

**Written Testimony of the Honorable Thomas P. DiNapoli**  
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**Office of the New York State Comptroller**

Before the Committee on Financial Services Subcommittee on Diversity and Inclusion  
United States House of Representatives

Virtual Hearing entitled “By the Numbers: How Diversity Data Can Measure Commitment to  
Diversity, Equity and Inclusion”

**March 18, 2021**

Chairwoman Beatty, Ranking Member Wagner, Chairwoman Waters, Ranking Member McHenry and distinguished members of the Subcommittee, thank you for the opportunity to testify today on behalf of the New York State Common Retirement Fund (“CRF” or “Fund”). I commend the members of this Committee for your collective focus on diversity, equity and inclusion (DEI) at U.S. financial institutions, and corporate America more broadly.

Today’s hearing comes as America is experiencing a widespread and long-overdue reckoning with systemic racial injustices and inequalities. Following the murder of George Floyd in 2020, and the public outcry over the killings of Black men and women, many publicly traded corporations spoke out against racial injustice and made commitments to address racial inequities.

This reckoning affects every aspect of our society including our markets and financial institutions. Research has shown that companies face risks when their corporate policies, practices, products, or services are, or are perceived to be, discriminatory or compounding inequities. By contrast, companies that foster diversity are more likely to outperform their less diverse peers, and companies that develop a culture of inclusion, equity, and belonging are better positioned to drive long-term value for shareholders. We also know that a company’s ability to draw on a wide range of viewpoints, backgrounds, skills, and experience is increasingly critical to its long-term success in the global marketplace.

As a result, I believe it’s imperative for investors to encourage their portfolio companies to address DEI-related issues. To do so, investors must have timely access to accurate DEI information disclosed in a standardized manner to enhance the consistency and comparability of the information for investors to use.

**Background**

As New York State Comptroller, I am the Trustee of the New York State Common Retirement Fund. The Fund is the third largest public pension fund in the United States, with an estimated value of \$247.7 billion as of December 31, 2020. The Fund holds and invests the assets of the New York State and Local Retirement System (System) on behalf of 1.1 million state and local government employees, retirees and their beneficiaries.

Last fiscal year, the Fund paid out \$13.25 billion in benefits with the average pension of approximately \$39,893. Additionally, the Fund has consistently been ranked as one of the best managed<sup>1</sup> and best funded<sup>2</sup> plans in the nation.

As of December 31, 2020, the Fund had 54.8 percent of its assets invested in publicly traded equities. The remaining Fund assets by allocation are invested in cash, bonds, and mortgages (22.2 percent); private equity (9.8 percent); real estate and real assets (8.0 percent); and credit, absolute return strategies, and opportunistic alternatives (5.2 percent).

We pride ourselves on our DEI policies, practices and strategies. Diversity is reflected in our own internal staffing and our manager and portfolio company engagement encourages best DEI practices as well as in our commitment to our MWBE and Emerging Managers Program. The Fund’s work on DEI is grounded in a large body of research showing the relationship between DEI and shareholder value, and its importance to sustainable business practices and the economy as a whole. While I will not list the entire body of research, I would like to highlight a few findings:<sup>3</sup>

- Boston Consulting Group found that companies with higher-than-average diversity on management teams report higher revenue from new products and services.<sup>4</sup>
- The Carlyle Group found that its portfolio companies with two or more diverse directors had average earnings growth of 12.3 percent over the previous three years, compared to 0.5 percent among portfolio companies with no diverse directors. They defined diverse directors as female, Black, Hispanic or Asian.<sup>5</sup>
- McKinsey & Company found “a positive, statistically significant correlation between company financial outperformance and [board] diversity, on the dimensions of both gender and ethnicity,” with companies in the top quartile for board gender diversity “28 percent more likely than their peers to outperform financially,” and a statistically significant correlation between board gender diversity and outperformance on earnings before interest

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<sup>1</sup> Every three years the Fund is required to undergo an independent Fiduciary and Conflict of Interest Review. The Review [examines](#) the Fund to ensure it is well-governed and ethically and efficiently managed for the sole benefit of its members and beneficiaries. Consistent with the conclusion of prior fiduciary reviews, the latest Review found that the Fund “has a strong governance framework with sound internal controls and is managed efficiently and effectively.”

