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Chair

Mr. Dan Ruimy

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•(0850)

[English]

The Chair (Mr. Dan Ruimy (Pitt Meadows—Maple Ridge, Lib.)): I call the meeting to order.

Welcome, everybody, to meeting 45 of the Standing Committee on Industry, Science and Technology.

We are continuing our study of Bill C-25.

Today we have with us Paul Schneider, head of corporate governance at the the Ontario Teachers' Pension Plan Board. From Transparency International Canada, we have Denis Meunier, beneficial ownership working group, and Paul Lalonde, president and chair of the board of directors, by video conferencing from Toronto. Then, from the Diversity Institute at Ryerson University, we have Wendy Cukier, director.

We're going to start off with Mr. Schneider from the Ontario Teachers' Pension Plan.

You have 10 minutes to give us a presentation.

Mr. Paul Schneider (Head of Corporate Governance, Public Equities, Ontario Teachers' Pension Plan Board): Thank you.

Mr. Chair and committee members, thank you for the opportunity to be here today to speak to you about Ontario Teachers' Pension Plan's views on Bill C-25. We support the passage of Bill C-25.

Please note that my comments will be limited to part 1, and more specifically to amendments to the Canada Business Corporations Act that address two key corporate governance issues: the election of directors to the board and board diversity.

Ontario Teachers' Pension Plan is Canada's largest single-profession pension plan, managing, as of our last audited annual report, over \$171 billion of assets that provide retirement security for 316,000 active and retired teachers in the province of Ontario.

We have a long history of promoting good corporate governance in our investments and we believe that good governance is good business. We are a founding member of the Canadian Coalition for Good Governance and remain active in the organization.

Since its beginning in 2003, CCGG has grown from representing investors managing \$350 billion of assets to today, when collectively CCGG members manage approximately \$3 trillion of assets on behalf of all Canadians. Clearly governance, and in particular the governance of Canadian companies, matters to investors.

As I am head of corporate governance, my focus is promoting effective corporate governance on behalf of our members throughout our global public company portfolio of over 1,600 companies. We are engaged investors, meeting regularly with companies, actively voting all our shares, and working to improve corporate governance regulatory frameworks around the world. Personally, I have 15 years of experience in corporate governance, with the past seven in my role at Ontario Teachers'. Prior to that, I was the director of research at CCGG.

At its most fundamental level, corporate governance is the system and structures put in place to ensure that a company is effectively directed and controlled. In the corporate governance framework, shareholders elect directors, directors oversee management, and management executes its strategy.

The characteristics of public company ownership significantly raise the importance of having effective corporate governance. Typically, a public company shareholder like Ontario Teachers' will have a very small ownership stake in a company, usually less than 1%, yet their investment could be in the tens or even hundreds of millions of dollars.

As a result, we are placed in a situation where we have a large amount of money at risk, yet have limited levers of influence. We rely on the board to adopt and execute effective governance practices that properly oversee management and to keep the best interests of the corporation in mind—and, in doing so, safeguard and allow our investments to grow. When governance fails, our investment is impacted, and this can affect the pension promise we have made to our members—hence our statement “good governance is good business”, and why we spend so much time working to ensure that our public company investments have effective governance practices. Effective governance is about getting the right people around the board table and holding those individuals to account.

Our shareholder vote is our means or tool for holding the board of directors accountable. Unfortunately, in its current form, the effectiveness of our vote is limited. Our only two options when electing a director are to support and vote for, or to not vote at all and withhold. Voting against a director is not an option.

We find it difficult to reconcile the fact that as public company shareholders we are providing capital to companies, yet we cannot vote against a director should their actions cause us to lose confidence in their ability to effectively discharge their duties.

For years, we have advocated for the inclusion in Canadian and provincial laws of true majority voting—that is, the ability to vote for or against—in director elections. That is why we were extremely pleased to learn of the inclusion of majority voting in director elections in Bill C-25. We fully support the amendment to the CBCA that requires directors to be elected only when they receive the support of at least 50% plus one of the vote. This change will allow shareholders like Ontario Teachers' to truly hold individual directors accountable. We believe that holding directors accountable leads to more effective boards, effective governance, and effective capital markets. It is simply good business.

Some may argue that the current TSX rule requiring a majority vote policy is sufficient. We disagree, for the simple reason that under majority vote policies there is no guarantee that a director resignation will be accepted. In fact, there was an incident in 2015 when a director of a large Canadian company received a majority of withhold votes because shareholders were unhappy with the decision made by a committee the individual chaired. As per the majority vote policy, a resignation was submitted, only to be rejected by the chair because, in part, the loss of a director of “high quality and integrity... would be deplorable.”

● (0855)

While shareholders voiced their displeasure with the rejection of the resignation, they were left with little recourse and with having to accept a director in whom they had no confidence remaining on the board. This example illustrates the significant difference between a withhold vote and a vote against that cannot, nor should not, be underestimated. Facing the consequence of being voted off the board may be just the stimulus needed to cause a board or director to think twice about how they are exercising their fiduciary duty.

Let me be clear. Ontario Teachers' Pension Plan believes the vast majority of directors are highly qualified, extremely competent individuals who are performing a difficult and sometimes under-appreciated task. However, we also strongly believe that it should be our right as owners of the company to decide who should be in that boardroom overseeing management and ensuring management is acting in the best interests of the corporation, and by extension in the best interests of the investors, who in our case are the active and retired teachers of Ontario.

Furthermore, and as I believe you are aware, Canada and the United States are outliers. We are the only jurisdictions in the world that do not allow shareholders to vote against directors. Thus, in addition to supporting effective governance, majority voting will increase the confidence global investors have in the ability of our capital markets to function effectively.

The second issue I would like to discuss with respect to Bill C-25 is the requirement to disclose, on a comply or explain basis, the existence and substance of a diversity policy. We believe that diverse boards are more effective boards. For Ontario Teachers', diversity is not limited to gender but includes diversity across a number of spectrums. However, as we stated in our submission to the OSC

during their consultation on diversity in 2013, we believe that focusing on gender diversity is an appropriate starting point to increase overall board diversity and to encourage issuers to develop a broader and deeper selection process that embraces and enhances diversity.

Furthermore, we believe there is a deep pool of untapped potential candidates that a broader and deeper selection process will reveal. We point to the thousands of individuals who have attained either an ICD.D designation from the Institute of Corporate Directors or are recognized as a chartered director from The Directors College as two potential sources of diverse directors.

Gender diversity improves board effectiveness because it brings different views to the boardroom table. Studies by Catalyst and others continue to show that company performance improves if there are women in senior management and/or on the board. A recent study by MSCI, published this past December, found that companies with at least three women on the board in 2011 experienced a median change in return on equity of 10% and in earnings per share of 37% by 2016. Conversely, companies with no women on the board in 2011 had an ROE change of -1% and an EPS of -8% over the same time period. The study also found that companies adding women directors to the board correlated with higher median increases in EPS compared to losing women on the board during the 2011 to 2016 time period. In addition, the MSCI study looked at gender diversity throughout the organization and found that companies with three or more women on the board had higher rates of women in senior management, including the CEO.

What we conclude from the MSCI study is that promoting a higher percentage of women on the board will have an impact on gender diversity across an organization. We are not suggesting that the CBCA establish any quota, but rather promote more diversity through the comply or explain regime articulated in Bill C-25.

The efforts of provincial security regulators, issuers, organizations such as Catalyst, the 30% Club—of which Ontario Teachers' is a member—and institutional investors have all contributed to increasing female participation on boards. While we are not where we need to be, Ontario Teachers' strongly believes that a sustained effort, as well as the comply or explain approach of Bill C-25, will continue to move us down the path of increasing gender diversity both on boards and in senior management. This will open organizations to a broader diversity of opinions, experiences, and outlooks in their decision-making. It is our hope that someday in the not-so-distant future, we will no longer need to have discussions on how to make boards and senior management more diverse.

In closing, I would once again like to thank the chair and the committee members for inviting me here today to reiterate Ontario Teachers' support for the passage of Bill C-25. I hope you found my comments useful. I would be pleased to answer any questions you may have. I would also like to encourage each of you to not hesitate to approach me at any time should you have further questions.

Thank you.

