

Canadian Institute of
Diversity and Inclusion



Institut canadien de la
diversité et de l'inclusion

October 4, 2013

Via Email – comments@osc.gov.on.ca

The Secretary
Ontario Securities Commission
20 Queen Street West
22nd Floor
Toronto, Ontario M5H 3S8

Dear Sirs/Mesdames:

**Re: Ontario Securities Commission Request for comment on OSC Staff
Consultation Paper 58-401 – *Disclosure Requirements Regarding Women on
Boards and in Senior Management* (“OSCP 58-401”)**

Thank you for the opportunity to provide you with comments and observations as it relates to OSCP 58-401.

As Canada’s leading organization on Diversity and Inclusion (“D&I” or “Diversity”) in the Canadian workplace, in principle, we support the proposal put forth by the Ontario Securities Commission (the “OSC”) as an important first step in advancing the representation of women, and we commend the OSC and the Government of Ontario for taking steps to address the substantial under representation of women on boards and in senior management positions of publicly traded companies.

About the Canadian Institute of Diversity and Inclusion

The Canadian Institute of Diversity and Inclusion (“CIDI” or the “Institute”) is a made-in-Canada solution designed to help employers, and D&I, Human Rights and Equity (“HR&E”) and human resources (“HR”) practitioners effectively address the full picture of diversity, equity and inclusion within the workplace.

Founded in late 2012, and run by experienced D&I practitioners, the focus of CIDI is on practical sustainable solutions that help employers move toward true inclusion. An umbrella organization by nature, the Institute does not focus on one specific demographic group. Instead, we partner with other organizations – such as Catalyst and Pride at Work Canada – with the single goal of helping employers address their unique issues. We consider diversity to be all personal characteristics – all the things that make a person unique. This perspective allows for a fulsome and holistic approach to D&I.

The CIDI was founded by Michael Bach who spent 7 years as the national leader for Diversity, Equity and Inclusion for KPMG’s operations in Canada, as well as 2 ½ years



as the Deputy Chief Diversity Officer for KPMG International – both roles created by and for Mr. Bach in response to KPMG’s need and desire to advance workplace diversity.

During Mr. Bach’s tenure, KPMG was recognized six times as one of Canada’s Best Diversity Employers and Canada’s Best Employers for New Canadians – the only employer in Canada to receive both awards in all six years they have been awarded. Additionally, Mr. Bach has personally received numerous accolades for his work, including being named as the *Catalyst Canada Honours 2011 Human Resources / Diversity Leader Champion*.

Mr. Bach has a Post Graduate Certificate in Diversity Management from Cornell University and also holds the Cornell Certified Diversity Professional, Advanced Practitioner (CCDP/AP) designation. Recently, Mr. Bach left KPMG to take on the role of the first Chief Executive Officer of the CIDI.

In addition to Mr. Bach, the leadership of the CIDI includes Susan Rogers, Chief Client Officer and former head of D&I for Xerox Canada; and Cathy Gallagher-Louisy, Director of Community Partnerships and Knowledge Services, and former national leader for Diversity and Corporate Social Responsibility at Hewitt Associates. This team of dynamic and seasoned D&I professionals bring over 40 years of cumulative experience to bear in assisting the Institute’s more than 30 Employer Partners, and a wide range of other clients.

Additionally, the CIDI boasts an Advisory Board of nearly 20 D&I leaders from some of Canada’s largest employers, representing a cross section of industries and geographies; including academia (University of Alberta, University of British Columbia), accounting (PwC), consulting (Accenture), engineering (Morrison Hershfield), financial institutions (CIBC, HSBC, RBC, and Scotiabank), food service (Sodexo), government (Region of Waterloo), law (McCarthy Tétrault), media (CBC Radio-Canada), oil and gas (Husky Energy), retail (Loblaw), technology (Cisco), telecommunications (Bell Aliant, TELUS), and utilities (SaskPower). The Advisory Board provides invaluable guidance and input into the strategic direction of the Institute.

Overview

We don’t feel the need to further articulate the business case for this initiative. The necessity is clear. We believe the OSC and the Government of Ontario understand the business imperative for increasing the diversity of public companies as is evident in this undertaking.

Generally speaking, the CIDI is very supportive of this initiative. We believe that the requirements outlined in the *Women on Boards* report as part of the UK approach to addressing the under representation of women articulate an excellent model to follow. That said, we feel it is imperative for us to mention that we believe that OSC 58-401 should go beyond examining diversity exclusively through a gender lens.

In our experience we have seen a tendency to focus on gender as a first step in diversity initiatives primarily for two reasons: 1) Women represent the majority of the population, however are grossly underrepresented in areas such as board directors and senior



leadership positions; and 2) Gender tends to be ‘easy’ because a person’s gender (generally speaking) is something we can identify with little trouble.

That said, the exclusive focus on gender presents two risks that we would like to raise to the OSC:

- There is the potential risk of this becoming an issue of men vs. women. There may be the perception that women need a ‘leg up’ in order to succeed, and that they lack the skills required to secure a board position on their own. In our experience, we have seen this take place when an organization introduces programs strictly focused on women, and nothing else. While completely false, you run the risk of discounting the value of a potential candidate.
- There is the potential risk that in solely focusing on women, boards will not expand their thinking to include other groups – such as ethnic minorities, aboriginal or indigenous peoples or people living with disabilities. As such, there is the potential risk of a board’s director roles becoming exclusive to Caucasian able-bodied people. In our experience, people are most comfortable with people who are ‘like them’. If they are only focused on women, there is the potential risk that they will only focus on white women.

