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for RESEARCH & EDUCATION

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Pay Transparency Reporting Project
Corporate Policy and Special Projects
Ministry of Labour
400 University Avenue, 12th Floor
Toronto ON M7A 1T7

Dear Pay Transparency Reporting Project;

Thank you for the opportunity to comment on the proposed Ontario Pay Transparency Act.

Why the gender pay gap matters to investors (Consultation Question 7)

SHARE is an organisation with 15 employees providing financial services including engagement and proxy voting. As an organization that represents long-term investors heavily invested in the Ontario economy, SHARE supports the Government of Ontario's move to require gender pay transparency. Eliminating the pay gap is material to corporate performance, investor returns and the economic wellbeing of society.

Benefits of reduced pay gap to companies, investors and the economy

There is a clear business case for addressing the gender pay gap. Repeatedly management and investor research has found that companies with greater gender equity measured in terms of equality in leadership and pay tend to outperform their competitors on a number of financial measures, including: return on equity, return on sales, return on capital, share performance, stock price growth.[1]

The benefits of closing the gender pay gap are also demonstrated in nonfinancial indicators of corporate performance success. Across sectors, companies that attend to equality in compensation and the advancement of women into management attract more talented

[1] Vivian Hunt, Dennis Layton and Sara Prince, "Diversity Matter", *McKinsey & Company* (2015): http://www.mckinsey.com/business-functions/organization/our-insights/why-diversity-matters;

employees of both genders and report better employee engagement, innovation and productivity.[2]

Ensuring Ontario businesses address the gender pay gap will also strengthen the provincial economy as a whole. In Ontario, income lost to wage inequality between women and men with the same education, age and work experience amounts to $18 billion per year or 2.5% of Ontario's GDP. This lost income means higher social assistance demands and reduced income security, retirement savings and investment rates among women. Closing the gender wage gap would help to address these economic stresses, facilitating increased consumer spending, lowering demand on government services and health care, and diversifying the tax base with benefits to companies, investors, consumers and society.[3]

Disclosure as a critical tool

Canadian investors recognize the benefits of pay equality and view pay transparency as a critical tool to achieving it. A survey by the Responsible Investment Association in 2017 found that 92% of investors believe women and men should receive equal pay for equal work and 76% of investors believe companies should be required to disclose how much they pay women compared to men.[4] Information of this nature is used by investors to understand how companies are managing talent, compare across companies and industries, inform investment decision-making, provide a platform for investor engagement with companies to support continual improvement in their practices.

Without pay transparency the work of investors is hampered as they are forced to make assessments of companies in the dark or with less reliable third-party information.

Global research demonstrates that companies that have achieved gender equality have better financial results than both companies with low gender equality and the overall market. For example, in two separate studies Credit Suisse found that around the world return on equity and dividend pay outs is generally higher at companies with 25% or more

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[2] Ontario Ministry of Labour, "Closing the Gender Wage Gap: A Background Paper", (2015): https://www.labour.gov.on.ca/english/about/pdf/gwg_background.pdf.
[3] Nancy Austin et al, "Final report and recommendations of the Gender Wage Gap Steering Committee" *Ontario Ministry of Labour* (2016): https://www.ontario.ca/page/final-report-and-recommendations-gender-wage-gap-strategy-steering-committee.; Canadian Women's Foundation "The Gender Wage Gap in Canada" (2016) : http://www.canadianwomen.org/sites/canadianwomen.org/files//Fact%20Sheet%20-%20GENDER%20WAGE%20GAP%20-%20August%2013%202015_1.pdf.
[4] Responsible Investment Association, "2017 RIA Investor Opinion Survey, In Focus: Gender Diversity", (2017). https://www.riacanada.ca/content/uploads/2018/11/2017-RIA-Investor-Opinion-Survey-WEB.pdf

women in senior management positions, and that the returns are greater the closer a company is to gender parity in leadership.[5] Similarly looking at both managerial and non-managerial positions, RobecoSAM found similar results. It tracked portfolios of low and high gender equality companies based on gender-based employment, retention and pay ratios. Over ten years the high gender equality portfolio outperformed the low gender equality portfolio by 11%.[6]

Some Ontario companies are already disclosing (Consultation Questions 4-5)

In 2017, on behalf of an asset manager, we conducted a study of the gender pay disclosure of 70 publicly-listed Canadian companies of varying sizes. We found that 25% of the companies already disclosed gender pay gap data. Several others disclosed information on how they are addressing the issue internally, but did not provide figures. Since that time we have identified Canadian companies disclosing gender pay gap information each year. This is in part a result of the inclusion of gender pay gap analysis as a recommended disclosure in the Global Reporting Initiative, a sustainability reporting standard widely used by Canadian companies. Regulation to regularize and standardize this disclosure through provincial regulation would increase quality and comparability across companies.

Recommendations for regime design (Consultation Question 1 and 2)

SHARE recommends that the Government look to other jurisdictions that have already implemented gender pay gap reporting for experience in designing effective and reasonable regulations.

Both the UK and France have required that companies disclose publicly figures relating to their gender pay gap. Under the UK's *Equality Act 2010 (Gender Pay Gap Information) Regulations 2017*, companies over 250 employees must provide the mean hourly gender pay gap, the median hourly gender pay gap, the mean bonus gender pay gap, the median bonus gender pay gap, the proportion of men and women in the organization receiving a bonus payment, and the proportion of men and women in each pay quartile. These figures

[5] Julia Dawson, Richard Kersley and Stefano Natella, "The CS Gender 3000: The Reward for Change", *Credit Suisse* (2016): http://publications.credit-suisse.com/tasks/render/file/index.cfm?fileid=5A7755E1-EFDD-1973-A0B5C54AFF3FB0AE
[6] RobecoSAM, "Does corporate gender equality lead to outperformance", (2015): http://www.robecosam.com/images/Does_corporate_gender_equality_lead_to_outperformance.pdf.

are to be made publicly available in a public report on their websites and on a Government's website.