● (0900)

The Chair: Excellent. We have 20 seconds to spare. Thank you very much.

We are going to move on to Mr. Lalonde, coming to us from Toronto via teleconference.

Welcome, sir. You have 10 minutes.

Mr. Paul Lalonde (President and Chair of the Board of Directors, Transparency International Canada): Thank you, Mr. Chairman.

[*Translation*]

I would like to thank the committee for this invitation.

My remarks will be in English, but I will be pleased to answer questions in French.

[*English*]

Again, thanks for the opportunity to be heard by video conference. I think the technology is wonderful, and I appreciate the committee's efforts in using it in this way.

With me, present in Ottawa today, is Denis Meunier, a member of Transparency International Canada and of our beneficial ownership working group. He will have a few remarks at the end as well.

I'd like to make a few opening remarks about our recommendations with respect to Bill C-25, but first, here are a few words about who we are.

Transparency International Canada is the Canadian chapter of Transparency International, the world's leading non-governmental anti-corruption organization, with more than 100 chapters worldwide and an international secretariat in Berlin. Through advocacy, research, and capacity-building work, Transparency International strives toward a world that is free of corruption. Our chapter here in Canada has been at the forefront of the national anti-corruption agenda for more than 20 years. Our chapter's main concern related to

Bill C-25 is on beneficial ownership of companies and the transparency of that beneficial ownership.

We welcome the Government of Canada's measure to reform current legislation that affects this area through the proposed amendments. However, we believe that Bill C-25 can go further to address the negative impacts of opaque beneficial ownership of companies in Canadian corporate registries.

To provide a bit of context, public expectations about transparency are changing and increasing. Whistle-blower disclosures like the Panama papers have provided concrete examples of how anonymous companies and legal entities are abused by those seeking to avoid taxes and launder the proceeds of crime and corruption, among other nefarious aims. The abuses exposed through these leaks and others have triggered widespread interest in what was once dismissed as a rather mundane or sleepy legal topic.

Governments around the world are also recognizing the threats posed by underregulated legal entities and arrangements. In 2014, recognizing this, the G20 issued its high-level principles on beneficial ownership, acknowledging the importance of transparency in protecting the integrity of the global financial system. In 2016 the European Commission mandated its 27 member countries to collect and publish information on the beneficial owners of companies registered within the union. More recently, the U.K. has already enacted legislation and implemented new disclosure rules, and other countries are following suit. That is not so much the case in Canada.

As more countries put up barriers to the criminal and corrupt, those looking to game the system will gravitate to jurisdictions with weaker standards. A recent Transparency International report, of which we're very proud, was titled, "No Reason to Hide: Unmasking the Anonymous Owners of Canadian Companies and Trusts". We submitted the executive summary of this report to the committee clerk. In it, we highlight a 2015 Transparency International analysis that found Canada's performance was either weak or very weak in seven of the 10 G20 principles on beneficial ownership. In September of last year, the international Financial Action Task Force published a highly critical evaluation of Canada's corporate secrecy regime. The task force called on the government to make beneficial ownership information accessible as a matter of priority.

● (0905)

These reports demonstrate that Canadian companies are particularly vulnerable to abuse. Beneficial owners can remain entirely anonymous, their identities concealed even from the government agencies entrusted with enforcing laws and regulations—and collecting taxes, by the way. Anonymous ownership creates unnecessary obstacles for our law enforcement and tax authorities, fostering a climate of impunity due to low perceived enforcement risks.

Recently the *Toronto Star* and CBC showed how financial consultants abroad have a specific term for facilitating tax dodging and funnelling illicit funds in Canada. They call it “snow washing”. This is a stain on Canada's reputation that we have to clean up. By stripping anonymity from companies, Canada would make financial crimes and corruption easier to detect and prosecute, thereby deterring them.

Beneficial ownership reform presents an opportunity for Canada to adapt to emerging international standards and avoid becoming a beacon for the corrupt. To this end, we submitted recommendations to the committee in the executive summary of our report to address the negative impacts of anonymous beneficial ownership of companies. As a priority, we recommend that the Government of Canada adopt measures to require all companies in the country to identify their beneficial owners. The government should then publish this information in a central registry that is accessible to the public in an open data format.

We recommend that Parliament also conduct a study into such a public registry, but TI Canada believes that either way it will be a low-cost, high-impact way of preventing corporate beneficial ownership misuse and would improve the effectiveness of law enforcement and tax authorities. It would help the private sector comply with regulations and make better business and investment decisions by facilitating due diligence and know-your-client exercises. It would also bolster Canada's reputation for fairness and transparency both at home and abroad.

Nominee directors and shareholders should be identified as such in corporate filings. They should be required to name the natural person on whose behalf they are acting. Nominees should keep contact details of that individual and ensure that they are accurate and up to date.

Federal and provincial corporate registration authorities should be given adequate resources and a mandate to independently verify the information filed by legal entities, including the identities of directors and shareholders. Registries should be granted authority to apply sanctions for non-compliance with these requirements.

Additionally, TI Canada welcomes Bill C-25's measures to eliminate anonymous ownership of bearer shares. We noted that change, and we applaud the government for bringing it; however, we recommend that existing bearer shares should be converted to registered shares automatically upon a company's knowledge of the identity of the bearer of the certificate warrant or other instrument. In addition, we recommend that the holder of a bearer share who tries to receive dividends or exercise voting rights using the bearer shares should automatically have those bearer shares converted to registered shares.

The Government of Canada should establish and apply dissuasive and proportionate sanctions for non-compliance with beneficial ownership disclosure rules. These sanctions should include both criminal and civil penalties, and should be applied to ensure that beneficial ownership information is truthful, accurate, and filed in a timely manner. Reporting obligations and sanctions for non-compliance should focus on those in control of legal entities and arrangements, as well as beneficial owners themselves.

The Government of Canada should lead in the implementation of these recommendations, while also working with the provinces to develop supporting legislation at the provincial level.

I want to thank you for your time today. That was a very quick summary of our views and recommendations on Bill C-25 and beneficial ownership transparency.

I'd now like to pass it over to Mr. Meunier to introduce himself and say a few additional words before we make ourselves available for questions.

• (0910)

Mr. Denis Meunier (Member, Beneficial Ownership Working Group, Transparency International Canada): I'm a former public servant with over 36 years of service in the Government of Canada. I retired as a deputy director of FINTRAC, and previous to that I was director general of criminal investigations at Canada Revenue Agency. I worked four years for the International Monetary Fund on anti-money laundering and terrorist financing, and I joined Transparency International as a member of the working group on beneficial ownership. I hope to be able to answer any questions.

[*Translation*]

I will be pleased to answer in French.

[*English*]

The Chair: Excellent. Thank you both.

We are now going to move on to Dr. Cukier, from Diversity Institute at Ryerson University. You have 10 minutes.

Professor Wendy Cukier (Director, Diversity Institute at Ryerson University): Thank you very much. I appreciate the opportunity to address the committee face to face. I apologize in advance for not having a written brief in both official languages, but I will follow up my remarks with the written submission.

I should also note that my presentation today is on behalf of a number of organizations, including the Information and Communications Technology Council's diversity committee, the Toronto Region Immigrant Employment Council, the Mosaic Institute, the Canadian Women's Foundation, and prominent individuals such as Phil Fontaine.

I'm here to focus only on the sections of the legislation that apply to diversity on boards.

I first want to congratulate the government and in fact all parties for supporting this very important initiative. I think we have seen good success and results from comply-or-explain approaches. If we think about Canada's employment equity legislation, for example, our research would suggest it has helped level the playing field so we can advance a true meritocracy.

However, I want to focus my comments on one point, and one point only. As important as it is to advance women on boards, using a definition of “diversity” that only focuses on gender, I think, is consistent neither with Canadian values nor with our economic and social interests. I want to take the few minutes that I have to articulate the argument about why that is important and to suggest ways in which you might use the regulations associated with this bill to accommodate these concerns, which I think are shared by many.

Put simply, if all we do is replace white men with white women on the boards of our corporations, we are not, in my view, behaving as we would expect in the 21st century.

