

John Stevenson, The Secretary
Ontario Securities Commission
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cc. The Honourable Charles Sousa, Minister of Finance
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cc. Kathleen Wynne, Premier
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cc. Jean Augustine, Fairness Commissioner
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April 14, 2014

Dear Mr. Stevenson,

We are the Coalition for Real Equity, a group of organizations and individuals that have joined together for the purpose of responding to the Ontario Security Commission's proposal regarding amendments to Form 58-101F1 *Corporate Governance Disclosure* (the "Proposal"). As we understand it, the Proposal requires TSX-listed and other non-venture issuers to provide a number of disclosures regarding the representation of women on their boards of directors and in senior management positions. This initiative is rooted in the Government of Ontario's stated support for "broader gender diversity" and the objective of increasing female participation on boards and in senior management teams. We believe that the initiative should embrace diversity in its true sense by promoting the inclusion of individuals from an array of groups that are currently under-represented on boards and in senior management. In the alternative, we ask that the Proposal could at least be revised to promote the appointments of a diverse group of women.

Given that there is now widespread recognition that diversification of boards and senior management teams will not occur organically, we think that it is critical that the Proposal should address diversity more broadly. So many of the arguments that have been made in favour of gender diversity in the Proposal and in the comment letters received during the

preceding consultation, including the business case for diversity, are really arguments in favour of much broader diversification of the leadership of Canada's top companies. Indeed, the concept of diversity currently promoted by the Proposal is paradoxical to the extent that it promotes a form of continued exclusivity rather than true broad inclusivity.

Even though several commenters encouraged the OSC to consider a broader concept of diversity during the consultation, the Proposal was not revised to reflect such recommendations. We do not agree that it is appropriate to limit this initiative to women, even for the time being. Rather, we believe that the Government and the OSC should be no less committed to promoting diversity in the leadership of Canada's leading companies on the basis of factors such as race, nationality, ethnicity and aboriginal status than they are to promoting gender diversity. Inclusion of these factors is not dilution. It is rather a means of giving equal respect to the careers, aspirations, talents and dignity of all members of the population.

The inclusion of additional factors is particularly appropriate considering that the Proposal takes a "comply or explain" approach to increasing diversity. Notably, other jurisdictions that have adopted a "comply or explain" model such as the United States, the United Kingdom and Australia do not entirely limit their requirements to gender and Ontario would stand alone amongst these jurisdictions in their singular focus on gender.

Furthermore, the "comply or explain" approach does not compel issuers to appoint diverse candidates, but instead requires greater transparency. If there are issues with the pipeline of appropriate candidates, requiring disclosure could be a step towards addressing these issues. It is an approach that will likely take time to have full impact and it is not clear whether more stringent measures will eventually be necessary to achieve the desired results. As a result, groups that are not included in the initial measures could be on an extended time delay before they are brought into the fold even if the intention is to address diversity more fully after first addressing gender diversity. We must ask how long are equity-seeking groups other than women expected to wait for equal opportunities? How long should investors be expected to wait to benefit from true diversity in corporate leadership?

While we would support inclusion of all of the factors previously mentioned as well as others, we emphasize the importance of promoting racial diversity. The under-representation of visible minorities on boards remains an issue. While it is disappointing that female representation on boards has increased very slowly, it is extremely disheartening that visible minority representation appears to be actually decreasing. The *Canadian Board Diversity Council 2013 Annual Report Card* suggests that visible minority representation on boards of Financial Post 500 companies decreased from 5.3% in 2010 to 3.4% in 2013. This point was acknowledged at the OSC roundtable that took place on October 16, 2013 and we ask that the Government and the OSC engage with this issue and treat it with the same urgency as gender diversity.

We note that the cities where many of the issuers that would be affected by this initiative are based have high levels of racial diversity amongst their populations. The 2011 Census

reveals that visible minorities comprise roughly 49%, 54%, 66% and 72% of the populations of Toronto, Mississauga, Brampton and Markham, respectively.¹ It creates an unhealthy dynamic for our cities when the seats at the board tables of corporate Canada as well as the sense of opportunity that goes along with them continue to be divided along racial lines. Lack of diversity amongst senior management of such companies has a similar impact.

We do not find the argument that it is appropriate to start the initiative by focusing on women because they comprise 50% of the population to be compelling in a society that believes in and protects the rights of minorities. This argument is also rather weak when we consider the demographics of major cities where visible minorities comprise roughly half or more of the population. Furthermore, there is good reason to apprehend that an initiative focused solely on gender will not create opportunities for a diverse group of women any more than the dominance of men on boards of directors and in senior management has created opportunities for a diverse group of men. If this initiative does not create opportunities for women of diverse backgrounds, then the beneficiaries cannot reasonably be considered to represent 50% of the population and the aggregate result of the initiative will be boards and senior management teams that remain relatively homogeneous and unrepresentative of the population.

It is for this reason that we propose, as an alternative to our preferred solution of addressing diversity broadly based on numerous factors in addition to gender, that the Proposal could at the very least be revised to promote the appointments of a diverse group of women. The foregoing could be achieved by requiring disclosure regarding the representation of women of diverse backgrounds with respect to such factors as race, ethnicity, nationality and aboriginal status among others. This alternative will promote boards and senior management teams that are more diverse than would likely result from the current Proposal.

In summary, we ask that the OSC and the Government expand the scope of this initiative in order to truly embrace diversity. Doing so would promote boards and senior management teams that are truly reflective of the population and capable of bringing a wealth of diverse opinions to the leadership of Canada's leading companies. In the alternative, the Proposal should be revised to include mechanisms that promote the appointments of women of diverse backgrounds.

We would be happy to discuss this issue with you further.

¹ Please see the following tables of Statistics Canada's National Household Survey: Toronto, C, Ontario (Code 3520005) (table); Mississauga, CY, Ontario (Code 3521005) (table); Brampton, CY, Ontario (Code 3521010) (table); and Markham, T, Ontario (Code 3519036) (table). Statistics Canada. 2013. National Household Survey (NHS) Profile. 2011 National Household Survey. Statistics Canada Catalogue no. 99-004-XWE. Ottawa. Released September 11, 2013. <http://www12.statcan.gc.ca/nhs-enm/2011/dp-pd/prof/index.cfm?Lang=E> (accessed March 30, 2014).

Yours truly,

The Coalition for Real Equity

The Coalition for Real Equity is made up of the following organizations and individuals:

Organizations

Canadian Association of Black Lawyers
Colour of Poverty/Colour of Change Network
Federation of Asian Canadian Lawyers
Markham African Caribbean Canadian Association
Maytree
Metro Toronto Chinese and Southeast Asian Legal Clinic
Ontario Black History Society

Individuals

Aba Stevens
June Veacock
Vida Stevens
Moya Teklu
Zanana Akande
Ratna Omidvar
Noreen Allen
Katuscia Moya
Rocco Achampong
Rosemary Sadlier
Carl James
Begna Dugassa
Pauline Wisdom-Gilliam
Kingsley Gilliam
Jacqueline Russell