us that saw this happen. It is really quite exciting. But there needs to be more. What can we do to make that happen?

The SEC looks at the nominating strategy in the United States of public companies; they want to see progress on those. So there are examples of different ways in which institutions are looking at themselves.

And I think the Ontario Securities Commission: Be brave. We have to move the needle. And do something about it.

MS. JENSEN: So we are proposing comply or explain, and many other countries have tried different types of encouragement for setting targets.

Any comments about lessons that we can learn from other countries?

MS. JEFFERY: I'd like to speak to Australia because I think that's a really interesting model.

As we know, in Australia, on January 1st, 2011 they put in place a comply-or-explain approach. We have been watching that very carefully at the Canadian Board Diversity Council because when we talk to directors we know that corporate directors don't want quotas. In fact, our latest research that we did this summer, which we have shared the finding in the submission, indicates that 38 percent of FP500 corporate directors want the status quo. Our research is now showing 62 percent don't favour the status quo anymore with eight percent favouring quotas and 54 percent supporting comply or explain.

I don't think we would have had that result three years ago. So if you look at that result where there is an appetite that corporate directors have for comply or explain, from that survey we did we had almost 400 directors respond from across the country. That's really terrific. So that's the environment we're now in.

So if we look at Australia with their comply or explain, what we find very interesting is that they had a review done, and that review was published in March of this year. So this was the first full year that publicly listed companies on the Australian Stock Exchange had the opportunity to implement those board diversity policies, and what it discovered was that 90 percent, 90 percent, of those publicly listed companies in Australia now have a diversity policy in place.

What's also interesting is that when we contrast that to companies here, our research shows the number is 18 percent. So what is it that Australia has done through their comply-or-explain approach to move the needle, which was pretty close to where we were, to 90 percent?

What they did is they introduced this comply-or-explain approach, but they've said that in hindsight they needed to have greater specificity around measurable objectives. So we really would like to see a comply-or-explain approach. It's what the Canadian Board Diversity Council members want, it's what Women's Executive Network members want, but we'd like to see the specificity to ensure there is transparency so that at the end of the day we're not talking about this still in five years or ten years; we're actually moving the needle and getting the results to drive shareholder value and better corporate performance.

We're not saying all this, it's not diversity for the sake of diversity. We're saying this because we need to drive better corporate performance. And other countries are leading the way.

VICE-CHAIR CONDON: It's a perfect segue. Thank you, Maureen.

As you know, we do have a suggested model that we have set out in our Consultation Paper, and it's a model that identifies headline types of disclosure that we might propose issuers provide. It is a model that gives a fair amount, indeed a large amount of flexibility and economy to individual issuers to, first of all, decide whether to disclose in the first place, and secondly, what they're going to disclose about their own approach to gender diversity at the senior management and at the board level.

So can we start with you, Pamela, in terms of the conversation about the flexibility that's being offered to issuers to pitch the disclosure according to their own self-imposed targets or their own self-imposed policy? Is that too much flexibility? Is that appropriate for where we are in Canada at the moment? Is there something else, some other way in which we should be making this a little more directed?

MS. JEFFERY: We think that the flexibility is right because we look at sectors and we see there are great differences that we all know of. So finance and insurance companies are really leading the way, at about 23 percent of their board seats held by women, whereas our research also showed that 7.7 percent of mining, oil and gas company board seats are held by women.

So we're looking across sectors, and we are seeing some sectors are leaders and some are laggards. So what is the kind of approach that's going to work to bring all up?

What we like is the flexibility. However, what we want to see is that companies do put in place a diversity policy and they report on it. So we're very interested in seeing that diversity policy published not only in an annual or proxy circular but also on a company web site and also in an annual report. We want to see greater transparency so that we see what they are thinking in terms of their diversity policy, we see what makes sense for their businesses, then we look at what their targets are, and then we have watched as they've moved towards those targets. It's an opportunity for shareholders and others to keep companies accountable because at the end of the day, you know, we have all said it, it's all about performance. So that's what we like about Australia, but we also like what they're doing in the U.K.

We think another important piece of it is an annual review.

So following the Lord Davies Report, we know there's been an annual Davies Review, and we like that a lot because, again, it's an opportunity to keep the issue at the forefront, an opportunity for companies to use the opportunity to bring the best and the brightest to their boards. So I think we have got a lot to learn from Australia and the U.K. in respect of the specificity, in respect of annual reviews.

In the U.K., they've also recommended that companies disclose they have not retained an external search firm. A bunch of folks have talked about the rigour of the process and how important the rigour of the process is. We certainly would like to underscore how important that the process of identifying and recruiting new directors be rigourous with the assistance of a search firm that has the ability to bring in candidates that are beyond the current directors' own networks. That's really the crux of the issue, is identifying those candidates that are not in the directors' own networks.

VICE-CHAIR CONDON: Well, certainly, one of the issues that has been raised in the comment letters so far is the question of if there is a disclosure policy of this kind put in place what's going to be the role of the regulator in doing the follow-on compliance assessment. So I want to get to that issue in a moment.

But are there any other comments just on the threshold question of whether in this consultation we have pitched the level of disclosure appropriately?

MR. MAGIDSON: Two thoughts, Mary, if I might. One is in 2011 ICD put out a diversity paper, and we called for Corporate Canada to voluntarily embrace adopting diversity policies. I regret to say it really didn't take. So I think that your stepping in here is a very logical extension. I think you will, as a regulator, provide legitimacy to the request, so I think it's very timely an approach as a natural extension of what we think is a very good practice.

I agree with Pamela that global experience is showing that comply or explain is having success. The question is will it be sustainable or not, and that's where you start to talk about when do you need to review this or not.