Diversity Institute was founded with the intention of providing evidence-based approaches to increasing inclusion. I am from the Ted Rogers School of Management. I've been an industry and a business professor for 30 years, so I come at this very much from a perspective that is grounded in human rights and a commitment to equity, but also with a very strong recognition of the business case for diversity.

My sector is primarily information communications technology, although I work in other sectors as well. In that sector in particular—which, as you know, is driving economic growth and innovation in this country—gender is important, but so are visible minorities, so are people with disabilities, and so is the growing population of aboriginal people.

I want to highlight some of the research that brings us to these conclusions.

One of the big projects that we have undertaken for the last number of years focuses specifically on diversity in leadership roles in the public sector; in government; in elected officials among non-governmental organizations, agencies, boards, and commissions; and the education sector, and of course what is particularly relevant today is the work that we have done in the corporate sector. In addition to looking at overall data for the country, we have focused particularly on large urban centres. We have done research in, for example, the greater Toronto area and we recently released a study on the greater Montreal area.

Unfortunately the pictures in my presentation are only in English, so I can't distribute them at this point in time, but there are really only a few key points that I would like you to think about and urge you to consider.

● (0915)

First of all, when we look at the greater Montreal area, for example, women are half the population. They're about 37% of senior leaders overall, and 21% or 22% of corporate directors and CEOs in the largest corporations headquartered in Montreal. They're 50% of the population, but they make up only about 22% of the boards of directors and C-suite executives in large corporations. On the other hand, racialized minorities, while 20% of the population, make up only about 6% of senior leaders and just over 1% of the leaders in large corporations. It's a huge difference in the level of representation. It's, in my view, something we simply cannot ignore.

The second point I want to underscore is that while the percentage of women in leadership roles has increased dramatically over the last three years—it's still not where it should be, but it's definitely

moving in the right direction—the percentage of racialized minorities in leadership roles in Montreal has declined. That should be cause for concern, given that we all know that this segment of the population is growing and that all employment growth in the next decade is likely to come from immigration and therefore largely from racialized minorities.

If we look at Toronto, we see a similar phenomenon. Toronto is really easy, conceptually. In the greater Toronto area, 50% of the population is female and 50% of the population is visible or racialized minorities. If you look at the representation of women and racialized minorities at the most senior levels, a very different picture appears. Women account for 33% of senior leaders across sectors, but racialized minorities account for only 12%. If we look at racialized women compared to white women—and remember, for every white woman there's a racialized woman in the GTA—we see that white women outnumber racialized women by seven to one. This is not an equitable situation.

When we look at corporate leadership in the GTA, we see more progress than perhaps has been made in other areas, but it's still only 5%. Only 5% of the most senior leaders of large corporations and board members in companies headquartered in the GTA are racialized minorities, even though racialized minorities are 50% of the population and 50% of the workers, and in many cases better educated than others. I can elaborate on this in the questions.

The third key point that comes out in our research is that the overall averages—the percentages I've cited—mask huge variations between organizations. For example, in Montreal, in the corporate sector, 9% of companies—not a big number—had more than 40% women in senior leadership roles. That's getting pretty close to parity. Another 25% had none. When you see some companies with 40% and some companies with none, the only thing I want you to remember is that it proves it is not a question of the pool. What that proves is that it's a question of intention among those organizations.

I hope that makes sense. I know it's hard to talk about data when you don't have it in front of you.

Similarly, when we look at racialized minorities in Montreal, we see that only three of the largest 60 companies had any visible minorities on their boards, and only nine had one on their executive team.

● (0920)

These are important things to consider, given that this segment of the population is increasing across Canada.

The other important point I wanted to underscore is that, as was already mentioned, these issues and who you see in leadership roles have a direct and profound impact on corporate performance, and this doesn't just apply to women. We know from large corporations like Xerox that the engagement of immigrants and diverse populations has driven productivity and innovation.

The final point I wanted to make is really a plea on behalf of all Canadians. It's very important to address the inequities that continue to face women in leadership, and you've heard from many women's organizations on these issues. As I said at the outset, though, if we only focus on gender diversity, we are missing a huge opportunity. The percentage of women in the Canadian population is not going to increase dramatically over the next five to 10 years. The percentage of racialized minorities, of aboriginal people, and of people with disabilities is. We should be looking to the future, not to the past, in crafting this legislation.

Thank you.

The Chair: Thank you very much, Professor Cukier.

We are going to move directly into questions.

Mr. Arya, you have seven minutes.

Mr. Chandra Arya (Nepean, Lib.): Thank you, Mr. Chair.

Professor Cukier, I'll come to you later.

Mr. Schneider, how do you define "diversity" beyond gender diversity?

Mr. Paul Schneider: It's across a broad spectrum. It would be gender, nationality, experiences, and geography, so it's a very broad definition that we have of diversity.

Mr. Chandra Arya: How do co-operatives formulate policy if you can't define it?

Mr. Paul Schneider: Well, we are focusing on gender right now, as I said in my—

Mr. Chandra Arya: Is it your view that this bill focuses on gender diversity?

Mr. Paul Schneider: Yes.

Mr. Chandra Arya: Thank you.

Professor Cukier, it's quite an interesting thing. You talked about diversity, which is not defined, and you said it is not consistent with Canadian values. The powerful numbers you have show that there is something missing here. How do you define diversity?

Prof. Wendy Cukier: I take the easy way out.

I know that there are some people who would argue, for example, that the categories of designated groups in the employment equity legislation could be rethought. However, for the purposes of this legislation, I don't understand why the government wouldn't simply build on federal legislation that already exists, which defines visible minorities, women, people with disabilities, and aboriginal people as designated groups that require particular interventions.

Mr. Chandra Arya: We have here a senior officer of the Ontario Teachers' Pension Plan, which invests in a lot of corporate entities in Canada and around the world. If he thinks that the text of the bill, as

it is, appears to be only for gender diversity, is that a matter of concern to you?

• (0925)

Prof. Wendy Cukier: It is a matter of concern to me. Perhaps I'm wrong because I'm not a lawyer, but as I read the legislation, it leaves the matter of diversity to be defined by regulation. Is that correct?

Mr. Chandra Arya: Yes.

Prof. Wendy Cukier: I think that provides you with an opportunity to pass the legislation, which is critically important. I would add a specific reporting requirement in the language. I have a proposed amendment. I think that then gives us more time to work through some of these issues with respect to diversity.

One solution, for instance, might be to define mandatory requirements around gender, but to allow for voluntary reporting around some of the other areas. I think this might be a compromise that works, because so many large corporations are federally regulated. They report on those four categories anyway. It's a competitive advantage in this current environment to show that you take diversity seriously.

Also, I believe that federally regulated corporations as well as federal contractors will report on all forms of diversity, and that will help push others forward.

My preferred state is to completely define diversity in the regulations associated with this law and to make the definition consistent with the employment equity legislation, because that is something that has been in place now for 30 years, and in my view it has produced results.

Mr. Chandra Arya: I'm glad you mentioned employment equity legislation, because here we are not just focusing on the board level but we're also focusing on the senior management level.

Mr. Schneider, it's quite surprising that you saw this as just limited to gender diversity, because the intent of the bill, if I am not wrong, is to go beyond gender diversity here. If a person like you is not able to get that, I'm worried that if the bill goes to the corporate sector as is, there may be a lot of confusion and it may not allow us to achieve the objectives we set forth.

Mr. Paul Schneider: I guess that could be a concern. I just would like to reiterate our view that we are very supportive of all forms of diversity on a board and in senior management because, as has been proven in studies, it does lead to better performance, and at the end of the day, Ontario Teachers' Pension Plan is interested in providing retirement security to our pensioners, so we need companies that will grow. As I've said, we support any action that would do that.

Mr. Chandra Arya: Your pension board invests all across the world.

Mr. Paul Schneider: Yes, we do.

Mr. Chandra Arya: Do you have any knowledge of the diversity policies in, say, other OECD countries?

Mr. Paul Schneider: The diversity policies typically—and they're more in the western countries, such as a number of countries in Europe—are really focused on the gender issue. For example, you have Norway with a policy of 40% women on boards, and in other countries I believe Germany's putting one in—

Mr. Chandra Arya: So basically our aim is to go beyond what has been achieved in the European countries.

Mr. Paul Schneider: Yes. If you go beyond gender, you will be...

