



January 29th, 2016

Attention:
Marlice Johnson
International Corporate Governance Network (ICGN)
Via Email: marlice.johnson@icgn.org

RE: ICGN Member Consultation: Guidance on Diversity on Boards

Dear Marlice,

British Columbia Investment Management Corporation (bcIMC) has been an ICGN member since 2005, and we welcome the opportunity to comment on the ICGN Guidance on Diversity on Boards.

bcIMC became a founding signatory to the Principles for Responsible Investment (PRI) in 2006. In addition, bcIMC is a founding member of the Canadian Coalition for Good Governance (CCGG) and has been an active member since 2003, including a presence on the CCGG board in various capacities over the years. We have also been an active member of the Asian Corporate Governance Association (ACGA) since 2005.

Overall, we view the ICGN Guidance on Diversity on Boards as a work in progress that would benefit from several clarifications and additions, which we have elaborated on below.

Main request of the consultation:

In particular, we would like to seek member opinion on whether or not the ICGN Guidance on Gender Diversity on Boards (2013) should be superseded by this new guidance or alternatively whether or not it should remain as a standalone document, noting duplicity of terminology in both documents.

If this Guidance were to go forward, we would suggest that it supersede the previous version focused on gender diversity. However, bcIMC believes it is premature to publish this new guidance on diversity. We are concerned that insufficient time has passed since the 2013 publication to allow for progress on gender diversity to take root in boardrooms. Since 2013, we have not seen a significant number of new research studies published on the issue, as evidenced by the fact that only five new studies appear in the updated bibliography. Furthermore, we believe that many of the studies with the most compelling conclusions and

strongest empirical evidence cited in the 2013 publication are primarily looking at the link between corporate performance and gender diversity, not diversity more broadly.

While we recognize that the ICGN's *Corporate Governance Principles* contain a broader definition of diversity, we believe the point of specific guidance on gender diversity found in the 2013 document was to enable investors to more concretely put those broader principles into action. However, the proposed guidance on diversity on boards may not be as practical given the broader definition employed. In fact, we are concerned that a potential unintended consequence of the new guidance may lead companies to seize upon ICGN's broader definition of diversity to defend the status quo by, for example, referencing diversity of experience as being sufficient even though their boards lack any gender or ethnic diversity. A broader definition of diversity becomes much more difficult for investors to practically implement particularly when exercising our voting rights. It is our view that while we support the notion of a broader definition of diversity, it becomes much more challenging to identify practical guidance to act upon that notion.

Specific comments

Part 2: Guidance on Board Responsibilities

We find the use of the term stakeholder in this section to be somewhat ambiguous. It is unclear if ICGN is suggesting that stakeholders actually be represented on the board or simply that directors need to be alive to stakeholder views while exercising their duties as directors. If the intention is the latter then we are supportive. If it is the former, we would view this as problematic from a practical standpoint to have all stakeholder views represented on the board. In certain markets, employees are represented on the board but this is not a global practice. We believe that it is important for directors to understand the views of key stakeholders, but those directors do not have to be stakeholder representatives per se.

- The board should include an annual assessment of its own performance in achieving board diversity and reflective of its client and stakeholder base. Given the important strategic value of diverse boards, the board should also assess the performance of management in implementing diversity policies applicable across the company's entire operations.

The above reference to "reflective of its client and stakeholder base" is unclear to us. We would appreciate greater clarity on the intended meaning and guidance for boards by this statement. We also believe that the second sentence would be more appropriate in the **Implementation and culture** section and that specific examples would benefit boards in the discharge of their duties.

- The Nomination Committee should identify and recommend candidates for new board members from a diverse pool that takes into consideration gender, age, sexual orientation, background, culture and experience.

The above guidance on certain aspects of diversity could be problematic from a legal standpoint, and we fail to see how a Board could operationalize this without invading a person's privacy.

The discussion of the role of nominating committees and the role of advisors appears to overlap and might benefit from being integrated into one section. We believe that guidance by the nominating committee to any external advisor should also include the company's board interlock policy, with the recommendation that interlocks be minimized. Several board interlocks where directors serve on multiple boards together often limit the diversity of views and prevent true refreshment when looking to add to the board.

This discussion also appears geared to boards of large corporations that can afford to hire external advisors, so it would be beneficial for smaller issuers if further guidance on how to establish a pool of diverse board candidates was provided. In the Canadian market we often speak to smaller companies that are not in a position to spend resources on external advisors.

Part 3: Shareholder Responsibilities

We find that the opening section, **Dialogue with companies**, contains vague guidance in the third bullet:

- Shareholders should expect that investee companies will adopt and disclose diversity policies for all criteria.

We are uncertain as to the intended meaning of "...for all criteria." in this bullet point as there is no previous mention of criteria.

In the **Voting guidelines** section, we do not see the need for separate bullets as the content is very similar with both points addressing how investors should disclose their expectations in their proxy voting guidelines. Instead, we suggest using one bullet point that encourages investors to make their proxy voting guidelines available to the public, and that those guidelines include the investor's approach to voting on issues of gender diversity at investee companies. As a result, the second bullet's request to disclose such guidelines to investee companies seems redundant. However, the example could be retained.

The first bullet point under **Exercising voting rights** could benefit from an example, such as withholding support for Chairs of nominating committees where diversity is lacking. The final bullet in this section contains a phrase that could be removed:

- If shareholders are unable to nominate directors to boards through proxy access or during a contested election, they may be able to file a relevant shareholder proposal and /or comment on proposed rules with regulatory agencies and/or listing entities. Examples of relevant share holder proposals could request that the company grant proxy access, the adoption of a diversity policy, that the Nominating Committee adopt a more diverse policy.

We suggest cutting the highlighted part as it is not related to this section's subject matter.

The final bullet point under the **Public policy** section addressing internal research does not appear to belong in this section and should ideally be moved to the **Dialogue with companies** section.

Comments and sources for the bibliography:

As noted earlier, there does not seem to be a great deal of new research to justify the shift in emphasis from gender diversity to diversity more broadly, especially given that three of the new studies cited in the updated bibliography are specifically focused on gender diversity (MSCI, PWC and UBC). ICGN may also wish to add the Credit Suisse Research Institute's 2014 study (The CS Gender 3000: Women in Senior Management) on the link between corporate performance and gender diversity in senior management.

We hope our comments are clear and helpful, and we would like to thank you for this opportunity to comment on this important topic. Please feel free to contact me if you require further clarification.

Regards,

Jennifer Coulson
Senior Manager, ESG Integration
British Columbia Investment Management Corporation