Finally, what we really like about comply or explain is that, again, it's not somebody telling business or Corporate Canada or organizations what the right answer is. You are essentially allowing the market to go to work here. I think you are going to find that there will be leaders and laggards, and I actually like the phenomenon in Canada to be one where business is embracing this because it's good for business, it's good for social reasons, it's good for global competitiveness, and it's not being done to comply with the rule. That might be idealistic, but to my mind, it's worth trying this and seeing whether companies will really embrace the competitive advantage that we think this will bring to them. It sounds like RBC is already on that train.

VICE-CHAIR CONDON: Just to press on this issue because there's a question from the audience which focuses on the fact that -- the comment that's made is the reality is that over the past ten years little change has occurred, and there's a lack of a desire to change.

Is it your view, Stan, that the difference here is that the regulators imposing a disclosure requirement or requirement to have a gender diversity policy will be enough of a push to get people to really focus their attention on this issue?

MR. MAGIDSON: I think the single most important contributing factor this rule will have is that it forces this discussion onto the boardroom agenda. You can't ignore it. You have to put out a public disclosure document to say this will be on the agenda, what is our approach to diversity. Companies will actually have to sit down and decide whether they're going to embrace diversity, they want to be leaders, laggards, or say we're choosing not to comply because we don't believe in it.

Someone once said, you know, "Sunlight's the best disinfectant." I think we start there.

MS. JOHNSTON: Two quick comments.

One, I think that if you look at even what a draft regulation has done in terms of changing the conversation, it's pretty dramatic. When I think back to last February when we put out our census results at the time tracking women senior officers on boards, you know, I joked when I saw them that I had to drink a case of Red Bull to go out and speak enthusiastically about the future because there was no progress.

But I think when I look at what's happened in the short period of time in six months just because of the draft regulation there's a lot of people who are in the grey zone and who are pretty close to being there.

I had a very small focus group of sort of twenty or so companies. We launched an initiative at Catalyst. We're asking companies to set their own goal, a voluntary commitment to help raise the average of women board directors on FP500 companies to 25 percent. Based on our census, we're at 14.5 percent.

When I look at what they've done, completely different goals. They disclosed to us -- they can make it public if they want to, but they don't have to. It's very clear to me when they disclosed a goal that it's a meaningful goal, that it's a stretch target. It takes different forms. It might be the executive committee, it might be the executive board, depending on the organization, but their behaviour is changing. They're not doing this simply for optics. They are legitimately having a conversation internally around the goals, what's realistic, and how they're going to get there. The real work isn't setting the goal; the real work is everything that happens after setting the goal and organizing ourselves to support these companies and getting to a 25 percent, 30, 35 percent and moving forward. And that's a completely different conversation. We're not there yet.

But when I look at what you have done single-handedly simply in putting out a draft regulation, we're having a completely different conversation today than we would have been and that we were six months ago.

VICE-CHAIR CONDON: Thank you for that reinforcement.

MR. LAMARRE: I think it's a great point. We are talking a lot more about it over the last six months since that's out. So I think that's great.

The advantage of being the laggard country on this issue is that you can actually look at others. Pam has highlighted the Australian model.

When you actually revisit the data, there's really sort of two models -- well, three models out there: those who do nothing, those who go to a comply-or-explain model, and we would put Australia, Denmark, Sweden, U.K. into this. What's the experience? Well, it's about one percentage point gain per year on boards, okay? So one percentage point gain per year. So if you were at 10 percent, you know, next year you're going to hope to be at 11 and 12 on average. That's what they've achieved with a fairly tight band.

We could ask ourselves is that quick enough for us, and then if you answer no to that, then you go to the quota system, and those that have had quotas with sanctions - so, you know, France, Norway;

we've spoken a lot about those in the papers recently - obviously, they jump instantaneously to that number because there are sanctions coming along with those. Those that didn't have sanctions but still quotas didn't move any better than the comply or explain, actually moved worse in some instances.

So I think, at least for me, it's a no-brainer first step to go to comply or explain. We will get improvement, hopefully more than these other countries have had. Hopefully, you'll find a way to put the right amount of teeth into the proposal to get that to happen. And then let's revisit in three or four years whether we are happy with the progress.

MR. LEECH: As many of you know, Teachers in its submission actually said let's skip this intermediate step that we don't think is going to work and let's give companies seven years to get there and make it a listing requirement, so pushing it a little bit farther.

It was interesting. How we got there was a real concern over the lack of progress because, as this paper pointed out, we rank behind Turkey and Poland right now, which isn't exactly the place I think we want to be, particularly when we tie this directly to governance and performance.

Even those jurisdictions, as Eric said, who have had disclose or comply-or-explain rules have really not made an awful lot of progress. What happens is they bumble along like this, and then finally the patience runs out and people say, no, we're going to regulate it, and you get a big jump in the last year. That's what happens. So our thinking was let's set that target, let's set it out far enough, seven years out, and let's all be working towards that.

The conversation around the table was interesting. As this was debated, part of it was wouldn't it be great if it was voluntary, but we didn't think we were going to get there.

The other comment was, you know, we have been to enough Catalyst dinners already where somebody stands up and says how wonderful this is and we should be doing it, and nothing changes.

So our view was if we really want -- you asked us a question. If you're serious and you really want to make that difference and you really believe in it, then set it up for seven years from now as a target, and people have to get there. And it's a listing requirement.

In our view, it's really just a matter of time for you getting there, so you can either use the current proposal and see where you get in three or four years, and then I think our view is that you will be likely compelled to put it into statute.

VICE-CHAIR CONDON: So, Jim, I know that one of the things that people would be concerned about, and this came through a little bit in the comment letters, is different issuers are at different sizes and sophistication. We are targeting this to TSX-listed issuers, but even within that group there's clearly a span.

We as regulators need to consider the whole terrain. So is there a concern that if we went with the proposal that you are making that smaller issuers would have trouble with that kind of target approach?