Mr. Chandra Arya: Do you believe that diversity has to be defined in the regulations so that it is easier for the corporate sector?

Mr. Paul Schneider: I think, yes, they would be looking for our direction. I hesitate to define it too narrowly, because my experience is that a lot of times they will say, "This is what you say; this is what I'm going to do; I'm not going to do anything else."

Mr. Chandra Arya: Basically, if it is not defined, at least a direction has to be shown in the regulation for the corporate sector.

Mr. Paul Schneider: From my experience in looking at corporate disclosures and rules and regulations, my recommendation would be to make it broader. Yes.

• (0930)

The Chair: Thank you very much.

We're going to move on to Mr. Dreeshen. You have seven minutes.

Mr. Earl Dreeshen (Red Deer—Mountain View, CPC): Thank you very much, Mr. Chair, and thank you so much to the witnesses.

These are very interesting discussions and perhaps, Wendy, if you don't mind, I will go through some of the things you said.

I spent some time formerly with the committee on aboriginal affairs in northern Canada and had opportunities to meet with aboriginal leaders, and that certainly was an eye-opening experience. Spending some time sitting around the table with them, you realize that the rest of the country could be choosing their CEOs from there, let alone picking folks for boards.

I think that's really where I want to come from, because when we look at what is happening south of 60, we don't see the diverse groups, the aboriginal groups, going into the pool so that they get the leadership training and can go from there, and I think it's important that we work on that first if the overall focus is to try to get more people there. I think that's where a lot of people might say, "Oh well, you have to have a quota. You have to make sure that you've got people trained up so that they understand."

I believe as well what you indicated—that once people look at your operation and they see that you have that diversity, the way in which they perceive you changes as well, so I think that's one of the first things. Can you see a way that leadership training could be expanded so that everybody gets that opportunity? If there are some groups that simply say, "You know what? That isn't my thing. We don't do that. We've got four or five people", that isn't fair either. Could you expand on that for a bit?

Prof. Wendy Cukier: Thank you very much for the question.

That's the beauty of setting targets rather than quotas; targets are aspirational.

I think the point you make is so important. One of the challenges—and this applies to women as well as other groups—in the private sector is that a lot of the criteria for leadership, whether it's on boards or within the organizations, are largely based on historical attributes of leaders in the past. If you look at who the leaders were and you think that's what the leaders of the future need to be like, you get stuck in a bubble. One of things that I think is really important is to make sure that you are looking at what the criteria are for effective leadership rather than at images of leaders, which are often defined historically. That's one point.

Your point about developing the pool is hugely important. With respect to aboriginal communities, one of the key things that has to be a fundamental area of focus is improved educational outcomes to build that pipeline into employment, leadership, and so on. That said, if we look at the results around employment equity, we are seeing increasing numbers of aboriginal people making considerable progress. We are seeing evidence in many companies, especially in the west. I was at a conference recently where Husky was presenting, and some of the oil patch companies have been doing an amazing job of setting targets and deliberately reaching out to aboriginal communities in order to build those steps to leadership.

Thank you.

Mr. Earl Dreeshen: Thank you very much.

Again, on aboriginal leadership, they own companies, and when you mentioned the word "pipeline" you got me thinking about how many aboriginal communities and businesses are engaged in that, and they aren't part of some other company. They are the companies and they are the ones who are pushing for some major changes in business.

Mr. Schneider, I'll go to you. I'd probably call you by your first name, but we have two Pauls.

I'm somewhat interested in what happens with foreign companies that are operating in Canada when they have their board structure here. Are there Canadian actors who are part of that board? Are they coming in from other countries? If you have a Chinese or German company and they're setting up a structure here in Canada, are we suggesting to them that they have better have diversity on their boards? How does that work?

• (0935)

Mr. Paul Schneider: From my understanding of the legislation—and I too am not a lawyer—I think the provisions of Bill C-25 would apply to public company boards. If a company comes in and sets up a subsidiary in Canada and the parent company is offshore, my understanding is that they're not a public company in Canada. They're not trading on the TSX and not registered under the CBCA or the provincial BCAs, so I'm not sure that the law would apply to them.

Mr. Earl Dreeshen: Okay.

To Paul at Transparency International, it's very interesting, and I really want somebody to explain bearer shares and how that works. One of the things you mentioned as well is that it would be important to get the provinces on side and to work with them. I'm wondering if there are any particular pitfalls that we should be aware of when we're trying to coordinate federal regulations with the provinces.

The Chair: You have about 30 seconds. Sorry.

Mr. Paul Lalonde: I don't know about pitfalls, but the challenge, of course, is our wonderful federal structure, our Constitution, which provides exclusive jurisdiction to the provinces to do what they want with their companies acts. The federal government doesn't have the authority to force the provinces to change their corporate acts to provide for beneficial ownership transparency, but certainly the federal government could take a leadership role by amending its act and then coordinate with the provinces to see what progress could be made to ensure beneficial ownership transparency at the provincial act level.

Mr. Earl Dreeshen: Thank you.

The Chair: Thank you.

We will move to Mr. Masse for seven minutes.

Mr. Brian Masse (Windsor West, NDP): Thank you, Mr. Chair.

Thank you, witnesses, for being here.

Mr. Lalonde, I view this legislation as nothing more than a tumbleweed. For the last 40 years, it's been kicking around, with only two stops. We have an opportunity here to revise it, look at it, and come up with something pretty significant, especially as the international community, as you well noted, has really moved forward a lot on this and we haven't done so.

How important do you believe this is in terms of being an opportunity to dissuade organized crime from benefiting in Canada?

Mr. Paul Lalonde: It's difficult to get very hard data on exactly how much dirty money is being funnelled through Canadian anonymous corporations. Most of the evidence is indirect, but if you look at our report, there are a lot of indications that a lot of money is being laundered through Canada through anonymous corporations.

There are enormously valuable real estate assets in Canada whose beneficial owners are unknown and unknowable in our current system. That breeds an environment that is a welcome mat to bad actors, corrupt officials, people who are engaging in money laundering, and drug traffickers who want to park money in a place that's isolated from public scrutiny and regulatory scrutiny. Canada has become a wonderful oasis for those organizations, given the incredibly opaque corporate registry system that we have.

Exactly what the measure of the problem is or exactly how many dollars are represented is unknowable, but all the evidence indicates that it's a big problem.

Mr. Brian Masse: I had a bill that would look at the sports betting industry. There's estimated to be a minimum of \$10 billion involved with what is taking place in Canada and also in offshore accounts controlled by Canada.

In your best judgment, would there be an impact if we numbered our companies publicly? Would there be either greater law enforcement availability for further follow-ups and further activity or perhaps fewer resources required to track it down, or at least the opportunity to target the worst of the lot that are in Canada?

• (0940)

Mr. Paul Lalonde: I will say something very quick about that, and then I'm going to ask Monsieur Meunier to chime in as well.

To put it very simply, if you are an RCMP investigator trying to understand who is behind a company or a transaction because you have some evidence that indicates that a numbered company registered, for example, in New Brunswick is involved in some activity that you suspect is improper, getting to who is behind that company for the investigator is extremely difficult. It may even require that investigator to get a court order to compel disclosure by the people who filed forms with the corporate registry.

All of that takes enormous time, takes enormous effort, slows down the investigation, and costs the public purse quite a lot, and the reality is that a lot of investigations die on the vine because it's so hard to get the beneficial ownership's information behind numbered companies.

That's just an initial comment.

Mr. Brian Masse: I'm going to have to move on because I'm going to run out of time, but I do want to follow up with more later if I have time.

Mr. Schneider, it is important that I say this. I never miss an opportunity to do so in public. I'm absolutely disgusted by the Canada teachers' pension plan coming before us on diversity on women only. My wife has been contributing to the plan. She's been in Canada for 47 years. She's a teacher. She's a visible minority. Our children have received hate mail at different times because we have a problem in our country.

I'd like to give you an opportunity to explain why it is that diversity would be limited to just women by one of the most significant progressive funds, which has resources from predominantly women, and would not actually include other diversity, especially when we have a statute in law on diversity employment equity that could be the benchmark for this. Is it because we're not capable of further diversity? Why is it limited? I've never had an organization come before us and say diversity is with regard to gender only. I'd like you to be able to explain to your members something that I think is important at this time.

