

Via Hand Delivery

June 19, 2019

The Honorable Maxine Waters  
Chair  
Committee on Financial Services  
United States House of Representatives  
Washington, DC 20515

The Honorable Patrick T. McHenry  
Ranking Member  
Committee on Financial Services  
United States House of Representatives  
Washington, DC 20515

*Re: June 20th, Hearing on “Diversity in the Boardroom: Examining Proposals to Increase the Diversity of America’s Boards”<sup>1</sup>*

Dear Madam Chair and Ranking Member McHenry:

I am writing on behalf of the Council of Institutional Investors (CII or Council) to express our appreciation to you for holding the above referenced hearing and to provide you with our views on two of the bills that are expected to be discussed. We would respectfully request that this letter be made a part of the hearing record.

CII is a nonprofit, nonpartisan association of public, corporate and union employee benefit funds, other employee benefit plans, state and local entities charged with investing public assets, and foundations and endowments with combined assets under management of approximately \$4 trillion. Our member funds include major long-term shareowners with a duty to protect the retirement savings of millions of workers and their families. Our associate members include a range of asset managers with more than \$35 trillion in assets under management.<sup>2</sup>

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<sup>1</sup> U.S. House Committee on Financial Services, Hearing, Diversity in the Boardroom: Examining Proposals to Increase the Diversity of America’s Boards (June 20, 2019), <https://financialservices.house.gov/calendar/eventsingle.aspx?EventID=403834>.

<sup>2</sup> For more information about the Council of Institutional Investors (“CII”), including its board and members, please visit CII’s website at <http://www.cii.org>.

## Board Diversity

*CII generally supports H.R. 1018, the “Improving Corporate Governance Through Diversity Act of 2019,”<sup>3</sup> and H.R. 3279, the “Diversity in Corporate Leadership Act of 2019.”<sup>4</sup>*

CII’s membership approved policies state:

The Council supports a diverse board. The Council believes a diverse board has benefits that can enhance corporate financial performance, particularly in today’s global market place. Nominating committee charters, or equivalent, ought to reflect that boards should be diverse, including such considerations as background, experience, age, race, gender, ethnicity, and culture.<sup>5</sup>

Our policy is supported by a growing body of research indicating that diverse boards may benefit long-term investors. For example, a recent memorandum by FCLTGlobal, an independent not-for-profit organization,<sup>6</sup> states:

Diversity matters, both for board and company performance. A variety of studies have demonstrated the value of multidimensional diversity—across ages, genders, ethnicity, and beyond. One notable 2017 study found that greater board diversity was associated with reduced financial risk, larger R&D investments, and better operating performance. FCLTGlobal’s own research confirmed this assessment. Looking at MSCI ACWI firms between 2010 and 2017 and using a diversity metric that compasses both age and gender, we found that the most diverse boards (top 20 percent) added 3.3 percentage points to ROIC, as compared to their least diverse peers (bottom 20 percent.).<sup>7</sup>

Similarly, PWC’s 2018 Annual Corporate Directors Survey found that 84% of corporate directors said that board diversity enhances board performance.<sup>8</sup>

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<sup>3</sup> H.R. 1018, the Improving Corporate Governance Through Diversity Act of 2019, 116<sup>th</sup> Cong. (2019), <https://financialservices.house.gov/uploadedfiles/bills-116hr1018ih-govdiv.pdf>.

<sup>4</sup> H.R. 3279, the Diversity in Corporate Leadership Act of 2019, 116<sup>th</sup> Cong. (2019), <https://www.congress.gov/bill/116th-congress/house-bill/3279/text?q=%7B%22search%22%3A%5B%22hr3279%22%5D%7D&r=1&s=1>.

<sup>5</sup> Council of Institutional Investors, Corporate Governance Policies, § 2.8b Board Diversity (updated Oct. 24, 2018), [https://www.cii.org/files/10\\_24\\_18\\_corp\\_gov\\_policies.pdf](https://www.cii.org/files/10_24_18_corp_gov_policies.pdf).

<sup>6</sup> FCLTGlobal, Our Work, <https://www.fcltglobal.org/about/our-work> (last visited June 19, 2019).

<sup>7</sup> Ariel Fromer Babcock, et al., The Long-Term Habits of a Highly Effective Corporate Board, Harv. L. Sch. F. on Corp. Governance & Fin. Reg. (Apr. 19, 2019), <https://corpgov.law.harvard.edu/2019/04/19/the-long-term-habits-of-a-highly-effective-corporate-board/>.