MR. LEECH: And perhaps the scale of the approach must happen in that case. I mean, I think the average board is nine or ten of the larger TSX-listed companies, so our thinking in our proposal is that we should be aiming to have three. There's lots of evidence around that suggests, one, that individual comes in as a representative of that gender at the board; two, at least she's got somebody to help her out on it. But once you hit a body of three, the concept of them representing a gender or a particular community goes away and you're being looked at as a professional who has views on everything not just gender issues.

VICE-CHAIR CONDON: Aaron or Pamela, do you have any comments that you want to add to this discussion in particular? Pam has already referenced the global context, but is there any other evidence that we can bring to bear about how these sorts of policies have worked in other jurisdictions?

MR. DHIR: Yes. So my academic work over the last couple of years has focused both on looking both at quota-based regimes internationally and disclosure-based regimes. So what that has meant is I travelled to Norway a couple of years ago and did research interviews with directors who were subject to the quota law, and then I've also spent a lot of time reading corporate disclosures that came as a result of comply-or-explain provisions.

I won't say anything about the quota stuff now, but I'm happy to talk about it later on if people like.

On the disclosure stuff, I guess we see two models. We see comply-or-explain, and we see just you-must-comply rules, so the SEC rule.

So on comply or explain

internationally, it's really early to say because the empirical studies are just starting to come out now. As Pamela mentioned, there was a report that just came out in March, the KPMG report, and its tone was very positive on the disclosures.

That said, there was also a report that came out just a couple of months later, a BlackRock report, and it was much less enthusiastic. So it characterized two-thirds of the ASX 200s disclosure as just simply perfunctory, and it said about 20 percent were not even meeting their de minimus obligations. That led BlackRock to conclude, look, boards just aren't taking this issue seriously.

There's actually a third report that just came out in August written by two Irish academics, and it was a sample actually of five different comply-or-explain regimes, so Spain, Norway, Australia, Belgium and the U.K. In that study, the authors were just cautiously optimistic. They found in the data that there has been positive progress on representation but that the pace is just absolutely sluggish and uneven.

So I think so far the empirical evidence is sort of -- we're not seeing resounding endorsements. When we think about that, I think it's important to think about the empirical work that's been done on comply or explain generally; like, outside of the diversity context. While I certainly support a robust comply-or-explain regime, there's no magic that comes just because it's comply or explain.

Now, the theory - and this has sort of been alluded to in the comments - is that comply or explain will sort of catalyse a deeper, intra-firm discussion and reflection. There is some social psychology research to suggest that if you have to give justifications to third parties - in other words, the explain part - then you're going to think much more carefully about what you have to say. But it's not a foregone conclusion, and to the extent that the evidence in comply or explain is a little bit not quite what we would want to see, we need to think about the experience of these jurisdictions.

So most of the jurisdictions covered in the Consultation Paper are European jurisdictions, so the regulators don't really play a serious role in reviewing the actual content of the disclosures.

So for this to potentially work, I think there has to be diligent engagement with the actual disclosures. I think that comes out in a few of the comment letters - in the Canadian Coalition for

Good Governance, Canadian Board Diversity Council, also in Teachers. I think detailed, interpretive guidance, rigourous reviews of the disclosures, and that's stuff the OSC has done. I mean, you've done that on corporate governance, you've done that on environmental reporting.

I think that while the primary responsibility on that does lie with the regulator, it should be shared as well by civil society organizations that are working in this area. So, for example, Calvert publishes a score card each year on disclosures under the SEC rule.

On that, I'll just say that on the SEC rule -- and we know from the Consultation Paper that the SEC chose not to define "diversity" out of a fear of being too prescriptive. So I've studied the S&P 100's disclosures since the U.S. rule has been in effect, and my main finding is this.

When not given regulatory guidance, firms most frequently speak in experiential terms, so director experience, director qualifications, director skills, et cetera, not in socio-demographic terms like gender and race. In the sample from my study, probably only about 50 percent thought that way.

So I think while I'm mindful of some of

the comment letters that have come in suggesting the OSC not be too prescriptive, I think the SEC example -- well, the proof is in the pudding on that.

MS. JEFFERY: So, Aaron, when you're speaking of the success of comply or explain, I think you're seeing the measurable objectives that have been set through numerical gender diversity targets, and that's something that we'd like to see. We'd like to see actual numeric, actual and percentage based on board seats.

So when we looked at your excellent submission, Jim -- and the Canadian Board Diversity Council is saying much the same as you are saying. What we're saying is 30 percent by 2018, 20 percent by 2015. So we're actually a couple years sooner hoping to see that 30 percent.

But that's why we think we really need to have an annual review done each year so that if we're not hitting that 20 percent by 2015 and we're nowhere close to 30 percent by 2018, then we think there needs to be further action taken because our latest research, that we will be releasing next month, shows that we will not be anywhere close to gender parity until 2097 at this pace of change here between half a percent and a percent a year. So 2097, we're all dead, and our children are dead, and our grandchildren. So let's get on with T.

VICE-CHAIR CONDON: Thank you. Alex, can I bring you into the conversation? I know in our conversation yesterday you were mentioning that Catalyst had prepared some figures that sort of tried to capture how many board seats would need to be turning over over the next few years in order to meet certain targets. Can you comment on that?

MS. JOHNSTON: Yes. We did this because we wanted to break down the issues. So what we found in having this conversation is people tabled a number of obstacles. One, there aren't enough women. We always say there are 800 women senior officers in FP500 companies today. That doesn't include women in professional service firms, doesn't include women in public service, public sector, doesn't include someone like Annette who is no longer in that role. So you're probably talking about somewhere between 1,500 and 2,000 women with the kind of experience you're looking for.

