

## IMPROVING GENDER DIVERSITY ON CANADIAN BOARDS

by [Melissa Kennedy](#)

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The Ontario Teachers' Pension Plan is a global investor with more than \$130 billion in net assets. As an investor, it has long held the view that good governance is good business. Good governance practices start with strong, independent and effective boards, which are better positioned to make high-quality decisions that benefit the corporation and its shareholders.

Teachers' operates on the principle that strong boards are built with qualified directors selected from a diverse pool of candidates. Diversity in gender, not to mention professional experience and geography, brings a broad range of perspectives, ideas and thoughts to board discussions, which improves overall effectiveness.

The commitment to gender diversity is demonstrated by Teachers' own board and senior management. Since its creation in 1991, Teachers' has had three or four women on its board of directors in all but two years. Today, four of the nine directors are women and, since 2007, the chair of the board has been a woman. As well, five of the nine members of the senior management team are women.

Unfortunately, boards of public Canadian companies have been generally slow to appoint women as directors. A review of the Institute of Corporate Directors database indicates a high proportion of female graduates from the education program. But despite the strong pool of qualified candidates, the percentage of women on boards of directors has remained at 10 to 13 per cent for the past decade. Furthermore, 40 and 50 per cent of the boards of directors in Canada have no women on them at all.

A recent international survey by Catalyst found that 15 countries, including Turkey and Poland, had a higher percentage of women on boards than Canada. Clearly voluntary measures to increase the number of women on the boards of directors in this country have not worked.

In July 2013, the Ontario Securities Commission (OSC) launched a consultation on a proposal that would require all companies listed on the Toronto Stock Exchange (TSX) to disclose their policies about women on their boards of directors and in senior management. The OSC proposal suggested a "comply-or-explain" approach by which companies that do not meet the standard must include an explanation in their annual filings.

Teachers' is not convinced that this approach would provide enough incentive for companies to increase the number of women on their boards of directors. We are not convinced for many reasons, but two in particular stand out. First, comply-or-explain has not generated measurable results on other governance issues in the jurisdictions where it exists today. Second, it has not worked as planned in Canada.

In December 2012, the TSX instituted a "comply-or-explain" model for companies adopting majority voting. Since the policy's adoption, a number of issuers have failed to adopt a majority voting policy. The reason stated in their disclosure was that there was no legal requirement to do so.

The experience of Norway supports our view that a comply-or-explain approach does not generate measurable results with respect to gender diversity on boards. In 2003, with female representation on Norwegian boards at six per cent, the government adopted a 40 per cent quota that would take effect only if levels were not reached voluntarily in three years. By 2006, only 18 per cent of the nation's directors were women and the quota amendments were enacted with a two-year deadline and sanctions for non-compliance. The 40 per cent goal was achieved in 2009. In our view, Norway would not have met its target without the threat of sanctions.

During the consultations held by the OSC, Teachers' proposed that all TSX non-Venture issuers be required to appoint a minimum of three female directors over an appropriate phase-in period – with sanctions for non-compliance. This would be a TSX listing requirement to be enforced by the Exchange beginning in 2020. The seven-year phase-in period would serve to reduce potential for disruptions without diminishing the board's responsibility to take timely action and implement the required changes. We are aware that it might not be practical to require small boards to comply with the proposed threshold of three. In these cases, a scaled approach such as the one in Norway may be necessary.

The threshold of three female directors is a means to an end – more diverse boards. According to our review of related research, there must be at least three female directors on a board for women to participate fully and effectively. A 2006 study by Kramer, Konrad and Erkut shows that when a board has just one woman, other directors may see her as a token female or stereotype her opinions as representing those of all women. The research also shows that when two women serve on a board, these effects generally persist but to a lesser degree.

However, when three or more women sit on a board, the other directors see the women as individuals with their own views and personalities. Gender is no longer a barrier to acceptance or to the ability to contribute to board deliberations. As a result, female directors can have a much greater impact on boardroom dynamics and discussions.

And female directors do make a difference. A 2011 study by Catalyst provides further evidence that greater representation of women on boards can effect positive change across companies. Results of the study showed that Fortune 500 companies with three or more women on their

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boards significantly outperformed those with no female directors four out of five years between 2004 and 2008.

Teachers' does not believe companies would have trouble finding three women to serve as directors. There are several databases in Canada that provide access to a large number of qualified females. Our experience suggests that boards can overcome this challenge by reassessing their search, evaluation and selection process to ensure it is sufficiently broad and deep enough to expand the pool of director candidates.

Teachers' also proposed that boards maintain a high level of transparency in the director recruitment process. This will mitigate the risks of tokenism that are often associated with setting minimum targets.

Furthermore, companies should be required to disclose their board evaluation and director selection practices annually. This would allow their shareholders to evaluate the breadth and depth of the processes and the extent to which diversity is considered part of the recruitment process for board members.

Diversity is an important factor in creating effective boards that deliver and sustain value. And it is time for an approach that will have a more immediate and profound impact on Canadian boards. In our view, establishing a minimum threshold of three women directors as a requirement for TSX listing is the best way to increase the participation of women on boards, a catalyst that Teachers' believes will result in more diverse and, therefore, more effective boards and organizations.

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## The Author:

### Melissa Kennedy

Melissa Kennedy is General Counsel and Senior Vice-President at Ontario Teachers' Pension Plan, where she oversees the legal, corporate communications, pension law and policy departments.

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