

October 2, 2013

The Secretary
Ontario Securities Commission
20 Queen Street West
2nd Floor
Toronto, Ontario
M5H 3S8
Fax: 416-593-2318
Email: comments@osc.gov.on.ca

Re: OSC Staff Consultation Paper 58-401 Disclosure Requirements Regarding Women on Boards and in Senior Management

Dear Sir/Madam,

The Canadian Investor Relations Institute (CIRI), a professional, not-for-profit association of executives responsible for communication between public corporations, investors and the financial community, is pleased to comment on OSC Staff Consultation Paper 58-401 (the Consultation Paper). CIRI contributes to the transparency and integrity of the Canadian capital market by advancing the practice of investor relations and by supporting the adoption of appropriate corporate governance best practices as they evolve over time. CIRI has close to 600 members from across Canada, three quarters of which are investor relations professionals employed by publicly listed companies. Of those members, there is a greater representation from mid-to large capitalization issuers. More on CIRI is noted in Appendix A.

General Views on True Diversity and the Level of Disclosure

The Consultation Paper focuses on advancing the representation of women on boards. CIRI strongly believes that corporate governance can be further enhanced through initiatives that are more inclusive and that encourage the adoption and disclosure of practices and policies that consider board candidates drawn from a broadly diverse population, beyond gender diversity alone. In a recent survey of CIRI members, the majority of respondents stated that candidates for board positions should represent a wide range of attributes including not only gender but other qualities, such as age, ethnicity and cultural background, in addition to the conventional skills, experience and education.

The Consultation Paper also focuses on advancing the representation of women in senior management. While boards may have responsibility for succession planning of executive officers, CIRI believes that the representation of women in senior management positions and in the organization overall is not an item for securities regulatory oversight. While this disclosure

would give regulators a window into the size of the potential candidate pool for board positions from one source, it would essentially involve securities regulators in human resource policy. In addition, some issuers are concerned that stakeholders may compare the percentage representation of women between companies and industries and so this disclosure may in essence become a de facto quota. Other issuers have indicated that it is not always a straightforward or trivial task to accurately assess gender diversity throughout an organization due to system limitations or lack of data collection, particularly in large multi-national organizations.

Based on the above, discussion with members and stakeholders and the recent member survey of corporate investor relations professionals regarding elements of the Consultation Paper, CIRI provides comments on some of the questions posed in the Consultation Paper as well as recommendations for consideration on the regulation and disclosure of women on boards. Note that approximately 60% of the respondents to the CIRI survey came from issuers with market capitalization over \$1 billion, while only 17% were from issuers with capitalization under \$25 million.

Recommendations

CIRI believes that there should be disclosure of policies to enhance diversity more broadly, not just gender diversity specifically, and that such policies be focused on the director candidate identification level only. CIRI proposes the following (for non-venture issuers):

1. Refocus the requirement for disclosure on diversity considerations at the candidate identification process rather than at the stage of nomination and selection of a director for the board.
2. Issuers should be required to disclose the policy for advancing diversity in director roles or its key provisions (potential elements of such disclosure are discussed below in comment b).
3. Issuers should be required to disclose the proportion of women on the board in percentage terms.
4. Issuers should not be required to disclose the policy for advancing diversity in management nor should they be required to disclose the proportion of women in management in percentage terms.
5. Disclosure requirements regarding diversity should go beyond simple gender diversity and increased participation by women on boards and should include a broader consideration of diversity.
6. Quotas or specific targets to increase diversity on boards should not be mandated.

Comments on Elements of the Consultation Paper

As noted above, our comments pertain to women on boards, not in senior management positions.

- a. CIRI members generally support a requirement for non-venture issuers to disclose whether they have a board policy for advancing women in director roles. Two-thirds of survey respondents supported such disclosure of a policy for the identification of female directors. See Section ***Diversity Consideration in the Director Candidate Review Process*** below.
- b. The desired level of disclosure was generally consistent with the overall sentiment. While 74% of respondents felt that a diversity policy or its key provisions should be disclosed, two-thirds believed such disclosure should also include (i) how the policy is intended to advance the participation of women, (ii) how the policy has been implemented, (iii) any strategic goals that have been established, and (iv) the effectiveness of the policy, including regular updates regarding progress against those goals.
- c. A significant proportion of respondents, in excess of 75%, were supportive of disclosing, in percentage terms, the proportion of women on the board.
- d. Respondents to the CIRI survey overwhelmingly indicated a desire that diversity policies and their disclosure should relate more broadly than to gender. Such policies should include consideration of attributes such as different professional experience, education, skills, gender, age, ethnicity and cultural background. The majority of the respondents who provided comments, in addition to answering the question, emphasized the desirability of establishing diversity policies that went well beyond the consideration of gender alone.
- e. CIRI is not in favour of mandating quotas to increase diversity on boards.
- f. While respondents were in favour of disclosing whether a diversity policy was in place, members were divided on whether this could be achieved through a “comply or explain” model. Comments indicated that while an appropriate diversity policy (i.e. broadly inclusive and beyond the promotion of women) can improve the composition and may improve the performance of boards of directors, the responsibility for establishing such policies should properly lie with the board.