We've got about 5,000 FP500 board seats today; it's closer to 4,700. We would need to get to 25 percent - in our census we're at 14.5 percent - 90 more women a year for the next five years. So out of 5,000 boards seats we need 90 more women a year to get to 25 percent for the next five years. That seems very manageable.

When you break it down for people, it takes away the 'where are the women, there just aren't enough qualified women, we're talking about thousands and thousands of women we need to appoint every year.' Nope, we're talking about 90 women every year. That really puts it into a context, I think, for most people where they can understand this is a very manageable issue.

To Pam's point, when I looked at this, to get to 25 percent right now it will take two decades. So unless something changes it will take us two decades to get to a quarter of women on board seats for FP500 companies. And I don't think anyone's comfortable with that.

MS. VERSCHUREN: Some sectors are doing much better than others. I would say that the banking industry may be at 40 percent over a period of time. There's real diversity of sectors here. You know, the mining, oil industry is very dominated by males. So these are sectors that I think are going to have to go probably at a different pace to build up that pipeline that we talked about and really do a lot of work.

One of the things that will be interesting is to do -- CEOs and chairs are very competitive. What about establishing and taking progress in sectors and seeing whether we can encourage a really competitive, positive look at improving performance in their sector? So again, flexing it a little bit different, but is that another way to help expose the reality of the situation and really get more targeted, not by developing quotas, but more targeted in terms of looking at sectors? Because we need to celebrate.

I know we go to Catalyst and we celebrate, but we need to celebrate more the great progress of some companies in terms of women in C-suites. Jim Leech is a great example of that, but do we hear enough of that? No, we don't. We don't hear that publicly talked about.

Why is that? Why are we talking about this issue now? Because, you know, the leader of the province decided to direct these guys to take a look at this. That's why we're here today. And I think it's the best conversation about this issue since I've been around.

So, again, how do we create the conversation, the annual plan, the sectoral analysis?

How do we find ways in order to talk about this more? Because I think that will cause change to happen.

MS. TAYLOR: Annette, I think you're on to something. A lot of people have mentioned the leadership of the banking sector, and it is, in fact, true, but the financial institutions have been at this for a long, long time. I mean, this has been a 20-something-year initiative since the introduction of the Employment Equity Act back in 1986. Disclosure clearly has been part of what all of the institutions have had to do.

But I'll hark back to some comments made earlier about best practices. Along with those disclosures came an internalization of measures of progress and accountabilities for management around measures of progress and the integration of these programs deep into all of the business units of these companies. It's the knock-on effect of each of those, the tone at the top, if that's the OSC in this initiative, that then has to work its way down to the point where companies are actually reporting not only their policy but the progress and how they envision that in the work that is being done.

So it is something that will take time to take hold, but there's no question that there are some very good models of how this type of framework has worked well and has made significant progress for companies over time. Some of those models, it's true, are international, but some of them are right here in Canada, and we can learn from them.

MS. JENSEN: So we've heard a lot about in general in business you focus on what you measure, so we're talking about measurement. Who should be measuring this? Should the regulator be measuring it and publishing? Or who else should do it? Should we leave it to academics, and Catalyst, and Canadian Board Diversity Council?

MS. JOHNSTON: I don't think you need to. I'm always surprised, quite frankly, at how -- there are five or six great lists that are really great resources. I'm always surprised in some ways that limited knowledge about those resources.

I was out west two weeks ago, and we were talking about comply or explain, and there was push-back from someone around the table, and she kept saying, "You just need to sell the business case," and I said, "The business case has been around for years."

So the business case is well-travelled territory. If people want to get the business case, it's available. If people want to see the breakdown of companies, breakdown by sector, breakdown by province, who is a zero, who is a 1, who is a 2 in terms of boards, all that information is available. I don't think you need to recreate the wheel.

I think what you're doing right now is putting pressure in the right place, in the right way, on companies to move the conversation into the boardrooms and set a structure to meet a target.

I think beyond that, in terms of measuring I do think annual reviews and accountability is hugely important, and I think that's the conversation that you need to have as a regulator.

I think in terms of slicing and dicing the numbers, there's a ton of stuff available. I don't think we necessarily need to formalize that. I think we need to make sure that that is out there and public and a useful resource for people looking at this issue - investors, shareholders groups, et cetera, et cetera.

VICE-CHAIR CONDON: Can I just get some clarity, though, on this issue? Because I think it's going to be important for us in our discussions later.

Is the suggestion that we require issuers to set their own targets and then measure themselves towards meeting those targets, or are we doing something less than that where we just say disclose what you're doing, disclose what you're doing around numbers of women currently on your board and in senior management, disclose what you do around selection processes and so on?

So is the suggestion that we would actually require issuers to set their own targets?

MS. JOHNSTON: Yes. We're going to talk about measurement at the end, but I think unless you have a specific target we're back to where we were nine months ago and no one's really having this conversation in a meaningful way.

MS. VERSCHUREN: How is that done, though? How would you see that? How would you envision that happening? You're asking the companies to set their targets for diversity over periods of time, over...?

VICE-CHAIR CONDON: Obviously, we would have to do more thinking on how granular we were prepared to get in our approach to this, but it could be fairly high level in terms of you make your own decisions on those issues, you make a decision about whether you are going to talk percentages, you're going to talk numbers, you're going to talk numbers of years, and then we would see what the disclosure looked like and monitor that over time.

But there are more or less prescriptive things that you could do around that.

MS. VERSCHUREN: I think there are sectors that really need to do a lot of work. To Kathleen's point, it takes time. If we start pushing numbers on boards and C-levels when the pipelines aren't developed and the talent is not developed, we're just going to hurt ourselves. So I'm a believer in introducing this now, comply or explain, take a look at it in two or three years, and then we could take a number of steps. But I think that's the approach. That would be my recommendation.