<sup>8</sup> The Evolving Board Room: Signs of Change, PWC’s 2018 Annual Corporate Directors Survey (2019), <https://www.pwc.com/us/en/services/governance-insights-center/library/annual-corporate-directors-survey.html>.

H.R. 1018, the “Improving Corporate Governance Through Diversity Act of 2019,” and H.R. 3279, the “Diversity in Corporate Leadership Act of 2019.”

H.R. 1018 would require public companies to annually disclose the voluntarily, self-identified gender, race, ethnicity and veteran status of their board of directors, nominees, and senior executive officers.<sup>9</sup> Among other requirements, the Securities and Exchange Commission (SEC or Commission) Office of Minority and Women Inclusion would publish best practices for compliance with diversity disclosures.<sup>10</sup>

Similarly, H.R. 3279 would affirmatively require issuers to specifically disclose to shareholders with respect to the gender, racial, and ethnic diversity of their board of directors.<sup>11</sup> In addition, the Commission would be required to establish a diversity advisory group,<sup>12</sup> and the SEC would report annually to the Committee on Financial Services on issuer board diversity data.<sup>13</sup>

CII generally agrees with Investor Protection, Entrepreneurship and Capital Markets Subcommittee Chair Carolyn B. Maloney, the sponsor of H.R. 3279, that:

“Studies have repeatedly found that companies with more diverse leadership are better positioned to succeed. Why wouldn’t companies want to show off that they’re making smart financial decisions by moving towards more diversity and equality on their boards?”<sup>14</sup>

We also generally agree with Consumer Protection and Financial Institutions Subcommittee Chair Gregory W. Meeks, the sponsor of H.R. 1018, that:

“Diversity has been proven to have a positive impact on business performance, and it is only natural for investors to want to know which companies are choosing to bring in a wealth of different perspectives into their corporate board rooms.”<sup>15</sup>

In our view, the disclosures that would be required by H.R. 3279 or H.R. 1018 would contribute to enhancing U.S. public company board consideration of diversity consistent with CII’s

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<sup>9</sup> See H.R. 1018, § 2(s)(2).

<sup>10</sup> *Id.* § 2(s)(4).

<sup>11</sup> See H.R. 3279, § 2(b).

<sup>12</sup> *Id.* § 2(a)(1).

<sup>13</sup> *Id.* § 2(a)(3).

<sup>14</sup> Press Release, Rep. Carolyn B. Maloney, Maloney Introduces Bill to Increase Corporate Board Diversity (June 14, 2019), <https://maloney.house.gov/media-center/press-releases/maloney-introduces-bill-to-increase-corporate-board-diversity>.

<sup>15</sup> Press Release, U.S. Representative Gregory W. Meeks, Rep. Meeks and Sen. Menendez Introduce Corporate Diversity Bill (Feb. 6, 2019), <https://meeks.house.gov/media/press-releases/rep-meeks-and-sen-menendez-introduce-corporate-diversity-bill>.

policy.<sup>16</sup> We believe long-term investors, including our members, will benefit from the long-term shareowner value that may result, in part, from corporations embracing board diversity.<sup>17</sup>

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We look forward to working with you and Subcommittee Chairs Maloney and Meeks on this important issue. If we can answer any questions or provide additional information that would be helpful to you or the Committee on Financial Services, please do not hesitate to contact me at 202.822.0800 or [jeff@cii.org](mailto:jeff@cii.org).

Sincerely,

A handwritten signature in black ink that reads "Jeff Mahoney". The signature is written in a cursive, flowing style.

Jeffrey P. Mahoney  
General Counsel

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<sup>16</sup> See, e.g., Letter from Jeffrey P. Mahoney, General Counsel, Council of Institutional Investors to The Honorable Gregory W. Meeks, Chair, Subcommittee on Consumer Protection and Financial Institutions, Committee on Financial Services 1-2 (Feb. 6, 2019), [https://www.cii.org/files/issues\\_and\\_advocacy/correspondence/2019/February%20%202019%20Representative%20Meeks%20Letter.pdf](https://www.cii.org/files/issues_and_advocacy/correspondence/2019/February%20%202019%20Representative%20Meeks%20Letter.pdf).

<sup>17</sup> *Id.* at 2.