



INTERNATIONAL

TAFT-HARTLEY PROXY VOTING GUIDELINES UPDATES 2024 Policy Recommendations

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Board of Directors

Director and Supervisory Board Member Elections

Discussion

Current Taft-Hartley Advisory Services Policy:	New Taft-Hartley Advisory Services Policy:
<p>...</p> <p>Many investors believe that long tenure on a board can, in some circumstances, lead to a sense of identification with the company and the interests of its management team which can damage a director's independence, even in the absence of a formal transactional or professional relationship between the director and the company. Listing rules in both Hong Kong and Singapore have recently been amended to provide that where a director designated as independent has served on the board for more than nine years, the company should provide the reasons why the board considers such director to still be independent – in effect, creating a rebuttable presumption that independence will be affected by long tenure. In Hong Kong and Singapore, Taft-Hartley Advisory Services would classify an "independent non-executive director" as non-independent if such director has served on the board for more than nine years, where the board either fails to provide any reason for considering the director to still be independent, or where the stated reasons raise concerns among investors as to the director's true level of independence. In other markets as applicable, Taft-Hartley Advisory Services may classify non-executive board members with long-tenures as non-independent directors, despite such directors being considered independent by the company.</p> <p>...</p>	<p>...</p> <p>Many investors believe that long tenure on a board can, in some circumstances, lead to a sense of identification with the company and the interests of its management team which can damage a director's independence, even in the absence of a formal transactional or professional relationship between the director and the company. Listing rules in both Hong Kong and Singapore have recently been amended to provide that where a director designated as independent has served on the board for more than nine years, the company should provide the reasons why the board considers such director to still be independent – in effect, creating a rebuttable presumption that independence will be affected by long tenure. In Hong Kong and Singapore, Taft-Hartley Advisory Services would classify an "independent non-executive director" as non-independent if such director has served on the board for more than nine years. In Hong Kong, the classification of a director is also contingent upon the board's failure to provide any justification for the director's continued independence status or on the fact that the stated reasons raise concerns among investors as to the director's true level of independence. In other markets as applicable, Taft-Hartley Advisory Services may classify non-executive board members with long-tenures as non-independent directors, despite such directors being considered independent by the company.</p> <p>...</p>

Rationale for Change:

The Hong Kong Corporate Governance Code was amended in December 2021 to update the provisions in the areas of company culture, board independent and refreshment, diversity, communications with shareholders, and ESG. As part of the amendment to the Code, with effect for the financial year commencing on or after Jan. 1, 2023, where all the independent non-executive directors of an issuer have served more than nine years on the board, the issuer should:

- disclose the length of tenure of each existing independent non-executive director on a named basis in the circular to shareholders and/or explanatory statement accompanying the notice of the annual general meeting; and
- appoint a new independent non-executive director on the board at the issuer's next annual general meeting.

The language update will be amended to reflect the added provisions in the Hong Kong Corporate Governance Code applicable to companies that have all their independent non-executive directors serving for more than nine years.

Board Diversity - Canada - Ethnic Diversity

Current Taft-Hartley Advisory Services Policy:	New Taft-Hartley Advisory Services Policy:
<p>For meetings on or after Feb. 1, 2024, for companies in the S&P/TSX Composite Index, generally vote against or withhold from the chair of the nominating committee or chair of the committee designated with the responsibility of a nominating committee, or the chair of the board of directors if no nominating committee has been identified or no chair of such committee has been identified, where the board has no apparent racially or ethnically diverse members⁵. An exception will be made if there was racial and/or ethnic diversity on the board at the preceding annual meeting and the board makes a firm public commitment to appoint at least one racial and/or ethnic diverse member at or prior to the next AGM.</p> <p>Evaluate on a case-by-case basis whether against/withhold recommendations are warranted for additional directors at companies that fail to meet the policy over two years or more.</p>	<p>For companies in the S&P/TSX Composite Index, generally vote against or withhold from the chair of the nominating committee or chair of the committee designated with the responsibility of a nominating committee, or the chair of the board of directors if no nominating committee has been identified or no chair of such committee has been identified, where:</p> <ul style="list-style-type: none"> ▪ The board has no apparent racially or ethnically diverse members⁵; and ▪ The company has not provided a formal, publicly-disclosed written commitment to add at least one racially or ethnically diverse director at or prior to the next AGM. <p>Evaluate on a case-by-case basis whether against/withhold recommendations are warranted for additional directors at companies that fail to meet the policy over two years or more.</p>
<p>Footnotes:</p> <p>⁵Aggregate diversity statistics provided by the board will only be considered if specific to racial and/or ethnic diversity. Racial and/or Ethnic Diversity is defined as: Aboriginal peoples (means persons who are Indigenous, Inuit or Métis) and members of visible minorities (means persons, other than Aboriginal peoples, who are non-Caucasian in race or non-white in colour). Employment Equity Act (S.C. 1995, c. 44) https://laws-lois.justice.gc.ca/eng/acts/E-5.401/section-3.html</p>	<p>Footnotes:</p> <p>⁵Aggregate diversity statistics provided by the board will only be considered if specific to racial and/or ethnic diversity. Racial and/or Ethnic Diversity is defined as: Aboriginal peoples (means persons who are Indigenous, Inuit or Métis) and members of visible minorities (means persons, other than Aboriginal peoples, who are non-Caucasian in race or non-white in colour). Employment Equity Act (S.C. 1995, c. 44) https://laws-lois.justice.gc.ca/eng/acts/E-5.401/section-3.html</p>