CHAIR WETSTON: Did you consider, before you respond to that, that that's a baby step?

MS. VERSCHUREN: Comply or explain?

CHAIR WETSTON: Well, generally you say let's take time, which regulators do often, and need to for obvious reasons. But is that, in your mind, the kind of step that may be required in this circumstance to engage the type of change that you are seeking?

MS. VERSCHUREN: I think that it's a journey for a lot of people, and I think engagement of the people that are making the decisions has got to be greater.

This would be a smaller step than going right to the 30 percent that Jim's organization is recommending, no question about that, but I think it's a serious indication that a commission is really interested in looking at that, and it could give companies some breathing space to get to where they need to in developing women at the more junior levels to get them up to the C-suite, because I think that is the big issue.

MR. DHIR: So I do agree with the proposition of regulators asking for us to set measurable objectives, and there is regulatory precedent for this. We see this in the comply/explain models of the U.K., of Germany, of Australia, of the Netherlands. It is being done.

I think the concern that Annette has expressed is a good one, but I think it can be captured within just the inherent structure of comply or explain. If firms aren't able to meet their own objectives because of the sector, et cetera, they're able to explain that fact, and that starts a conversation with the regulator that I think is very helpful.

I also think - and this came out in a couple of the comment letters - that it would also be helpful to have firms report on the number of women that were considered for vacancies, the number of women that were interviewed for vacancies. The whole slate. That came out in a couple of letters, and I thought that was a really nice suggestion as well to accompany this.

MS. JOHNSTON: We did put a flag to this when we launched the Catalyst Accord, and I love what the U.K. is doing, but it's an arbitrary number, it's 30 percent, and people are being asked to commit to a 30 percent goal across the board. We didn't feel that was the right model for us because from a sector perspective people are in different places.

But the bottom line is 46 percent of public companies today have no women on their boards, period. That is not where we want to be. If you look at it like that, I think what we are encouraging you to look at is more or less the model that we have adopted with more teeth, even more teeth.

I think if you are saying to a mining company you have zero, you figure out what's realistic. Is it 15 percent? Is it 20 percent? It's probably not 40. We set a very defined time frame of 2017 because we said it has to be a -- it's not 20 years, it's really sort of five-year increments.

Unless people, in my view, are setting a number, they're not organizing themselves to meet a specific goal. They do it in every other part of their business that matters. If you believe the business case and you feel this is a business imperative, set a goal and organize yourselves like you would with any other priority to meet it. It doesn't have to be a one-size-fits-all.

Do you think as a commission you need to think of what you think is optimal from a governance perspective in terms of average? I don't know what that number is. And then I think you're asking everyone to do that, and it will look different. It will look different for financial institutions, it will look different for mining companies, but everyone over the course of three to five years should be showing progress in meeting it.

VICE-CHAIR CONDON: Because it directly relates to your comments, Alex, can I pose a question from the audience, which would be: Should the OSC suggest the targets; that is to say, should they do the proactive work of saying within this sector we think this is a reasonable target, within some other sector it's a different target, or is that, in your mind, getting too far down the road of prescription?

MS. JOHNSTON: I just honestly don't know if you're well equipped to do that, and I don't think anyone is. I think in some sectors leaders have a much better sense of what is realistic.

I also don't think right now they're motivated to get there. I think that if you start analysing sectors and trying to become experts in what the right number is in mining, what the right number is in oil and gas, what the right number is in retail and finance, we might be having this conversation for a lot longer than I hope we are.

MR. MAGIDSON: I really just want to corroborate everything Alex has just said. I think the idea of companies being able to set their own measurable objectives is the way to go. We may be surprised that some are doing quite well and starting to lead the way we are without us having to determine what success is out of the gate.

The other point here is just to again reinforce when it comes to -- you asked about when to review this? Maybe to avoid any confusion, I think you need this comply-or-explain process time to germinate and take hold. Let's set ourselves up for success versus failure. So when we talk about annual reviews, are we saying that in one year you're going to determine whether or not comply or explain has succeeded or not, or are you doing something different? I'm not sure where the annual review comes in here.

I think if we're talking about perhaps looking at various disclosures and OSC highlighting some disclosures you thought were terrific and putting out ideas for models, this is a good process, but in terms of actually saying has this worked, I think we would be naive to think that in one year you're going to get the yardsticks moving the way you want.

I think you're talking a three-year look, a four-year look, a five-year look, whatever it is, but give Corporate Canada time to embrace this with the right push and encouragement and the right kind of spotlight and you may well surprise yourself.

MS. JEFFERY: I'd just like to weigh in on that question of the annual review because I'm looking to the U.K., I'm looking at the annual reviews that are released, and my understanding now is that the U.K. has moved significantly since the release of the first Davies Report, in no small part due to the transparency and accountability that FTSE companies have because of the annual review.

The annual review encourages them to continue to move down the road. Now six of the 100, so six of the FTSE 100 do not have a single woman on their board; 43 percent of the TSX companies do not have a woman on their board. So I'm hard-pressed to see what harm an annual review would do.

MR. MAGIDSON: I guess, Pamela, I'm not saying there's anything wrong with Canadian Board Diversity Council or Catalyst putting out the numbers annually, for sure. I just don't see the regulators weighing in on it. That was my thought. The measure is terrific. Anybody can do the research and should do it. That's good information. But not a regulatory review was my thought.

VICE-CHAIR CONDON: I think we're almost ready to open up for other audience comments, but before we do that, can I just address one other issue just to make sure that we get the input that we need on this?

As you know, the Consultation Paper suggests that the proposal would be that issuers provide disclosure on an annual basis in four areas: policies regarding representation of women on the board and in senior management; consideration of the representation of women in director selection; measurement regarding the representation of women in the organization, specifically on the board and in senior management.

