



BREAKING THE GLASS CEILING: WOMEN IN THE BOARDROOM

THIRD EDITION

PAUL
HASTINGS



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* New for 2013

** Updated for 2013

For our complete report, which includes research from 35 countries, go to
www.paulhastings.com/genderparity



“For us it’s about talent... getting and keeping the best talent. It’s about creating a culture where we can have innovative, creative solutions for our clients and our customers, and it’s about making sure that diversity and inclusion are differentiators to grow the business.”

Dr. Rohini Anand
Global Chief Diversity Officer, Sodexo

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Executive Summary

Paul Hastings is pleased to present the third edition of “Breaking the Glass Ceiling: Women in the Boardroom,” a comprehensive, global survey of the way different countries address the issue of gender parity on corporate boards. This edition is a supplement to our full 2012 report, and provides updates to jurisdictions with notable developments over the past 12 months, as well as five new jurisdictions: Austria, Denmark, Finland, India, and Sweden.

Given the dynamism and evolution of this issue, we have developed an interactive website dedicated to providing the most current information and developments on the issue of diversity on corporate boards. Included are details about the legislative, regulatory, and private sector developments and trends impacting the representation of women on boards in countries around the world. In addition, there are interviews with corporate executives and directors as well as individuals who are making strides in addressing this issue – whether at their own companies, within their industries, or as a thought leader. We are honored to share the insights of three women who have been, and are today, pioneers in their own right and have lent their voices and efforts to address this issue:

- **Dr. Rohini Anand** – Senior Vice President and Global Chief Diversity Officer at Sodexo (40% of Sodexo board members are women)
- **Judy Hope** – Professor at Georgetown University Law Center and a Director on several boards, including Union Pacific, General Mills, and Russell Reynolds. Ms. Hope is a former Director of IBM and former partner at Paul Hastings
- **Dr. Jane Shaw** – Director of McKesson Corporation, former Director at OfficeMax, and former Chair of Intel

They collectively cover the topics of (i) educating boards on the business imperative in establishing and maintaining diverse boards, (ii) strategies to open vacancies on corporate boards, (iii) building the pipeline of diverse candidates, and (iv) establishing networks of board-ready diverse candidates. We encourage you to access the full report and interviews at www.paulhastings/genderparity. We will continually update the site with new developments and additional interviews and are hopeful this compendium of information ignites discussion and debate as well as action.

Year in Review

Europe continues to be a leader on this issue. In the past year, we saw tangible progress as well as continued debate about the best approaches for promoting greater representation of women on corporate boards. 2013 showed the highest year-on-year change recorded to date in the average number of women on boards of large corporations in European Union Member States, in part due to mandatory quotas. However, several EU countries have pursued strategies other than mandatory quotas to address the gap. Austria, Denmark, Finland, the United Kingdom, and Sweden favor legislation and corporate codes that allow companies to set their own targets and policies. Recent amendments to the UK’s corporate governance code more explicitly reference gender as a factor in making board appointments. The changes also require that companies report publicly on their board member selection process, diversity, and gender policy as well as measurable objectives for implementing and gauging progress. In Germany, the debate over fixed quotas continues within the government and no legislation addressing gender parity is expected this year.

The United States and Canada continue to exhibit only marginal growth in the percentage of women on boards since the 2012 report. However, in the United States, there has been renewed attention and discourse in the public domain regarding the lack of women in the highest echelons of corporate leadership following several op-eds and most notably, Sheryl Sandberg’s book *Lean In: Women, Work and the Will to Lead*. Notably, much of the discourse has centered on private sector initiatives, rather than mandatory quotas or other legislative solutions.

In Australia, new legislation has bolstered reporting requirements: private companies with 80 or more employees must report annually regarding specific gender equality indicators. The legislation includes potential sanctions such as naming non-compliant companies in national newspapers and jeopardizing such companies’ eligibility for government contracting. In New Zealand, the proposed NZSX/NZDX Listing Rules regarding diversity have been enacted, requiring listed companies to provide a breakdown of the gender composition of their directors and officers.

Legislative efforts to increase representation of women on boards of public and private companies in China have begun to bear results. Since 2012, over 50 cities in Mainland China have adopted local rules implementing the 2011 legislation,

although the majority are limited to state-owned entities. One city in particular, Changji (located in Xinjiang Province), adopted a goal of 18% female board representation by 2015 and 25% by 2020 – the first time a specific target for female representation has been proposed under the 2011 legislation. Although the issue of gender equality at the board level has not yet received significant attention in public discourse in India thus far, the Indian government is taking initiative to address the disparity. The lower house of the Indian Parliament recently passed a bill that is expected to become law, which would require a certain class of companies (which have not yet been determined) to have at least one woman director.