Rationale for Change:

The introduction of this policy was announced in 2022, with a grace period of one year to February 2024. This year's proposed change removes the transition language and also introduces mitigation based on a publicly disclosed commitment to add at least one racially or ethnically diverse members at or prior to the next AGM.

The background to the policy is that in 2020, Canada broadened disclosure requirements on board diversity for publicly traded corporations beyond gender, mandating businesses to report on each of our employment equity groups (i.e., women, visible minorities, Indigenous peoples and persons with disabilities) through new requirements introduced to the Canada Business Corporations Act in Bill C-25. These measures aim to foster diversity at the highest levels of corporate leadership in Canada, improve shareholder democracy, and drive shareholder value through better transparency.

Distributing corporations established under the CBCA are required to disclose to their shareholders (through their proxy circulars) and to Corporations Canada information regarding the diversity of their boards and senior management. The disclosure must include the representation of various designated groups on the board and among senior management. These designated groups include women, Indigenous peoples (First Nations, Inuit and Métis), persons with disabilities and members of visible minorities. In

addition, the CBCA requires distributing corporations to disclose whether they have a diversity and inclusion policy, and if not, to provide an explanation why not. This "comply or explain" approach is not prescriptive but is intended to foster a dialogue between distributing corporations and their shareholders, increase corporate transparency and support the push for increased diversity on boards and in senior management.

Based on the proxy circulars filed in 2020, the Government of Canada identified 669 distributing corporations which were required to disclose diversity information. Of these distributing corporations, the proxy circulars of 469 companies were reviewed and 85.9 percent contained information on diversity, and also concluded that there continues to be ongoing challenges in getting a complete picture of diversity because the CBCA and related regulations do not specify how distributing corporations should disclose this information. To better support corporations, in early 2021, Canadian guidelines were published to help and encourage distributing corporations to disclose their diversity information annually in a more consistent manner, and the consistency in disclosure will ensure that diversity information can be collected and analyzed in a consistent way and enable a sound year-over-year analysis that will foster steady progress toward more diverse corporate leadership. As a result of the diversity disclosure requirements and industry awareness-raising activities, distributing corporations were more aware of their filing requirements in 2021 than they were in 2020. In 2021, an average of 13 percent of the required diversity information disclosed by distributing corporations was incomplete, missing or not provided in a standardized way.

During the 2021 Canadian roundtable discussions, the vast majority of our clients had the shared view that boards should aim to reflect the company's customer base and the broader societies in which they operate by including directors drawn from racial and ethnic minority groups, and also widely supported the expectation for disclosure from companies on racial/ethnic diversity at the board level, and that all companies should disclose this information to the fullest extent possible. In addition to the information referenced above, the implementation of this policy will allow the Canadian S&P/TSX Composite Index policy to align more closely to the US Policy for Russell 3000 and/or S&P 1500 indices on racial/ethnic diversity.

<https://www.ic.gc.ca/eic/site/cd-dgc.nsf/eng/cs08317.html>

<https://www.bennettjones.com/Blogs-Section/Government-of-Canada-Publishes-First-Report-on-Diversity-Disclosure>

<https://www.ic.gc.ca/eic/site/cd-dgc.nsf/eng/cs09445.html>

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