Mr. Paul Schneider: Thank you for the question.

I think my comments were that gender diversity is a good place to start. We embrace all forms of diversity. We do not limit it to gender diversity, but we think that to get companies and boards and senior leaders to start thinking about diversity, let's talk gender. It is the most evident in a lot of ways.

Mr. Brian Masse: It's not. We've heard other testimony, and I'm surprised at your coming in front of us here with the great resources that the teachers' pension plan has. We've heard clear evidence here today. It's not a mystery that visible minorities and persons with disabilities are under-represented by far as well, and that's a fact.

Mr. Paul Schneider: We support diversity in all its forms. When I talk to a company, I ask them about diversity. When I assess a board of directors for a corporate governance vote, I look at diversity.

Mr. Brian Masse: A bill that has only been addressed twice in its history is before Parliament, where we're going to set standards. We also have a discussion about comply and explain and the reasons behind it. The position the board of the teachers' pension plan has taken is that women are a priority for diversity, and if we happen to get some other stuff, that's great, but when do you believe that other diversities should be tackled? Give us a time frame for what's acceptable to your board.

The Chair: I'll allow you to answer the question very briefly. Time is running out.

Mr. Paul Schneider: Thank you.

I think diversity should be addressed in all forms at all times. I'm not saying it shouldn't be.

Mr. Brian Masse: You and your organization are coasting on something that's very important and time-sensitive for Canadians.

The Chair: Thank you very much.

We're going to move to Mr. Baylis for seven minutes.

[*Translation*]

Mr. Frank Baylis (Pierrefonds—Dollard, Lib.): Thank you, Mr. Chair.

My first question will be for Mr. Lalonde.

I would like to understand the situation better. You want the shareowners to be disclosed. As I understand it, their names would be disclosed not only to the government, but to the public at large as well. Is that the case?

[*English*]

Mr. Paul Lalonde: Yes.

• (0945)

[*Translation*]

We believe that the name of the shareholders of Canadian companies should be in a public registry. However, there is much discussion about making information available to government authorities but not to the public.

Mr. Frank Baylis: Right.

Mr. Paul Lalonde: We think this information should be public by default. If important reasons, such as privacy, for instance, or other reasons like that were invoked to ensure that the information wasn't disclosed—

Mr. Frank Baylis: Right. I understand.

Mr. Paul Lalonde: —then it would have to be demonstrated they are well-founded.

[*English*]

Mr. Frank Baylis: Okay, I understand the arguments that have been made. Every year I have to do my taxes and I have to tell the government how much money I make. I don't have to divulge it or my sources of income to you. I understand all the arguments that Transparency has made. It makes sense that it be divulged to the government. What I'm struggling to understand is, why do I have to tell you? What is the specific benefit of that extra step of telling the general public, as opposed to just divulging it to the government?

Mr. Paul Lalonde: First, I think again it's the wrong question.

Mr. Frank Baylis: Okay.

Mr. Paul Lalonde: Why not divulge it to the public—

Mr. Frank Baylis: Because we have—

Mr. Paul Lalonde: What is the interest you're trying to—

Mr. Frank Baylis: All right, can you tell me how much money you make? Can you tell me how much money you make right now?

Mr. Paul Lalonde: We're not talking about divulging—

Mr. Frank Baylis: Why not?

Mr. Paul Lalonde: We're not talking about—

Mr. Frank Baylis: Can you tell me what shares you own in what companies? Tell me right now.

Mr. Paul Lalonde: I don't—

Mr. Frank Baylis: You don't want to. I see. We don't need to argue, so let's not ask that question. Let's ask a specific question.

You want your privacy. I want mine. Why would I need to divulge it to the general public?

Mr. Paul Lalonde: I think the privacy—

Mr. Frank Baylis: And not a “why not?”, but why.

Mr. Paul Lalonde: Okay, the privacy element on beneficial ownership on corporate shares, to our mind, is a red herring. We're not asking people to divulge how much they make or how much things are worth or what their net value is. It's very basic tombstone information. People who own 25% or more—that's the U.K. standard—divulge their interest in a company. That's it. Then there's very basic identifying information about the individual so it can be known who is behind a company. It's not SIN numbers or driver's licence numbers.

Mr. Frank Baylis: I understand that, but I'm asking you to give me one instance of something technical that will be beneficial because you've divulged it to the public and not to the government. I understand that, but give me something specific that's going to come out of that.

Mr. Paul Lalonde: Sure. I talked about it in my remarks, due diligence and “know your client” obligations that are incumbent upon, among others, financial institutions that under our anti-money-laundering legislation have all kinds of obligations to know who they're doing business with.

Having a registry of that nature will enormously facilitate doing that due diligence, doing those “know your client” exercises, and will allow financial institutions with that kind of regulatory obligation to carry out those exercises and validate what's being told them by their new customers. There are others, but I'll give you that example.

Mr. Frank Baylis: That's fine. We're going to move on to Mr. Schneider, but they already have those forms so that you can divulge that when you're going to do business with them, and again, it's done in private.

Mr. Schneider, the teachers' pension has a different view on that question of ownership transparency. You're satisfied with where it's at right now. Could you explain that?

Mr. Paul Schneider: From our perspective, we have the option in Ontario to be what they call an “objecting beneficial owner” and can remain private from the company. That's something that is offered in the Statutes of Ontario.

As long as we have that available to us, we will take advantage of it, for the simple reason that we are sensitive about any strategic investments that we're making. We may jump into a company because our analysis states that maybe we think it's not doing well now, but it has set up a lot of things that others are missing, so we can get in at a lower cost, and then hopefully work with management

• (0950)

Mr. Frank Baylis: Therefore, divulging it to the general public might have an impact on the shares. It could have secondary impacts in other ways.

Mr. Paul Schneider: Yes. From our perspective right now, it could have a lot of people jumping in as we get in, and then—

Mr. Frank Baylis: Having a material impact in other ways.

Mr. Paul Schneider: On the price of it, yes. People will think that if Ontario Teachers' is doing it, then why shouldn't they?

Mr. Frank Baylis: Exactly.

Mr. Paul Schneider: It's our competitors as well. Investing is a bit of a competitive game.

Mr. Frank Baylis: I understand that, and if you had to divulge it privately to government, would you have a problem with that?

Mr. Paul Schneider: I can't comment on that. I'd have to talk to our legal people.

Mr. Frank Baylis: Fair enough.

I would just put out on the record that if you're serious about dealing with corporate crimes, you don't need to divulge it publicly. You're trying to surmount a mountain that's not necessary, and moving into people's privacy. Everything that you've mentioned today can be done in private to divulge it to the government, and I think that's something that Transparency International Canada should consider.

The Chair: Thank you very much.

We're going to move to Mr. Lobb. You have five minutes, please.

Mr. Ben Lobb (Huron—Bruce, CPC): Thank you very much, Mr. Chair.

With the sounds of this today, maybe some of these Liberal members will be voting against their own government's bill. I don't know. We'll have to wait and see.

My first question is for Mr. Schneider.

I understand and respect what Mr. Masse has to say, and I'm sure you'll have a lot of comments for Minister Bains when he appears, as will I. I understand your job isn't to defend or promote the Liberal bill. You're here to give your thoughts on it.

There is one question I wanted to ask you regarding the rules around the voting for boards of directors. Let's forget about diversity and all that just for a second, and let's just focus on the mechanics of it. I'm curious about one of the unintended consequences that could be in this. For example, a lot of what the Ontario Teachers' Pension Plan and the Canada Pension Plan Investment Board and Borealis would invest in, such as small start-up software companies or high-tech companies, will eventually go public in whatever market they decide to go public in. Could an unintended consequence of this structure be the election of the boards and board takeovers for these companies as soon as they go public? Could this be an unintended consequence of this bill?

Mr. Paul Schneider: Looking into the future, I guess that's possible. I'm not sure.

I can only speak for Ontario Teachers' as to how we exercise a director vote. We take a lot of care when we do that vote. We voted against directors, I think, around 3% to 5% of the time in 2016. There are a lot of steps that go in before that as well. There's engagement with the company, as I mentioned. As I say, we don't take the vote lightly.