A Variety of Strategies to Fit Local Dynamics

The 2013 report continues to highlight the variety of approaches taken in various countries to increase the number of women on corporate boards. We continue to see countries implementing legislative measures, including quotas, voluntary targets, and reporting requirements. In a number of countries, corporate governance codes and stock exchange listing rules require disclosure and recommend gender diversity as a selection criterion for directors. Overall, there appears to be significant interest from both public and private sectors in building a pipeline of future women directors.

“I think what is required in the proxy disclosure could be strengthened and companies could be held more accountable for meeting the goals that they’re asked to disclose... We pay attention to what we measure. I think the best way to go in the United States, whether it’s the stock exchange listing requirements or the SEC’s disclosure requirement, is if they require companies to disclose what their targets are and then hold them accountable for the progress they’re making.”

Dr. Jane Shaw
Director at McKesson

Legislative Mandates Continue to Spur Results... and Debate

Based on the data to date, legislative quotas still seem to be the most effective measure to immediately increase numbers. In November 2012, the European Union (EU) revitalized the debate on quotas by proposing a temporary mandatory quota (valid until 2028) with the goal of attaining 40% representation of the underrepresented sex in non-executive board member positions in listed companies by 2020 (there is an exception for small- and medium-sized enterprises). As of January 2013, 21 of 27 national parliaments have approved the proposed EU directive, with the Czech Republic, Denmark, the Netherlands, Poland, Sweden, and the UK as the main opponents.

Notably, the EU directive also included a “flexi quota” provision which provides voluntary implementation by listed companies of self-regulatory targets for more equitable representation of both genders for executive board member positions and annual reporting of the progress made in achieving the target. Similarly, certain countries have implemented non-binding quotas or targets for female representation on boards that companies can voluntarily follow. Denmark appears to have developed a middle ground between quotas and non-binding measures. New regulations enacted on April 1, 2013 require large Danish companies to set target figures for equal representation on boards and develop policies to increase the percentage of women in senior management. Equal representation is defined as at least 40% of the underrepresented gender of either board members elected at a general meeting or in upper management. Large Danish companies are required to establish policies and set targets or face fines; however, there is no fine or legal obligation to reach the target figures.

Leveraging Self-Regulation through Corporate Governance Codes and Listing Rules

In many countries, corporate governance codes and stock exchange listing requirements have been an effective way to promote gender diversity and potentially create greater opportunities for women board members. Listing requirements and corporate governance codes include direct references to gender or diversity among possible

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selection criteria for board members, and require companies to disclose in annual reports whether they maintain a diversity policy or, in some cases, the gender composition of their boards.

Both Australia and Finland are examples of where these measures have been successful. Finland's corporate governance code provides that both genders be represented on the board on a "comply or explain" basis. As of 2013, 23% of board members of listed Finnish companies are women. However, there is still room for improvement: only 4.2% of chairpersons and only 16% of executive management team leaders of listed companies in Finland are women.

Other corporate governance or listing requirement provisions may indirectly help increase the number of female representatives on boards by creating greater turnover and leading to greater access for women. For example, the Companies Bill anticipated in India restricts the number of company boards on which an individual can serve as director.

"If the company's management and board work well together, management will not want [the board] to change very much and will extend terms. Another reason there is such a small percentage of women on boards is because the retirement age is being extended. You used to have to retire at age 60, 61, or 65. Now most boards will allow you to serve until age 75. So people tend to have longer terms and boards don't turn over. ... I served as Audit Chair of Union Pacific for 16 years, longer than anyone else in that position in the history of the company. But there is a new Audit Chair who is doing a good job, and I think turnover is good."

Judy Hope

Professor at Georgetown University Law Center and Director on several boards, including Union Pacific, General Mills and Russell Reynolds

Ms. Hope and Dr. Shaw commented on the tension between ensuring the continuity and quality of the board when new members join, and the need to have turnover to create more seats for diverse candidates, including women. In raising the question of what the right tenure period would be, Dr. Shaw notes that it takes time for a new board member to really understand the business of the company. Having climbed the learning curve, boards then want the director to serve for a reasonable period of time.

The Private Sector Remains Critical

In many countries, industry associations, business schools, and non-governmental organizations continue to advocate for and develop initiatives to increase representation of women on corporate boards. For example, the Finland Chamber of Commerce organizes a mentoring program for women executives and the Finnish Business and Policy Forum published a best practices guide on strategies to assist women to advance in business. Finnish universities host educational programs to encourage women to take on business management and executive positions. Additionally, the Finnish Ministry of Social Affairs and Health is engaged in a multitude of programs to promote gender equality in society and to promote social change through influencing attitudes and subliminal perceptions regarding women's suitability for business. Finally, the Finnish Ombudsman for Equality monitors the development and addresses issues of concern for gender equality in the Finnish social arena.

Industry groups also continue to develop voluntary codes of conduct to promote gender diversity on corporate boards. In New Zealand, the 25 Percent Group, a group committed to achieving 25 percent female participation in private