Because of those risks, we would strongly encourage the Government of Ontario and the OSC to expand the scope of this initiative to include other under-represented groups.

It is also worth noting that we believe the OSC and the Government of Ontario **must** lead by example, and in fact, be held to a higher standard. As such, we believe that any requirement put forth by the OSC for issuers must be met, and exceeded by all Ontario Agencies, Boards, and Commissions, as well as in the Government itself. This would also be the case for all Ontario based exchanges, including (and most importantly) the TMX Group.

Responses to Questions as Outlined:

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

A policy alone is simply not enough. Nor is representation. In order to create long-lasting systemic change as it relates to diversity on boards and senior leadership, a holistic approach must be taken. Some effective and successful promising practices include:

- **Diversity Policy**
The policy must clearly explain the organization’s diversity policy – both as it relates to board positions as well as organizational leadership, and the organization as a whole. It must be agreed to by the board and publicly available.
- **Goals**
In addition to the policy, the organization must establish goals. It is imperative



that the organization understand what issue it is trying to address. Without goals in place, the organization will not be able to establish a strategy that addresses the larger issue. How do you know if you've been successful, if you don't know what success looks like? Goals must be realistic, relevant and achievable.

- **Strategy**

Critical to success is a well thought out, clearly articulated strategy to address the organization's identified diversity goals. The strategy must clearly articulate what the organization will do to achieve success.

- **Targets**

While we do not support quotas, we do support the establishment of targets. That said, numerical targets must only be established when the organization has the required pieces in place – policy, goals and strategy – that make up a robust diversity strategy. Targets provide an additional layer to an organization's goals – something to strive for.

- **Recruiting Policy**

In addition to the overarching policy, the organization should establish a recruiting policy specific to board positions. The organization must clearly articulate how they will recruit for board positions and take diversity into account when making decision for board candidates. If working with a search firm, the board should have a diversity requirement as part of their service level agreement with any firm. If not working with a search firm, organizations should be required to articulate a plan to encourage diversity within the candidate pool, including working with organizations such as Women on Board and the Canadian Board Diversity Council.

- **Education and Awareness**

Most critical to success is ensuring a level of education and awareness about why an organization has a diversity focus. All board directors must be educated on the business case for diversity, as must all of an organization's senior leadership – answering the questions "Why?" and "What's in it for me?"

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

We believe the recommendations outlined in section 4 of OSCP 58-401 are a start, but do not go far enough. Disclosure in and of itself is not enough.

While disclosure is critical, the question begs: so what? If there is no ramification to having poor results, there is no incentive for change.

Some people have indicated a support for a "name and shame" approach to push organizations to focus on diversity. This is not a tactic that we support. We have never seen this to be an effective tactic in encouraging substantive change as it relates to diversity. While it may be an incentive in the short term, it is not in the longer term.



We believe that the OSC must go beyond simple disclosure, to require issuers to meet certain criteria as it relates to a complete overarching diversity strategy (part of which is outlined in our response to the previous question). Further, we believe there must be a stronger incentive than public embarrassment for issuers that do not meet the requirements.

Those requirements do not need to be onerous or costly. However, they must be crafted in such a way that the issuer will see change as it relates to the diversity of their board and senior leadership.

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

First and foremost, we do not believe there should be a separate set of rules and requirements for non-venture issuers vs. venture issuers. The requirements should be standard for both. Without standardization, there are risks to success. While we understand the need for different policies in some instances between the two types of issuers (the period to prepare financials statements as an example), we do not believe there should be separate requirements as it relates to diversity. The same should be the case for Investment Funds (it is unclear to us from 4.2 of the consultation paper if that is the case or if Investment Funds would be treated differently).

We don't believe the model of disclosure goes far enough. Simply reporting on the representation of women at various levels, as well as their process will not affect change. We would strongly support a more fulsome approach that includes a robust strategy (as indicated in our response to question 1 above).

4. *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?*

We believe that each organization (non-venture and venture issuers), at a minimum, should be required to complete a "diversity scorecard" which measures diversity at several points – hiring, promotion, performance rating, voluntary turnover, and involuntary turnover (to name a few). That scorecard should be publicly available as part of annual reporting, including year over year comparisons, to show how the organization is progressing against its commitment.

We also believe that the issuer should be required to report on all subsidiary entities.

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



- i. **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?**

Yes and yes.

- ii. **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)?**

Yes.

In Summary:

We are very encouraged by the efforts being undertaken by the OSC and the Government of Ontario as it relates to the representation of women on boards and in senior leadership positions.

As we have articulated in this response, we would strongly support the expansion of this initiative in the ways indicated above.

Should you require any further information, or wish to discuss our position, please do not hesitate to contact us.

Regards

A handwritten signature in blue ink, appearing to read 'MB', with a long horizontal flourish extending to the right.

Michael Bach, CCDP/AP
Founder and CEO
Canadian Institute of Diversity and Inclusion
michael.bach@cidi-icdi.ca
+1 (416) 968-6520 x101