There may be some mechanisms put in place to protect against that. I'll admit it's not out of the impossible. I would say it's more improbable, because if you look at the majority voting around the world—you look at the U.K., Germany, France—they don't have these problems of failed boards of small companies, and they have had majority voting for years and years.

Mr. Ben Lobb: Ms. Cukier—is that how to say your name?

Prof. Wendy Cukier: Wendy is fine.

Mr. Ben Lobb: I have a question for you. I think maybe it was previously answered that these are targets or aspirational goals, so I wanted to ask you.

The area I represent is very rural. I would say probably 99% of the people are white. This area I represent wants to be diversified too, but what do the rural boards for small corporations in my area do? Is this an aspirational thing that they should pursue as time goes by? They are not going to be criticized because they can't meet a certain mandate, but you're saying as long as they are open and not rejecting a qualified candidate, you would support a company such as that.

• (0955)

Prof. Wendy Cukier: Absolutely. There is such an important distinction between quotas and targets. I think a lot of the discussion around this has been fuelled by European examples.

You have probably heard from some women's organizations that are very keen on having quotas based on European experience. The problem with the European experience is that they have no indigenous populations to speak of, except in a few countries, and immigration is a relatively recent phenomenon, especially from racialized countries, so I don't think using the European experience is helpful.

To your point—please tell me what community you're from.

Mr. Ben Lobb: I'm from southwestern Ontario.

Prof. Wendy Cukier: One of the things that has come up in work that I've done in eastern Ontario is that there are small communities there that want to attract immigrants, for example, in order to drive economic development. They are looking at ways to set up succession planning in small local businesses because there aren't enough people to take over the local plumbing company, restaurant, bed and breakfast, or whatever, so there are arguments to be made even in rural communities.

There are also some big success stories on the east coast, where if you can attract more immigrants and therefore probably more racialized people, you will actually drive more economic growth.

I don't think the issue of racial diversity is necessarily irrelevant. However, we are talking about targets, and we're talking about setting targets in contexts that make sense. If you're in Winnipeg, for example, indigenous representation on boards is likely to be more important than in other areas. We have to be sensitive to this, but I really feel that the conditions in Canada have advanced very quickly in ways that were perhaps not anticipated by some of the groups that have been advocating for gender diversity.

I want to defend my friend a little bit, I think.

The Chair: We're way over time.

Prof. Wendy Cukier: Sorry.

Mr. Ben Lobb: I think I should say, just for full disclosure and just so you know, that both counties I represent do have an immigration task force with their economic development.

Prof. Wendy Cukier: Perfect.

Thanks.

The Chair: Thank you very much.

We're going to move on to Mr. Jowhari. You have five minutes, please.

Mr. Majid Jowhari (Richmond Hill, Lib.): Good morning, Mr. Chair.

Thank you to the witnesses for coming.

Before I start, I'd like to go on the record by saying that having spirited discussions in the committee is part of our job. I thank you for coming and for the detail provided and for allowing us to be able to ask the questions that we may not be able to ask once we are reading the bill. By no means does that mean that we will opposed this bill. When it comes to the House, I personally will be supporting this bill.

I'd actually like to borrow some of the comments from both Mr. Schneider and Wendy. That will frame the question that I'm about to ask.

Mr Schneider, I heard you talking about the availability of a “broader and deeper” selection pool of board members, which lends itself, I think, to the broader definition of “diversity” that we've been discussing.

Wendy, I heard from you that it's not a question of the pool anymore, but a question of intention, which is great. It gives us a way forward, which means that, based on well-defined selection criteria, there is enough talent in the pool for us to really expand the base of diversity.

Those are great. You also talked about targets versus quotas. As a former engineer and an alumnus of Ryerson, again, I welcome you. It's great to see that Ryerson is representing itself in many other aspects in our government.

You also talked about the criteria of the director qualification and developing the pool. Now, once again as a former engineer, I believe that we set targets or quotas; we also put robust tracking, rigorous evaluation, and transparency in place. One of the concerns that I have was the fact that there is no mechanism in place to be able to assess the impact of this legislation, and this is one of the concerns that you raised in the article you wrote called “In Montreal, leadership diversity remains a work in progress”.

Can you please give us some idea of what mechanism you would suggest? Also, you had indicated there is no penalty regime. What would you recommend as a penalty regime?

●(1000)

Prof. Wendy Cukier: I want to first say that I appreciate your comments, and absolutely, evaluation and accountability are critically important.

I want to quote from the minister. He said, “We want to send a clear signal that diversity is important, but in a few years, if we don't see progress...if we don't see meaningful results—then we will re-evaluate our position and look at all other options at that time.”

To me that signalled the intention to ensure that there was evaluation built in. The only amendment that we were proposing was to proposed subsection 172.1(2). We suggested that in addition to saying that the corporation shall concurrently send the information to the director at the same time they send it to the board, we add “and it will be published on an annual basis”. I'm a big believer in transparency driving accountability and action. They often say “What gets measured gets done.” I believe that companies are concerned about their reputation, but more importantly they're concerned about their markets. If you look at the changing markets in Canada, these issues are becoming more important beyond gender —

Mr. Majid Jowhari: Sorry, but I'm going to interrupt you.

My focus is on evaluation. We are leaving the concept of diversity open, which is great. We are also not putting criteria. We are proposing a target that is arbitrary for different organizations. How do you evaluate that they're progressing to where we want them to progress? In three years, when we come back, we say, "Have they progressed well, or not?" I'm talking about that evaluation.

Prof. Wendy Cukier: Compare plan to actual is one of the simplest ways to do it. Again, to some of your colleagues' points, we're not talking about all companies hitting 40% or 25% or whatever.

Mr. Majid Jowhari: Then you're saying to set a target, and then measure and evaluate based on that?

Prof. Wendy Cukier: You look at the numbers, but you look at the qualitative issues as well—which for engineers sometimes are not on the list—around the kinds of policies that they have in place. If you publish that information, organizations like mine will identify the leaders and the laggards.

Mr. Majid Jowhari: Thank you.

The Chair: Thank you very much.

We are going to move on to Mr. Nuttall.

You have five minutes.

Mr. Alexander Nuttall (Barrie—Springwater—Oro-Medonte, CPC): Thank you, Mr. Chair.

Thank you to our witnesses for being here today.

My first question is for Wendy.

One of the things you outlined—I believe it was in a back-and-forth with one of our colleagues across the way—was regarding targets. On Tuesday, I actually brought up this exact item.

I come from the private sector. Everything I do in the private sector has targets. You set something that's reasonable, rational, and attainable, and you set a path forward to your board of directors, etc., yet in government, it never, ever happens. Can you outline what types of targets you would like to see set with regard to diversity?

I think there are two pieces to diversity. I may be oversimplifying it, but for the sake of my intelligence, I'll do that. The first one is diversity in terms of the participation of women on boards, and the second one is diversity outside of what I'll refer to as the WASPY Bay Street that exists. For those two, could you set what you believe would be fair and rational targets for me at this point?

Prof. Wendy Cukier: Sure. Again, the way the employment equity legislation works in forcing federally regulated companies and contractors to set targets is reasonable.

You look at the pool. If you're a university, you're going to be looking at one pool—your students, or the pool of people with Ph.D.s—and you're going to think about entry-level positions, administrative positions, and so on.

The same applies in the corporate sector. If you're a smallish private company in Chatham, you're going to have one labour market pool if you're an engineering firm and a different pool if you're an agricultural products company or a retailer.

Looking at the pool is critically important, in terms of both your customer base and your employee base, to establish what you should reasonably be seeing at the most senior levels. Boards of directors are supposed to provide external input to companies, so you have to have boards of directors that represent the outside world as well as the inside world.

• (1005)

Mr. Alexander Nuttall: Looking at it from a macro level, there are going to be different labour markets, different places. There are going to be all of those issues. From a macro level in Canada, we would say.... We're at a certain percentage today. I'm not even sure we got an answer on Tuesday on that, but I think roughly 10% of the positions in publicly traded companies are held by women, for instance. What is the target, through this legislation, that you would put on it? Obviously you can't set the target in it, but what would you want to see the government set as a target through this legislation?