The third area of disclosure, consideration of the representation of women in the board evaluation process, that was the feature of our proposal that seems to me from a look at the comment letters to have got the most mixed response, and so I wonder if any of the commentators or panelists have any comments or any light that they want to shed on this issue.

MS. VERSCHUREN: So just to clarify, when the boards do their own surveys, the question is should we talk about diversity?

VICE-CHAIR CONDON: Right. So in whatever board evaluation process a board has set up for itself, should issuers be disclosing how much gender diversity was considered in that process?

MS. VERSCHUREN: I think it should be.

VICE-CHAIR CONDON: You do.

MS. VERSCHUREN: I do.

MR. LAMARRE: But what was the controversy about? Just maybe to help us out.

VICE-CHAIR CONDON: A number of commentators I think suggested that a board evaluation and the process that boards use to evaluate themselves is, I assume, a very internal issue, and so for us to require disclosure of what the results in general of the board's self-evaluation was was perhaps going a little bit too far. That was sort of a general point.

Then, specifically to sort of disclose to what extent boards are evaluating themselves around how much gender diversity there is was also I think a little bit too prescriptive on our part.

MR. LAMARRE: So is it about the elements that were used in the evaluation, or is it about the results of the evaluation?

VICE-CHAIR CONDON: The issue would be what would be your advice on what we should --

MR. LAMARRE: I think I would be cautious around the results because at that point you could basically guarantee that you are no longer going to get effective evaluation.

MR. MAGIDSON: That was the exact concern that we have expressed in our letter. You really want, I think, complete candour in evaluations, and if there was any sense that one's evaluation were publicly disclosed in some way, you'd put a chill on that. So we just didn't think it was sufficiently accretive to take on the cost of that. That was the thought.

VICE-CHAIR CONDON: Pamela, did you

have a response to that, or you're happy with the discussion so far?

MS. JEFFERY: I am wondering if there's somewhere where we could meet in the middle on this because when I read that TD economics report that came out in March and they talked about the Rooney Rule and the experience in the U.S., I found that very interesting, and I wonder -- you know, in 2002, despite 70 percent of National Football League players being black, there were only three minority coaches or general managers out of 32 teams. So they put in place the Rooney Rule, requiring all NFL teams to interview at least one minority candidate when filling a head coaching position, and the status changed dramatically because there was a requirement that at least one candidate be considered.

So is there a way to meet in the middle on this so that we're achieving the improved performance because we're getting the diversity of candidates into the process to be evaluated for the board seats?

MR. MAGIDSON: I wonder, Pamela, whether it's already in the proposal in the sense that there is disclosure sought on how you compose your board and how the nominating committee does consider.

So the selection I think is already dealt with in the proposal; it was just whether or not you want to delve into the evaluation of directors. I think it's there.

VICE-CHAIR CONDON: I think those comments have been extremely helpful to us, and so I think we're ready to open up to audience participation more generally.

MS. JENSEN: We have several questions from the audience already. We have two Staff members with microphones if anyone wants to ask a question directly.

CHAIR WETSTON: We have a lot of very good questions. We can't get to them all in the time frame, but what I want you all to understand is we will consider all these questions as we think through these issues through this consultation. So I don't want anyone to think we are ignoring any of this. It's been very helpful.

MS. JENSEN: One question that has come up from a variety of people in the audience is: Is it appropriate just to be talking about women in this initiative, or should we be thinking about broader diversity?

MR. DHIR: That's a great question, whoever raised it.

I'm mindful of the fact that the OSC has a particular mandate on this project that came from the government. I think it would be great on this if in its report back to the government the OSC made it clear that a number of the comment letters submitted by stakeholders - and we're talking about stakeholders like BMO, KPMG, Telus, the Canadian Bankers Association, the Institute of Corporate Directors - made it very clear that they think the regulation should go beyond women and gender.

MS. TAYLOR: I guess I would just offer that in practice in organizations that are really working on this, it does. Diversity of all kinds is considered in talent management processes where these programs are in effect and successful.

In a country like Canada, that seems to be extremely appropriate, given the make-up of our consumer base, unemployment base, and ultimately, that broader view I think is what most companies do look at as they look at diversity generally.

Different measurements probably for different organizations, depending on where they are in that spectrum, but nonetheless, I think that you find with companies that are on this that the broader definition is, in fact, what they're focused on.

MR. MAGIDSON: I guess I would echo really Kathleen's and Aaron's comments and just add that it's interesting that when we surveyed our membership we actually broke it down by gender, and on this issue both the female and male population indicated they thought the consideration should be broader than just women.

I want to make it clear, though, the ICD is very much in favour of what is being done here. We just think, to Kathleen's point, that we now live in a global environment and in a very diverse and rich city where we think that to not use this opportunity to embrace diversity writ large would be missing something, and I think it's achievable. It's not to suggest we dilute the focus on the measure of gender diversity. That needs to be part of the guidance as to what you have to talk about. But there's a broader opportunity here, and I think we try and embrace it if we can.

MR. LEECH: Our concern in looking at this - because, as we said, to us diversity is experience, is nationality, is ethnicity and gender - the gender one just jumps off the page at you. Fifty percent of the population and fifty percent of the board --

MS. VERSHUREN: Underrepresented.

MR. LEECH: I mean, it just jumps off the page, and I guess we're going to eat this elephant one bite at a time. We might as well take on the one that is most obvious and staring us all in the face and that we have been talking about for a long, long time and making no progress.

MS. JEFFERY: I agree with Jim as well.

In fact, when we surveyed our members, 91 percent saw that tackling the gender diversity gap was an important first step, and then once we address this...

What's interesting is we survey every year FP500 directors, and so our members show a decline in self-reported visible-minority board representation, a decline. So this is an issue, it needs to be addressed, clearly; but we feel that we should move forward on the gender-based first and then move forward on the next.

