

The Secretary

Ontario Securities Commission

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Regarding OSC Staff Consultation Paper 58-401:

In order to establish some bona fides in this matter, I would tell you that I have been a director of companies since 1975. That is not as remarkable as it might seem, as I was earning my living in the venture capital industry at that time. The fact that I was actually doing that, as a woman, in 1975, is perhaps more unusual. The reason I was there at all was because I had the support and advice of men like Allen Lambert, Robin Korthals, and Ben Boyle, executives with the Toronto-Dominion Bank, where I was employed. Senior male executives who supported the notion of women in corporate finance were thin on the ground then, and it is only in looking back over my career that I realize how exceptional these individuals were.

While there are many more supportive male executives and directors today, we women do not seem to be making the progress that the intervening years would suggest that we should have, despite a great deal of publicity on the subject of gender equality in business, the presence of a large number of women in the business schools across the country, and a significant pool of board-ready women who have completed the ICD Director certification program and certainly have the requisite business experience.

By way of illustration, I listened the other evening to my husband's granddaughter, who is a recruitment officer in the capital markets area for one of the major banks, tell of a search for six new trainees who are to graduate from university business programs next spring. Of the large number of applicants, 38 percent were women. The interviewers were all male. While two of the ten finalists were women, none were chosen for the six positions. There was no mandate that said a woman or women had to be selected, and so, in the name of "fit", because it couldn't be marks and unlikely to be previous experience, the status quo was perpetuated.

Which brings me to the matter in hand. Since Peter Day brought down his first report on governance, I have watched the "comply or explain" protocol gradually change the behaviour of corporate boards in Canada. The greatest advance in governance in this country, the separation of the positions of CEO and Chair, came about, in my opinion, as a result of his efforts. Therefore, I applaud the OSC's move to establish a similar regime for director selection and the advancement of women in senior management in listed companies. I am not sure whether this will be enough to change behaviour, however, and as far as boards are concerned, we certainly should not wait forever to see significant progress before we move on to targets, as governments in other countries have done. I would think that if there is no measurable progress in three years, we should look to something more strenuous, but we have to give this regime a chance first.

The most effective policies for increasing the number of women on boards, in my experience are ; first, the creation of a skills/experience matrix which clearly and objectively sets out the various skill sets that are needed on a board to provide enough diversity of thought and perspective to produce good decision making,. These requirements are then compared to the skills of the existing board members, so that gaps may be examined and filled appropriately. Second, the board should appoint a search consultant or other professional to help it search for the very best candidates who have the skills that the board is lacking. We simply cannot know all of the best candidates, and it pays, in my opinion, to have someone objective search for them. Third, and most important, there must be an enlightened Chair, who knows that too much homogeneity will produce sub-par decisions, actively looks for diversity to solve that problem and feels accountable for results. If the Chair asks the search consultants to come up with a slate that includes women, they will do so, and the chances are very good that they will find someone.

Disclosure of the type that you suggest in your "comply or explain" model is a good place to start. If you find you are not getting the information you want, you can always make adjustments later. The disclosure requirements are good, with the exception that I am not sure how the board evaluation process will be helpful to you here. The main thing about the representation of women in management is that the numbers must be presented in such a way that readers can determine whether there is progress over time. One would not expect that there would be as large a proportion of women in the mining sector as in banking, but that doesn't mean that they can't make progress with some effort. The question of subsidiaries could be settled by following accounting principles, so that any subsidiary that is consolidated should be reported, unless its size is immaterial.

The statistics that show the "average" number of women on boards in Canada today are not particularly helpful. While most financial services companies, for instance, have a reasonably healthy number of women as a percentage of the total number of directors, and would probably not even be affected if targets were introduced, the resource industries in particular will need to change their behaviour completely in order to comply. I read with interest the ICD submission on your website, and while I understand that in this province diversity means more than just gender, the broader definition has too often been used as an excuse for not appointing women ("but we ARE diverse; we have one director from BC and one from Nova Scotia, and they are from different industries"). I think we need to focus, as you have, on the one area where we know that there is a problem, and fix that first.

The last point that I would make is that we have lost a large number of head offices in the past decade, and those boards of directors are now not available to us. In addition, Canadian subsidiaries of US companies often used to have boards, but many have been terminated for cost-cutting or other reasons. In many ways, our hope lies with the venture issuers who are not to be swept up in this initiative. I would hope that the OSC could help the smaller companies to get ready for their having to "comply or explain" at some later date, not too far into the future. There are many women out there who could be valuable contributors to their success.

As the Ontario government has initiated this study, I would hope that it could establish a similar rule for appointments to crown corporations and agencies as exists in Quebec. I know from personal experience

that they do a very good job in this area already, so why not formalize it, and then the moral high ground is indisputably theirs.

I commend you for this initiative, and hope that you move forward to implement it as soon as practically possible. It would be wonderful if we could achieve a significant uptick in the numbers on this basis.

Yours very truly,

Eileen A. Mercier

Chair, Ontario teachers' Pension Plan Board