This legislation is not going to go from 10% to 50%—we know that—but what is a rational target that we should be putting in place to measure its success? If we aren't measuring the success of it and putting a practical plan in place, then I'm not sure why we're sitting here doing these hearings.

Prof. Wendy Cukier: Thank you very much for that question.

I think target setting has to be consultative, so you're going to have to talk to some of the key stakeholders.

If you look at the legislation in Europe around women, for example, where they have quotas, it's typically between 30% and 40%. Over a period of time, it seems to me.... We know that some companies have hit those targets, and we know that some have.... The stat I remember is that half of the largest publicly traded corporations in Canada have no women on their boards. It seems to me that overall, a target somewhere over 30% and under 40% over the next five years probably makes good sense, off the top of my head.

Mr. Alexander Nuttall: Thank you.

The Chair: Thank you very much.

We are now going to move to Mr. Longfield. You have five minutes.

Mr. Lloyd Longfield (Guelph, Lib.): Thanks, Mr. Chair.

Thanks to everyone who has joined us in person and on screen.

I have a question in regard to distinguishing governance through laws versus regulations. On comply or explain, I think we'd have some explaining to do in terms of our own governance. It's great to have MP O'Connell sitting beside me. Finally we have a woman sitting on our committee. This committee itself doesn't have diversity in terms of gender—or age, when it comes right down to it.

The legislation is being set up to give some very firm direction, and then regulations are more nimble in terms of the pool and so on. Could you talk to us a bit about governance and what role legislation should play, versus regulations?

Prof. Wendy Cukier: Thanks very much.

You know, it really depends. In some laws, for a whole variety of reasons, a great deal of specificity is built into the legislation itself, and there are lots of reasons people do that. When you distinguish between the legislation as a framework and the regulations, you do build yourself more flexibility around adapting and adjusting and so on.

I read the comments of the minister as saying that we're going with a rather flexible model at this point in time. We believe in the good faith and intelligence of our corporations to let them see where their best interests lie, and their best interests lie in embracing diversity. We are looking at the strategy of comply and explain, but make no mistake about it: if we don't see progress, we may look at something else.

I do think that because this is a very broad piece of legislation, it does make sense to try to provide a framework. The risk, of course, is that if you have changes in government, it's really easy to change regulations and move in a different direction. The way the legislation is written—as I said, with some language I would like to see around transparency, accountability, and reporting baked in—does allow the flexibility and the time that is needed to get this right. I know you have a lot of people very anxious to get this through, for a whole variety of reasons.

•(1010)

Mr. Lloyd Longfield: Thank you.

Mr. Schneider, I'll go over to you.

I've sat on the boards of multinationals. The first one I sat on was a U.K.-based company. I was the managing director in Canada. They reported on a variety of things, including environmental practices and diversity practices. They had regulations that I had never seen in Canadian companies, but they weren't legislated to do so; it just made good business sense. Could you comment on the success of businesses operating as B corporations, or extended reporting that isn't required in legislation but is just good business practice, versus what's in legislation?

Mr. Paul Schneider: We've always taken a view that regulations really form the minimum standards. If you look at our proxy voting guidelines and our corporate governance principles, which are available on our website, and look at what we're doing there, you'll see that we're asking for things beyond the regulations.

One focus for the upcoming year and for the past number of years is asking companies more about their approach to climate change and other environmental and social issues. How is the board managing that? What sort of oversight is in place? How do things get percolated up to the boards? We're asking a lot of questions around things that are not necessarily in the regulations, but they're becoming more.... And we're not the only ones asking. It's not necessarily a regulation, but it's an expectation.

Mr. Lloyd Longfield: You mentioned the voting down of a director. I was on a board on which we forced diversity onto the board. It turned out the person didn't show up for meetings and really wasn't participating, and we couldn't get rid of the person. Could you make an extended comment on that?

Mr. Paul Schneider: Are you saying that the person was...?

Mr. Lloyd Longfield: The person wasn't fulfilling the role of a director, but we couldn't get rid of them.

Mr. Paul Schneider: Why was that? Was it because they wouldn't leave?

Mr. Lloyd Longfield: Yes.

The Chair: Please be very brief.

Mr. Paul Schneider: Okay. Well, I think majority voting would help in that regard.

Mr. Lloyd Longfield: Thank you very much.

The Chair: Thank you very much.

Mr. Masse, you have two minutes.

Mr. Brian Masse: Yes. Thank you, Mr. Chair.

Mr. Lalonde, what is the United States doing right now with regard to its transparency and public identification? Where is it at, and where is it moving toward?

Mr. Paul Lalonde: The U.S., I am sad to report, is not doing much better than Canada in that regard. If you look at the various task forces that have looked at the implementation of the G20 benefit ownership transparency commitments, the U.S. is faring not much better than Canada. It has, as well, anonymous corporations and the same kinds of challenges in figuring out who owns what.

Mr. Brian Masse: Just to be clear, in terms of the disclosure that would be made, it's if you own 25% of the company and it has no other disclosure of how much money and net value that's worth, and so forth. What is the full disclosure you end up making with that?

Mr. Paul Lalonde: The test they have adopted in the U.K. is if you have a significant controlling interest. They have set those tests for meeting that threshold, but in terms of raw ownership of voting shares, it's 25%. That's what's disclosed. No individuals are required to publicize an inventory of the shares they own. It's the other way around: companies are required to disclose in their reporting who the beneficial owners are who have a significant controlling interest in the company, and that's it.

In terms of the privacy issue, again, we did address it in our report, and I recommend Mr. Baylis read page 36 of our report if he's interested in TI Canada's more detailed views on the privacy issue.

•(1015)

The Chair: Thank you very much.

We have a little bit of time left, so we're going to go for another round of five minutes each for each party.

We'll start with Mr. Baylis. You have five minutes.

Mr. Frank Baylis: I'm going to share my time with Mr. Jowhari.

The Chair: Okay.

[Translation]

Mr. Frank Baylis: Mr. Lalonde, I would like to talk about bearer shares.

My understanding is that you are satisfied with the regulations that have been proposed to eliminate them, but you see an opportunity to do more to remove the ones that are already in circulation.

[English]

Mr. Paul Lalonde: You're talking about the bearer shares, I gather?

[Translation]

Mr. Frank Baylis: Yes, exactly.

[English]

Mr. Paul Lalonde: I apologize, but I'll have to respond in English, because the way the video is working, I'm getting the translated version back and it's making it very difficult to hear and speak.

Mr. Frank Baylis: No problem. Go ahead.

Mr. Paul Lalonde: On the bearer shares issue, what we recommend is that... The act deals now with bearer shares not being issued anymore, but it doesn't deal well, in our view, with what to do with all the bearer shares that are still out there. There has to be a mechanism to flush them out of the system over time.

One of the ways of doing that is that when the company knows the identity of the bearer of the shares, it should crystallize those shares into registered shares in the name of the person it knows is the bearer, so—

Mr. Frank Baylis: In certain instances, in interacting with the shareholder, that information will become public. At that point, you'd like us to say that they're going to retire those shares.

Mr. Paul Lalonde: You turn those bearer shares into registered shares.

Another trigger can be when the holder of the bearer shares attempts to exercise a right that attaches to those shares, such as a voting right or the collection of a dividend and so on. At that moment, there could be another crystallizing event that turns the bearer share that's already out there into a registered share. Is that—am I clear?

Mr. Frank Baylis: Thank you. I'll pass my time over to Mr. Jowhari.

Mr. Majid Jowhari: Thank you. This question goes to Mr. Schneider.

At the outset of your presentation, you talked about your focus being on corporate governance and specifically on electing all the board members. I understand this bill proposes going from the current three-year model to a one-year model. The Canadian Bar Association did not recommend the adoption of such a measure, because it risks the loss of business knowledge specifically. As you know, the boards are really responsible for the overall vision and direction of the organization. Usually these are over a five- to 10-year time frame. Can you explain to me how we can mitigate that risk?

Mr. Paul Schneider: I looked at the companies we vote for, and they are all annual elections. Every company we voted for in Canada has an annual election. There are no staggered boards that we've voted for.

Mr. Majid Jowhari: Do you think there is a risk?