MS. JOHNSTON: I'll just say the two aren't mutually exclusive, and when I saw the question it reminded me of a conversation I had a couple of weeks ago with a journalist who was doing a story on the Queen Bee syndrome, the myth that women don't help other women.

We went through the evidence, and the evidence clearly shows that that's not the case; men are helping women, women are helping women, but women are helping women somewhat more than men are helping women.

Her next question was, well, hasn't that changed, because 15 or 20 years ago women were sabotaging each other? And I said, "Where is the evidence for that?" I thought we are now changing the conversation because we have something concrete in front of us that refutes a very powerful myth.

The two are not mutually exclusive. We are there. Jim may think I'm delusional, but I am optimistic, and maybe it's the Red Bull, but I feel like what people are referring to is the tipping point and we are close to it.

I don't want to shift the conversation to turn it into a battle between gender versus diversity and what matters more. It is about what matters more. There's a large pool of people out there who are board-ready. We know that we're not doing as much as we can to leverage our talent. Our focus at Catalyst is women. It's a legitimate focus. The focus of many people around this table is focused on getting more women directors in place as well. They're not mutually exclusive. Let's not change the rules of the game, let's not change the conversation and dilute it. Let's keep moving forward with the kind of conversation we're having, and if it changes we are talking about it will apply to women and more broadly to diverse candidates.

MS. JENSEN: We have also had that discussion internally, and we think that any gains that we make here, any changes that we actually can move forward into corporate culture will also help the diversity discussions writ large.

So another question: Is allowing the sector argument a red herring? Is it assuming that only qualified directors come from the same sector? Isn't that contrary to good governance and diversity of thought?

MS. VERSCHUREN: I've worked in the coal mining business and other male-dominated businesses. There's no question. I mean, I think one of the big challenges -- I remember when I told the headhunter that I wanted to get on another board because I wanted to learn about finance, so I got on the Liberty Mutual board, but that company saw the talent I had in retail, in marketing and other areas.

So I think that maybe it could be a red

herring, maybe we need to push those groups harder, but I think bringing in outsiders to those boards is what their challenge is, I really do. It is the pipeline issue, I think, in those cases. And so how do we move them faster? How do we get them faster?

I'm not defending it at all. I'm just saying, look, we've got different levels of progress across the board and how do we get everybody playing the game. I think a bit of competition amongst sectors, making it a positive as opposed to a defensive position makes a lot of sense.

VICE-CHAIR CONDON: Can I just put forward one question from the audience, which is quite a general question and perhaps not really answerable in detail, but the question is: How do we ensure that this initiative isn't just the flavour of the day and that after this spate of attention it will be business as usual?

MS. TAYLOR: I think that one of the things that we keep hearing from everyone is that this is a long-term focus for companies. Jim started, I think, with "good governance is good business." That's probably an expression that will never go out of fashion, and if you think that thought diversity, which then drives gender diversity and other forms of cultural and experiential diversity, is good governance, then that can never go out of flavour either. So I think it is a little bit about embedding the notion that thought diversity, constant renewal, constant re-examination is great business and drives great performance, then that way of thinking about board development/succession, executive development/succession, becomes second nature. That's ultimately the key for these programs to be sustainable, is that they have to be literally embedded, adopted, and become a culture of the businesses that they're working on.

It is something that takes constant focus, there's no question. Even if you look at organizations that have done a great job on this, managers will tell you that at certain points in time the progress plateaus, something new is required. It's no different than your innovation agenda. Something new has to come to drive the power and the plot forward. So it is just focus, focus-focus-focus, and a continued, as you say, embeddedness in the core values of the businesses that we are running and overseeing.

MS. VERSCHUREN: I think the agendas around boards are changing. It used to be very focused on P&L, performance of assets in the companies.

I think the issues of the environment, of diversity, of health, of safety are really changing the agendas of the board. So I see a real need lined up with this push for more diversity and more women on the board because they can make an extraordinary contribution here.

MR. MAGIDSON: Just a couple of thoughts. I think if you start with this comply or explain, the real indication that you are going to assess success or failure down the road, people know this is a live issue, and in the longer term, for me, real success is you won't even need this rule because it will become second nature that diverse boards are the way to go. For me, actually this issue falling away is success but for the right reasons.

MS. JOHNSTON: I think in the international context that this right now is as sexy a corporate issue as we have in securities regulation. My poor father published a number of books on securities regulation, and he dedicated them to his daughters. We're like, "Oh, my God, it's so boring."

But the international context is significant. We did not find religion early, we found religion at the midway point. I think the countries that we're looking at have their pedal to the metal.

I think that when you look at the three approaches internationally, voluntary in the U.K., compliance in Australia, and quotas in parts of Europe, when I say they're all working, they're all working because of the numbers underneath. Board appointments are shifting, and that is a huge indicator. They're not letting up. We don't know yet whether those are going to be the right models, hugely successful, but they are clearly showing us progress is being made, and we are not going to be, I don't think, in the Canadian context in two years or three years comfortable turning a blind eye to this and going back to where we were. I think the context has changed pretty dramatically, and we've got to position ourselves within that context.

CHAIR WETSTON: I had a question that I just want to reply to very quickly about a decision that I wrote about two years ago. I found it interesting that it was brought to my attention because it's about materiality and information overload as a result of disclosure responsibilities, mostly in secondary disclosure.

The point I wanted to make about that decision, whoever wrote it, was this: Disclosure is not the issue. What we have is a lot of comprehensive disclosure. What we want is comprehensible disclosure.

That was the point of that decision. So whoever wrote that question, that's really my summary of that decision.

