



September 7, 2020

Mr. Walied Soliman, Chair
Ontario Capital Markets Modernization Taskforce

Submitted via email at: CMM.Taskforce@ontario.ca

Re: Comments on the June Consultation Report published by Ontario's Capital Markets Modernization Taskforce

Dear Mr. Soliman:

We write to comment on the draft recommendations that have been published by Ontario's Capital Markets Modernization Taskforce (the Taskforce). With approximately C\$8 billion in assets under management, NEI Investments' approach to investing incorporates the thesis that companies can mitigate risk and take advantage of emerging business opportunities by integrating best environmental, social and governance (ESG) practices into their strategies and operations. With this context in mind, we commend the Taskforce for gathering a robust set of draft recommendations and for its receptiveness to feedback from stakeholders. We welcome the opportunity to share our comments.

NEI Investments is also signatory to a letter addressed to your attention from a consortium of investors and submitted September 7, 2020 (the "Investor Letter") which provides a set of shared comments on the draft recommendations. Those shared comments focus on recommendations 19, 20, 21, 23, 24 and 25.

We support the content of the Investor Letter and won't reiterate our position on those proposals here other than to provide additional comments beyond those expressed in the Investor Letter. As such, commentary within this letter is focused on *recommendations 19 and 26*.

Recommendation 19 – Target Setting for BIPOC Representation

We support the Taskforce's recommendation that TSX-listed companies set targets and annually provide data in relation to the representation of women, and in relation to black people, indigenous people, and people of colour (BIPOC), on boards and in executive officer positions. Regarding the representation of women, we are aligned with the recommendation in the Investor Letter and refer to that letter for our position. However we do have a position on the representation of BIPOC unique from the Investor Letter that we detail below.

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We preface our additional comments by stating that it has long been time to address the lack of corporate diversity in Canada. A 2020 study by the Ryerson Diversity Institute found that while racialized people represent 28.4% of the population across 8 cities, they hold 10.4% of board positions across sectors. The corporate sector had the lowest representation at 4.5%. Among 1639 corporate board members 0.8% of board members were black. Interviews with Indigenous peoples, members of the LGBTQ2S+ community, and persons with disabilities revealed the barriers to inclusion they face.¹ The data makes clear the need for deliberative action if we are to see these numbers improve.

It is evident that voluntary target setting has improved gender diversity on boards, but it is also evident that progress remains frustratingly slow. We believe we can build on the knowledge gained from the recent experience on gender diversity and build a more effective framework for incenting BIPOC diversity from the start. The basic tools and approaches that boards will need to enhance BIPOC representation are largely similar to the tools that have proven effective in increasing gender diversity and can be leveraged to meet BIPOC diversity goals (e.g. mandating that search firms always provide BIPOC candidates, looking beyond the C-suite for qualified candidates, etc.). As these processes are already being considered and we are not starting from scratch, we believe we can strive for a reasonable amount of ambition.

We believe that companies should be required to set targets for BIPOC representation that align with the demographics of the region most applicable to the company, given the markets they operate in and/or service. Companies could consider aligning with:

- The demography of Ontario, or other applicable province or territory;
- The demography of Canada; or
- Another appropriate regional demography, as explained.

Companies should be required to report progress against these targets, and strategies in place to meet these targets, annually. Companies would be expected to be broadly aligned with these targets after five years. If a company has not met its target after the five years, but can point to concrete efforts it has made to achieve the targets and/or genuine circumstances beyond its control that have stood in the way of achieving said targets, it should be assessed for compliance annually after that

¹ Ryerson University's Diversity Institute recently published "[Diversity Leads: Diverse Representation in Leadership: A review of Eight Canadian Cities](#)", August 2020. The report additionally notes that universities and colleges had the highest level of board representation at 14.6% while the corporate sector had the lowest level at 4.5%. In Montreal racialized people represent 22.6% of the population but hold 6.2% of board positions In Toronto, where 7.5 percent of the city's population is Black, there were almost no members on corporate boards (0.3%). Indigenous peoples, members of the LGBTQ2S+ community, and persons with disabilities are rarely members of boards. Interviews with individuals in these groups revealed the barriers to inclusion that they face.

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time. We acknowledge that addressing the lack of corporate diversity is a societal challenge that will require multiple actors and institutions working in concert to effect sustainable change. That said, a company that cannot provide a rationale for missing its targets (or who has not set appropriate targets) should be subject to some form of regulatory censure (e.g. monetary fine, public notice of non-compliance, etc.).

Recommendation 26 – Universal Proxy Ballots

We are in support of the Taskforce’s recommendation to facilitate the use of “universal proxy ballots”. The current approach to proxy voting is limited and inefficient. We frequently are not completely aligned with management’s slate of nominees or the contestant’s slate or nominees. Under the current process, it is also unclear which nominees are unique to each slate. The ability to vote for a combination of nominees from each slate would give investors the opportunity to support our view of the most ideal board composition for the benefit of the company and its stakeholders. We acknowledge that the universal ballot does bring some challenges, in particular for proxy advisors tasked with simplifying the ballot choices for investors, but in our view the advantages outweigh the drawbacks and lead us to conclude a universal proxy ballot would be an improvement on the status quo.

We recognize the thoughtful efforts of the Task Force in generating these recommendations and would be pleased to dialogue further with respect to this correspondence if that would be helpful to the Taskforce.

Sincerely,

NEI Investments

A handwritten signature in black ink, appearing to read "Jamie Bonham".

Jamie Bonham | jbbonham@neiinvestments.com
Director, Corporate Engagement

A handwritten signature in black ink, appearing to read "Michela Gregory".

Michela Gregory | mgregory@neiinvestments.com
Director, ESG Services