Diversity Consideration in the Director Candidate Review Process

CIRI understands that achieving greater diversity among corporate leadership is a long-term undertaking and that the goal of any responsible board is to be populated with the best-qualified directors. As indicated in the Consultation Paper, under A. Purpose of Consultation, corporate decision-making benefits from a diversity of opinions and viewpoints and CIRI agrees that diversity is enhanced when leadership roles go beyond gender diversity to embrace a

broader perspective. This can best be achieved if there exists an experienced, qualified population or pool from which to draw potential director candidates and if the process for identifying such candidates incorporates broad diversity as a key criterion.


Recommendations for principles of good corporate governance, including principles relevant to diversity, were enacted in Australia in 2010 and serve as one example of a jurisdiction that has focused upon the director nomination process as an appropriate area to build a foundation for broad diversity over the long-term. While Australia has gone on to establish specific recommendations and suggestions for the framework and content of a diversity policy, which are similar to those proposed by the OSC, CIRI believes that improving disclosure around the process and the criteria for identifying potential candidates leading up to director nomination, including whether and to what extent the Board considered diversity, may be more palatable and thus achievable among issuers in Canada.

The UK approach is also instructive. Although the UK, for the time being, focuses strictly on the increased participation of women on boards (versus a broader definition of diversity) its main principle is a rigorous and transparent procedure for the nomination process leading to the appointment of new directors to the board. Their long-term strategy for increased diversification is rooted in the recognition of the importance of orderly and well-defined succession for appointments to the board.

CIRI's perspective is that if regulatory initiatives as contemplated in the Consultation Paper are to achieve true, long-term, broad diversity at the board level, then the best path to success is to focus such initiatives on policies directed toward the director candidate identification process.

CIRI would like to thank the OSC for the opportunity to comment on this topic and would be pleased to answer any questions on the above.

Yours truly,

A handwritten signature in blue ink, appearing to read 'Yvette Lokker', with a small blue dot at the end of the signature.

Yvette Lokker
President & CEO
Canadian Investor Relations Institute

Appendix A – Canadian Investor Relations Institute

The Canadian Investor Relations Institute

The Canadian Investor Relations Institute (CIRI) is a professional, not-for-profit association of executives responsible for communication between public corporations, investors and the financial community. CIRI contributes to the transparency and integrity of the Canadian capital market by advancing the practice of investor relations, the professional competency of its members and the stature of the profession.

Investor Relations Defined

Investor relations is the strategic management responsibility that integrates the disciplines of finance, communications and marketing to achieve an effective two-way flow of information between a public company and the investment community, in order to enable fair and efficient capital markets.

The practice of investor relations involves identifying, as accurately and completely as possible, current shareholders as well as potential investors and key stakeholders and providing them with publicly available information that facilitates knowledgeable investment decisions. The foundation of effective investor relations is built on the highest degree of transparency in order to enable reporting issuers to achieve prices in the marketplace that accurately and fully reflect the fundamental value of their securities.

CIRI is led by an elected Board of Directors of senior IR practitioners, supported by a staff of experienced professionals. The senior staff person, the President and CEO, serves as a continuing member of the Board. Committees reporting directly to the Board include, but are not limited to: Nominating; Audit; Membership; Issues; Editorial Board; Resource and Education; Certification.

CIRI Chapters are located across Canada in Ontario, Quebec, Alberta and British Columbia. Membership is close to 600 professionals serving as corporate investor relations officers in approximately 300 reporting issuer companies, consultants to issuers or service providers to the investor relations profession. CIRI is a founding member of the Global Investor Relations Network (GIRN), which provides an international perspective on the issues and concerns of investors and shareholders in capital markets outside of North America. The President and CEO of CIRI also sits as a member of the Continuous Disclosure Advisory Committee (CDAC) of the Ontario Securities Commission. In addition, several members, including the President and CEO of CIRI, are members of the National Investor Relations Institute (NIRI), the corresponding professional organization in the United States.