MS. JENSEN: I have a question here about whether this initiative should apply to non-Venture issuers. This person suggests that the rule should apply to Venture issuers and to subsidiaries. The reason is that small company boards provide an opportunity for women with less experience and it's a stepping stone to larger boards.

What do you think about that?

MR. LEECH: My initial reaction is that to suggest because a company is small they shouldn't have qualified directors is kind of bothersome on that issue. I think you need qualified directors at all sizes of businesses.

VICE-CHAIR CONDON: Can I just lob in another issue though, which is: Do we need to consider separately the question of boards where there's a controlling shareholder in the sense that the norm would be that the controlling shareholder would have a high degree of power around who the board members are? Is that something that we need to take into account in thinking about these issues?

MS. VERSCHUREN: Put more female family

members on the board?

MR. LEECH: My initial reaction is you don't need to differentiate.

MR. MAGIDSON: Just on that point. Again, this is about diversity. I think it helps to have some different perspectives.

I think we actually made a point on this in our comment letter, that we thought that for non-Venture issuers, those that are TSX-listed, we thought this approach should apply. Doesn't matter if you're small or a large, big-board-listed issuer. I think question really was: Should we also have this apply to the Venture issuers, the small-board issuers.

I would say there that reasonable people can differ, and I think if I was crafting policy here, I don't know what the right answer is, but I'd be looking at the pros and the cons.

On the one hand, I'm with Jim that what's good for the goose is good for the gander, so why would you distinguish; on the other hand, if the Venture's purpose is to seed start-up companies that are focused on getting their first order in the door or just contending with public listing, the question is: Do you put one more item on the agenda that they must consider?

My recollection is on the Venture issuers, if I'm right - I may be wrong on this - but I think you don't even require financial literacy on their audit committees, so someone's made a decision that you had to calibrate differently for a small cap that's just starting out.

It may be that you'll go that route, I'm not suggesting what's right or wrong, but you need to consider the cost/benefits in that small cap space where effectively it's a private company venturing out into the public market as a graduating exercise to the big board. Question mark.

MR. LEECH: Just to clarify my response, no, I'm not suggesting that requirement be imposed on the Venture. I was objecting to the principle that Venture companies become a training ground for people. I'm saying, no, directors of Venture companies should be the best qualified you can find, not a training ground.

MR. LAMARRE: I think maybe just to add, I think you ought to stay true to something that was said today, which is we're here to make Canadian companies better, which means we want to construct better boards, and there is an underlying belief that diversity will drive that. Then, after that, why would you start to differentiate and say exception here, exception there, exception there. If it's true, it's true.

MS. JEFFERY: If we get back to that topic of sector differences, when we do our look at all of the sectors in the country and we look at mining, oil and gas companies, they have the largest percentage of FP500 board seats. So because they're at 7.7 percent, I think a question we need to ask is: How can we encourage those companies? Because that's what we need to do in order to move the needle because of the large number of board seats they have.

At the Council when we have been holding roundtables with directors, and we've held 20 in the last 24 months, at each of these roundtables we talk about board diversity/best practices, and we are articulating a point of view, which is having 10 individuals around a table who are all former CEOs of the same industry isn't necessarily helpful to driving corporate performance. So our definition of diversity is one that is management experience, industry knowledge, functional area of expertise, age and geography. Our definition of diversity also includes such considerations as gender, visible minority and Aboriginal status.

So I think we need to figure out how we can encourage those companies to look beyond their own industry and to look beyond C-suite prior roles to get at a cadre of skilled, credentialed individuals who can bring discrete functional areas of expertise to the boards. I think if we can figure that out -- and there are examples, many of them. If we can figure that piece out, then we're really going to move.

So we're advising boards that in order to do that look beyond individuals who are former CEOs, look at particular skills that are lacking on your board when you look at your skills matrix, and identify candidates that have those particular skills along with a broader set of skills that would make them effective directors.

MS. JENSEN: So look broader than just experience. Look for skills.

MS. JEFFERY: Yes. Yes, that's our message for those companies that are in sectors where fewer than one in 10 board seats are held by women.

MS. JENSEN: Thank you very much. On that note, I think we will end the Roundtable.

CHAIR WETSTON: Obviously, I want to thank everybody for coming and your interest in participation in the Roundtable.

I have to thank Staff who are with us here today who organized this. They did a tremendous amount of work to organize this Roundtable. Obviously, they deserve our credit for putting this together. We really appreciate it. So thank you very much.

(Applause)

I want to personally thank all of you for spending your time coming here today. It's obviously clear that this is an important issue for us, and the quality of the debate and representation today has been very, very helpful. It's going to help us understand the issues. We have a lot of questions to consider.

I also want to single out the Ontario government's leadership. Obviously, we look at this as a partnership. We have tools to accommodate initiatives, and the Ontario government recognizes that, but I want to single out their interest and their leadership in this matter.

We're going to make recommendations. This Commission will make recommendations to the government this fall. If we decide to proceed with disclosure requirements, as discussed today, we will publish these changes in our corporate governance disclosure rule which we have for a 90-day public comment period. Those of you who participate in securities regulation know that period well.

I think this Roundtable has been very productive.

Just one quick comment about regulatory intervention. It must be seen, I think, as an instrument of public good. We need to think long term as securities regulators. Regulatory intervention must accommodate and accelerate social and economic objectives and outcomes, and that's obviously a purposeful belief that we have with respect to intervention.

So I think, as I said, this Roundtable was very productive. It certainly gave us some new perspectives to think about. I really want to thank you all for participating and thank everybody who came today to hear this very insightful discussion. So thank you so much. (Applause)

--- Whereupon proceedings adjourned at 11:02 a.m.

I HEREBY CERTIFY THE FOREGOING
to be a true and accurate
transcription of my shorthand notes
to the best of my skill and ability.

CAROL DENMAN, CSR
Chartered Shorthand Reporter