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BY EMAIL

M^e Anne-Marie Beaudoin
Secrétaire générale
Autorité des marchés financiers
800, rue du Square-Victoria, 22e étage
C.P. 246, tour de la Bourse
Montréal (Québec) H4Z 1G3
Email: consultation-en-cours@lautorite.qc.ca

Dear Sirs/Mesdames:

Re: Notice of Consultation – Women as Directors and Senior Members of Management (the “Notice”)

The Canadian Advocacy Council¹ for Canadian CFA Institute² Societies (the CAC) appreciates the opportunity to comment on the Notice. The CAC has made board diversity, gender balance and sound corporate governance a priority. Across the country, CFA societies hold *Women in Investment Management* events with the aim of improving investor outcomes by encouraging diversity in the profession. While gender balance is not the sole focus of diversity, we generally believe that this initial focus will yield results applicable to other dimensions of diversity.

The CAC does not favour either an exclusively principles-based nor exclusively rules-based approach to corporate governance. The CAC recognizes that issuers with diverse executives, including women on boards and as senior members of management, are vital to our capital markets. Diverse boards can improve independence from management, better mitigate conflicts of interest, and are better able to debate a number of positions in complex financial transactions and other activities. In our view, diverse boards can also lead to greater talent selection, higher quality boards, more purposeful representation and mitigate against groupthink. Further, our comments work well with the recent CSA Consultation Paper 52-404 - *Approach to Director and Audit Committee Member Independence*. Increasing board diversity could reduce the difficulty some market participants have expressed with respect to finding independent directors.

¹The CAC represents more than 15,000 Canadian members of CFA Institute and its 12 Member Societies across Canada. The CAC membership includes portfolio managers, analysts and other investment professionals in Canada who review regulatory, legislative, and standard setting developments affecting investors, investment professionals, and the capital markets in Canada. See the CAC's website at <http://www.cfasociety.org/cac>. Our Code of Ethics and Standards of Professional Conduct can be found at <http://www.cfainstitute.org/ethics/codes/ethics/Pages/index.aspx>.

² CFA Institute is the global association of investment professionals that sets the standard for professional excellence and credentials. The organization is a champion for ethical behavior in investment markets and a respected source of knowledge in the global financial community. The end goal: to create an environment where investors' interests come first, markets function at their best, and economies grow. CFA Institute has more than 155,000 members in 165 countries, including more than 148,900 CFA charterholders and 149 member societies. For more information, visit www.cfainstitute.org.

There have been studies that appear to show that companies with high ESG (environmental, social & governance) scores that have diverse boards, and company policies on diversity and women in management, have higher rates of return on equity and lower price and earnings volatility for the issuers themselves over companies with lower ESG scores³. In a publication relating to Women in Investment Management, CFA Institute notes that studies have shown that companies with the most women on boards outperform those with the least women on boards by 26% on return of invested capital, the top quartile group of companies with the highest share of women had a 41% higher return on equity than the group with no women, and the more gender diverse companies exceed by 56% the group with no women in terms of operating results.⁴ It is important that regulators continue their pursuit of achieving more diverse boards governing the companies in our capital markets, including boards that better reflect various stakeholder groups.

We recognize that the disclosure requirements pursuant to *Règlement 58-101 sur l'information concernant les pratiques en matière de gouvernance* (the “Disclosure Requirements”) have led to some improvements in the representation of women on boards. Certain participating jurisdictions have noted in their review that the percentage of issuers with at least one woman on their board increased from 49% to 61% between 2015 and 2017.⁵ Nevertheless, there is still a lot of room for improvement since the percentage of board seats occupied by women overall is only at 14%.⁶ Based on these statistics, the Disclosure Requirements appear to have exerted some pressure on management and boards to develop gender diversity policies and seek to recruit and increase diversity within their organizations. Although we recognize that there is more transparency as a result of the Disclosure Requirements, they alone may not be sufficient to achieve the intended objectives. Regulators may look at other measures, such as encouraging companies to make best efforts to connect with industry associations that are focused on women seeking board positions.

It is not yet clear whether the Disclosure Requirements have led to a change in investor behaviour or their capital allocation decisions, other than investors that have as part of their mandate a socially responsible investing focus. Research undertaken by CFA Institute shows that retail investors and institutional investors view gender diversity

³ Bank of America Merrill Lynch *Environmental, Social & Governance (ESG) Women: the X-factor* (7 March 2018) at pg. 5.

⁴ Credit Suisse Research Institute, “The CS Gender 3000: Women in Senior Management” (September 2014); Catalyst, “The Bottom Line: Corporate Performance and Women’s Representation on Boards (2004–2008)” (1 March 2011) and Sandrine Devillard, Sandra Sancier-Sultan, and Charlotte Werner, “Why Gender Diversity at the Top Remains a Challenge,” McKinsey Quarterly (April 2014).

⁵ See CSA Multilateral Staff Notice 58-309 *Staff Review of Women on Boards and in Executive Officer Positions – Compliance with NI 58-101 Disclosure of Corporate Governance Practices*, 2017 at http://www.osc.gov.on.ca/en/SecuritiesLaw_sn_20171005_58-309_staff-review-women-on-boards.htm.

⁶ See CSA Multilateral Staff Notice 58-309 *Staff Review of Women on Boards and in Executive Officer Positions – Compliance with NI 58-101 Disclosure of Corporate Governance Practices*, 2017 at http://www.osc.gov.on.ca/en/SecuritiesLaw_sn_20171005_58-309_staff-review-women-on-boards.htm.

differently. In particular, 55% of institutional investors seem convinced that mixed gender teams lead to better investment performance results while only 25% of retail investors hold such view⁷. In our opinion, it would be valuable if regulators implemented a mechanism by which retail investors could be educated on the importance of the disclosure requirements and the statistics with respect to board diversity. Changes in investor perception may occur, for example, through funds that promote women leadership.

In our view, the benefits of board diversity will crystallize through more investor education of the requirements, as well as initiatives aimed at encouraging board diversity to be included as a factor in the investment decision-making process for retail and institutional investors. We understand that based on the experience of other countries that have imposed other requirements, such as gender quotas on boards, that it may be too early to conclusively determine whether such alternative methods are more effective than disclosure. However, we believe that the rewards outweigh the risks and that Canada should be leading the way on issues related to diversity and gender balance.

Regulators may also want to focus on cognitive diversity (for example, differences in the way men and women categorize and see the world) and factors such as experience, backgrounds, cultures, and race, not solely gender. In particular, some studies have shown that effective teams are ones that have high cognitive diversity.⁸

Concluding Remarks

We thank you for the opportunity to provide these comments. We would be happy to address any questions you may have and appreciate the time you are taking to consider our points of view. Please feel free to contact us at cac@cfacanada.org on this or any other issue in future.

(Signed) *The Canadian Advocacy Council for
Canadian CFA Institute Societies*

**The Canadian Advocacy Council for
Canadian CFA Institute Societies**

⁷ CFA Institute “Study on Gender Diversity” (2018) unpublished.

⁸ Credit Suisse, “Assembling a Dream Team: How Gender Diversity Can Strengthen Your Team” (May 2017).