In 2018, the French Government introduced the *Law n° 2018-771 of September 5, 2018, pour la liberté de choisir son avenir professionnel* to consolidate the current legal framework addressing gender equality in the workplace. Under the French regulation, companies are required to disclose a gender equality index on their websites. The index is calculated as the sum of five indicators based on the pay gap, the salary increases, promotion rates, post-maternity leave raises, and highest compensation based on gender. Companies must disclose the global index on their website and report figures on each indicator to their employees internally.

Although France and the UK implemented different mechanisms to enhance corporate transparency on gender pay gap, both instruments aim at stimulating companies' efforts to close the gap. The French and the UK's experiences provide lessons from which Ontario can benefit.

Well-designed pay gap disclosure works

Provided all aspects of compensation are included, disclosure of gender pay gaps has been proven to improve female to male wage growth gaps and to increase the number of women hired and promoted[7].

Reporting should be transparent and accessible

The French law has been criticized for lack of transparency[8], since only the global index, not results of specific indicators like gender pay gap are available to the public, including investors. Disclosure of sub-indicators would allow stakeholders, including investors to understand companies' efforts to tackle specific issues such as policies to reduce the gender pay gap. [9] This concern is remedied in the UK case where the Ministry for women and equalities has a publicly-accessible, online database of company disclosures. Disclosure through a centralised governmental website would allow enlightened stakeholders to research a company's performances and to compare them with others.

[7] Bennedsen, Morten and Simintzi, Elena and Tsoutsoura, Margarita and Wolfenzon, Daniel, Do Firms Respond to Gender Pay Gap Transparency? (January 2019). NBER Working Paper No. w25435.
[8] CGT. (March 1, 2019) Index égalité salariale : l'opacité organisée ! *Press Release*.
[9] France Inter. (March 4, 2019). *Aidez-nous à trouver l'index de l'égalité femmes/hommes de votre entreprise*.

However, such a system, if not supplemented by a specific disclosure on the companies' website would generate a risk to externalising the issue and thus, to weaken corporate accountability. Company website disclosure supports stakeholders, including shareholders, and may systematise the consideration of gender pay gap figures and action plan as part of a company's corporate responsibility.

Effective regulation comes with strong enforcement

In the UK, the lack of sanctions, in instances where a company fails to comply with the law in terms of disclosure and accuracy of information, has been raised as a shortcoming[10]. Shadow secretary for women and equalities, Dawn Butler, has said: "*Gender pay gap reporting was meant to provide transparency, but the fact that companies have given inaccurate data and faced no sanctions makes a mockery of the whole system*"[11]. A key components of strong regulatory enforcement is an efficient mechanism for inspections to detect non-compliance and issue penalties as a deterrent.

Indicators must be relevant

To be useful for investor analysis of company success in human capital management, disclosed indicators must be comprehensive and include the following features:

- Address part-time work: Part-time employment affects mostly women and is a factor in widening gaps in wage progression[12]. Given this dynamic, the indicators must attend to the difference between gender pay gaps for full-time positions and part-time positions.
- Comparable by job category: Although the average hourly wage indicator is useful to measure pay equality because of its simple calculation, it doesn't provide full transparency on pay inequalities[13]. Therefore, the indicators should allow investors to know the pay difference at the same pay grade, doing the same job, with the same working pattern.
- Inclusion of discretionary pay: Indicators should take into account the fact that inequality in overtime pay, bonuses and promotions exacerbate the gender pay

[10] Trade Union Congress. (March 8, 2018). *Gender pay gap means women work for free for more than two months of the year, says the TUC*.
[11] Caelainn Barr and Frances Perraudin. (February 23, 2019). Lack of sanctions 'makes a mockery' of gender pay gap reports. *The Guardian*.
[12] Institute for Fiscal Studies. (2018) *Wage progression and the gender wage gap: the causal impact of hours of work*. IFS Briefing note BN223.
[13] Jana Javornik. (August 16, 2018). Four big lessons from the UK's new gender pay gap reporting rules and what's next for equality. *The Conversation*.

gap[14]. Including these factors in disclosure will provide investors with useful information on the way women progress in companies.

- Address parental leave: Maternity is an essential part of women's life but still, remains a systematic disadvantage and a source of discrimination. "Motherhood penalty" is associated with employer bias and have an impact on the women career path and wage progression[15]. Indicators must consider the impacts of parental leave on the gender pay gap.

Figures should be accompanied by a narrative action plan for context

Although statistics are a reflection of the reality, they only provide partial information on the efforts made by a company to enhance gender pay equality. A narrative explanation that includes an action plan to reduce pay inequality incorporated into the required disclosure would give companies the opportunity to present the measures they intend to take to address any gaps identified. This narrative would also give employees and shareholders the means to assess a company's direction in the mid- to long-term.

We would welcome further discussion of these issues in whatever forum is best suited. If you have any questions or would like to discuss these proposals further, please feel free to contact us at any time. You can reach me at 416-306-6463 or by email at dgreig@share.ca and my colleague Sarah Couturier-Tanoh at 416-306-8073 or by email at scouturier-tanoh@share.ca.

Sincerely,

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[14] Australian Council of Trade Unions. (March 2016). *The Gender Pay Gap: Over the Life Cycle.*
[15] Markus Gangl, Andrea Ziefle. (May 2009) Motherhood, labor force behavior, and women's careers: An empirical assessment of the wage penalty for motherhood in Britain, Germany, and the United States. *Demography.* Volume 46, Issue 2, pp 341–369