



The Secretary
Ontario Securities Commission
20 Queen Street West
Toronto ON M5H 3S8

April 16, 2014

Re: Proposed OSC Amendments to Form 58-101F1 *Corporate Governance Disclosure of National Instrument 58-101 Disclosure of Corporate Governance Practices*

Dear Ms. Turcotte,

The Ontario Bar Association appreciates the request to comment on the Ontario Securities Commission's proposed disclosure requirements regarding the representation of women on boards and in senior management (the "Proposed Amendments").

Introduction

This submission has been prepared by a Working Group within the Ontario Bar Association ("OBA"). The Working Group is comprised of members from the OBA's Women Lawyers Forum, the Equality Committee, and the Public Sector Lawyers, Civil Litigation, and Constitutional, Civil Liberties, and Human Rights sections. Members of the Working Group have extensive experience in working with legal and policy issues as they intersect with issues of gender, race, inclusion, and diversity.

Overall, the OBA supports amending Form 58-101F1 (Corporate Governance Disclosure) to require disclosure regarding the representation of women on non-venture issuers' boards of directors. As an organization that promotes equity and diversity in the legal profession and in society at large, the OBA supports measures to increase the opportunities for women to serve on corporate boards and the actual number and proportion of women on boards. As an organization with many members who advise and represent corporations, the OBA recognizes the practical business case for widening the range of perspectives and experiences on corporate boards, including the perspectives and experiences of women with varied backgrounds.

Responses to specific questions

1. Are there additional or different disclosure requirements that should be considered?

The OBA suggests that issuers should be required to disclose whether they use search firms in the identification and nomination of women directors; why not, if they do not; and if they do use

search firms, whether they require the firms they employ to have diversity policies in recruitment.

Using search firms can be an effective way of moving beyond the circle of people already known and familiar to the issuer. If the purpose of using a search firm is to recruit women who bring a range of experiences and perspectives to the board, the search firm itself needs to have a conscious diversity approach to recruitment.

2. Should the requirements be phased in for smaller issuers?

The OBA submits that, while current reporting requirements may differ based on market capitalization or index membership, the Proposed Amendments should apply to all non-venture issuers, without a phasing-in period for smaller issuers. One of the reasons offered for underrepresentation of women on boards is that there are not enough women with suitable experience. Membership on the boards of smaller entities may be an effective pathway for women to move to the boards of larger firms.

3. Will requiring disclosure of term limits encourage an appropriate level of board renewal?

The OBA's view is that disclosure of whether there are term limits for directors is important and necessary, but not sufficient to generate board renewal. If it is beyond the scope of this round of amendments to require that issuers fix term limits for board members, we suggest that the Proposed Amendments should mandate more enhanced disclosure. Issuers should be required to disclose the tenure of sitting directors and to explain how the independence of long-serving board members is maintained. We suggest that a "long-serving" director is one who has been on the board for more than ten years.

4. Should non-venture issuers be required to disclose (i) the number of new directors appointed to the issuer's board at its last general meeting and (ii) of these new appointments, how many were women?

The OBA supports such a disclosure requirement. Maximum transparency is desirable. A requirement to report the number of new directors appointed and the number or proportion of them who are women helps to focus attention on board renewal and diversity.

5. Should Item 11 of the Proposed Amendments 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?

The Proposed Amendment should indicate that the term "policy" includes both written and unwritten policies. The purpose of this disclosure requirement is to have issuers disclose all

relevant policies regarding the representation of women on the board.

The process of reporting on informal unwritten policies requires issuers to reflect on the board's culture and practices. The exercise of reducing unwritten policies and practices to writing for reporting purposes can clarify the policies and reveal inconsistencies, gaps and biases. The OBA believes that such reflection and clarification are beneficial to the organization and its board.

The OBA notes that it is easier to determine whether an organization is adhering to its policies when the policies are written.

Additional comments

The OBA notes that efforts to reach targets need to be meaningful, effective and transparently disclosed. For that reason, the OBA supports the inclusion of Item 14 in the disclosure requirements. The OBA further submits that a review in three years time be considered if there has been limited progress following the implementation of the disclosure requirements.

The OBA also notes that measures to increase the representation of women on boards of directors should be undertaken with the goal of ensuring diversity among the women recruited to boards. Boards of directors should be encouraged to build relationships with organizations in the non-profit and voluntary sectors as a way of diversifying board membership and widening the range of perspectives and experiences available to them.

In closing, we would like to thank you for the chance to comment on this important initiative. Please contact us with any questions as you move forward.

Sincerely,



Maryellen Symons
Working Group Co-Chair



Amelia Martin
Working Group Co-Chair