Mr. Paul Schneider: Again, I think it's important for directors to be held accountable. I think if directors are doing their job, then they should hold themselves accountable on an annual basis. In my job, I

hold myself accountable all the time, on an annual basis. I don't see any real difference. If directors are doing their job, I think they should have nothing to worry about.

Mr. Majid Jowhari: That's as long as they understand the long-term vision and they're doing their job in a satisfactory manner.

Mr. Paul Schneider: We expect them to have a long-term vision. We encourage that, and it's something we want them to have.

Mr. Majid Jowhari: Great. Thank you.

I think my five minutes are up.

The Chair: You have one minute, actually.

Mr. Majid Jowhari: Let's go to beneficial ownership. I think Paul talked about beneficial ownership.

The Chair: You now have 30 seconds.

Mr. Majid Jowhari: Then I'll pass the 30 seconds to whoever is next.

The Chair: Thank you very much for that.

A voice: You owe us.

The Chair: We're going to jump to Mr. Dreeshen.

You have five minutes.

Mr. Earl Dreeshen: Thank you very much, Mr. Chair. I'll share some of my time with my colleague Mr. Nuttall.

Earlier, when we were talking, I had wanted to get into the concept of the bearer shares, and Mr. Baylis had indicated that was significant.

Paul Lalonde, could we perhaps go through that? You were stating that any of these bearer shares should be converted into a registered share.

Proposed subsection 29.1(2), under the heading "Replacement", states:

A corporation shall, on the request of a holder of a certificate, warrant or other evidence of a conversion privilege, option or right to acquire a share of the corporation that is in bearer form and that was issued before the coming into force of this section, issue in exchange to that holder, in registered form, a certificate, warrant or other evidence, as the case may be.

Is there a difference in the registered form as a certificate, a warrant, or something else? Is the registered share just a catch-all term that we use as it goes from one to the other? How do you see that?

When I look at the concept of a bearer share, I realize the rationale and the reason it's important to try to get some clarity to see where you're going. I wonder if you could explain that for me, please.

• (1020)

Mr. Paul Lalonde: A bearer share is like cash. Whoever is in possession of it owns that cash. A bearer share is the same way. There's no individual to which it's issued. If you hold it, if you possess it, you have the rights that attach to that share.

A registered share is a little bit different. It's issued to a specific person, and there are records that confirm that. For example, 25 shares were issued to Ms. So-and-so at such-and-such a time. It's not just a question of the possession of the shares; there is a registered record of who owns the shares, which is not the case in bearer shares.

The section that you referred to is interesting in that it provides for turning a bearer share into a registered share at the request of the holder of the bearer shares.

That's all fine, but what we're saying is that there should be other triggers that turn bearer shares into registered shares, so that over time, bearer shares that were issued before the modifications get flushed out and turned into registered shares.

Mr. Earl Dreeshen: In those circumstances, are there some potential amendments that you think could make that stronger or clearer?

Mr. Paul Lalonde: Yes. In the paper that we gave to the clerk of the committee, we made specific recommendations about two specific trigger events that we think should be added to the legislation to turn bearer shares into registered shares. I talked about it in my discussion with Mr. Baylis.

Mr. Earl Dreeshen: Thank you very much.

I'll give my time now to Mr. Nuttall.

Mr. Alexander Nuttall: Thank you, Mr. Chair.

I would like to table a motion which I am acutely aware we can't debate today, but with it I'll give a slight preamble.

Sometime in December, the innovation report from the innovation leaders was tabled. Unfortunately, none of us got the report, but it's out there.

Previously I've requested that we have the innovation leaders here. Now that they have produced a report, I can't think of a reason we wouldn't invite them here.

Do I need to read the motion out? It's in writing.

The Chair: Please do.

Mr. Alexander Nuttall: Here is the notice of motion I submitted on Thursday, February 9, 2017.

I move:

That the Standing Committee on Industry, Science and Economic Development of the House of Commons undertake a study (of no more than two meetings) on the recommendations of the 'Innovation Leaders' as outlined in their paper "Innovation for a Better Canada; What We Heard."; and that the committee invite the ten 'innovation leaders' to appear as witnesses.

I will leave it there. Obviously we can't debate it today, but I hope we can do so in upcoming meetings.

Thank you, Mr. Chair.

The Chair: The clerk has received the notice of motion. Thank you very much.

Okay, you're done.

Mr. Masse, you have the last five minutes.

Mr. Brian Masse: Thank you, Mr. Chair.

I haven't forgotten about you. I was interested in your testimony and the analysis that was done. When I had a real job, I was an employment specialist for new Canadians, for persons with disabilities and youth at risk. Basically, I'd open up the doors and get jobs and so forth, and I'd literally have employers say, "Well, I'll take the person with the disability for an interview, but they can't be this," or "We'll consider one of your youth at risk, but don't give us somebody from this country or with this colour." I literally had those questions. Apparently one of the benefits of being a white male is that at times you get inappropriate information that it is thought can be spread to you.

Regardless, you've taken the position that the minister did note it, but the reality is that's just a commitment from the minister. There's nothing binding about it.

Therefore, what do we do and how long do we wait before we see any types of things...? Should there be penalties or anything on...? For example, you cited Montreal, a good example where we have the evidence that it works. It's all there in front of everybody. They're choosing not to do it; that's what is happening. If they're not doing it, given that it's making money and it's complying with a number of different things for them. I'd like them to choose my lottery numbers. There's just no way you can avoid the success that's been seen, and they're still not doing it, so what do we do? Do we wait for another 40 years?

In this legislation, I'm going to be proposing a mandatory review as one of the things that should be done. That's normal, especially for updated legislation. What should we do if we're not going to go with a target, or is there a potential for a medium target to be set, or an aspirational target? What do we do if no compliance by certain companies is taking place?

•(1025)

Prof. Wendy Cukier: It's a really good question.

I like your idea of a mandatory review. I hadn't thought about that, but that's certainly something that's done in other contexts.

Having worked in this field for over 25 years, I would say that of course there are some cases of over-discrimination, and we've seen some horrible examples in recent weeks, which I don't need to remind you of. However, a lot of it is unintentional. The research shows that there's unconscious bias, that often people gravitate towards people who are like them. That's just the way things are, and it's part of the reason that a lot of the very powerful women's organizations have just focused on gender diversity and haven't noticed that they're in rooms that are not very diverse when you think about those other issues.

I believe that information is important, but I still think there are lots of companies that don't get it. I have a real commitment to innovation processes and everything we know about social innovation being applied to this area. Your legislation is critically important, but there are other things you're doing with work-integrated learning and by trying to attract direct foreign investment to create jobs, like GE in Welland. There are all sorts of instruments that government has right across the board to potentially incentivize this kind of behaviour, and I think that's a more productive strategy, because we risk backlash if we're too heavy-handed on this, in my view.

Mr. Brian Masse: Yes, there can be backlash, but I don't think it's just like that in terms of providing information. I still think there's an ingrained aspect.

To be quite frank, look at this committee. My colleague from the Liberals raised a point about the equity here. The NDP caucus is 44% women, and we have an equity policy that actually drives part of the thing. Then we have a Prime Minister who is a self-declared feminist, yet we have a committee here that doesn't have any women

Prof. Wendy Cukier: I think he put them all in cabinet.

Mr. Brian Masse: —except for a parliamentary secretary who is dutifully here when she can be. These things just don't happen by accident. This is not happening by accident; this is really what's taking place here.

Prof. Wendy Cukier: I don't disagree. I think, however, that large corporations that do get this—some of the banks, some of the big IT companies, and so on—are committing to using procurement and their value chain. Some of the tools the government has around procurement and so on are other instruments that can complement the legislation to drive the behaviour.

Mr. Brian Masse: There's no doubt, but they still don't want somebody else at the table at that time to make the ultimate decision

The Chair: Thank you—

Mr. Brian Masse: That's a real problem that I think needs some oversight.

• (1030)

The Chair: We're well over time. Thank you very much.

I'd like to extend a hearty thank you to our witnesses. It was a good session we had today, with lots of questions and interesting answers.

We are going to suspend for a couple of minutes. Then we're going in camera for committee business.

Again, thank you very much for attending.

Thank you.

[Proceedings continue in camera]

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