<sup>2</sup> In June 2020, the Fund was [ranked](#) by Pew Charitable Trusts as the second best-funded pension fund in the nation with a funding ratio of 98 percent, based on 2018 data. An excellent funding ratio means the System has the funds on hand to provide retirement security to its more than one million active state and local government employees, retirees and their beneficiaries.

<sup>3</sup> The large body of academic research has recently been compiled by The Nasdaq Stock Market LLC in its recent board diversity [proposal](#) to the Securities and Exchange Commission. The Council of Institutional Investors has also [compiled](#) empirical research on Environmental, Social, and Governance (ESG) Factors, including diversity and inclusion.

<sup>4</sup> <https://www.bcg.com/en-us/publications/2018/how-diverse-leadership-teams-boost-innovation>

<sup>5</sup> [https://www.carlyle.com/sites/default/files/2020-02/From%20Impact%20Investing%20to%20Investing%20for%20Impact\\_022420.pdf](https://www.carlyle.com/sites/default/files/2020-02/From%20Impact%20Investing%20to%20Investing%20for%20Impact_022420.pdf)

and taxation margin.<sup>6</sup> Also, companies with the greatest ethnic diversity on executive teams outperformed those with the least by 36 percent in profitability.

- Another McKinsey & Company study found that employee perceptions about their employer's commitment to diversity strengthens their own commitment to the companies where they work. For example, when employees understand that their companies are committed to gender diversity, they plan to stay with those companies longer.<sup>7</sup>
- Moody's found that greater board gender diversity is associated with higher credit ratings, with women accounting for an average of 28 percent of board seats at Aaa-rated companies but less than 5 percent of board seats at Ca-rated companies.<sup>8</sup>
- Companies that promote workforce diversity and inclusion through transparent hiring, promotion and wage practices have seen improved productivity,<sup>9</sup> revenues<sup>10</sup> and market share.<sup>11</sup>
- W.K. Kellogg Foundation has concluded that "By 2050, our country stands to realize an \$8 trillion gain in GDP by closing the U.S. racial equity gap. 'Closing the gap means lessening, and ultimately eliminating, disparities and opportunity differentials that limit the human potential and the economic contributions of people of color.'"<sup>12</sup>
- Citigroup research found if four key racial gaps for Blacks — wages, education, housing, and investment — were closed 20 years ago, \$16 trillion could have been added to the U.S. economy. And if the gaps are closed today, \$5 trillion can be added to U.S. GDP over the next five years.<sup>13</sup>

The lack of racial and ethnic diversity and inclusion poses risks to companies that senior managements and boards must understand and remedy. By not addressing diversity and inclusion, companies are more likely to underperform their peers, face reputational risks, and jeopardize shareholder value.<sup>14</sup>

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<sup>6</sup><https://www.mckinsey.com/~media/McKinsey/Featured%20Insights/Diversity%20and%20Inclusion/Diversity%20wins%20How%20inclusion%20matters/Diversity-wins-How-inclusion-matters-vF.pdf>

<sup>7</sup><https://www.mckinsey.com/~media/McKinsey/Featured%20Insights/Gender%20Equality/Women%20in%20the%20Workplace%202019/Women-in-the-workplace-2019.pdf>

<sup>8</sup>[https://www.moody's.com/research/Moodys-Corporate-board-gender-diversity-associated-with-higher-credit-ratings--PBC\\_1193768](https://www.moody's.com/research/Moodys-Corporate-board-gender-diversity-associated-with-higher-credit-ratings--PBC_1193768)

<sup>9</sup><http://www.cepremap.fr/depot/docweb/docweb1304.pdf>

<sup>10</sup><http://images.forbes.com/forbesinsights/StudyPDFs/Innovation Through Diversity.pdf>

<sup>11</sup><https://www.craigslist.com/article/20131103/NEWS/311039959/kelly-services-diversity-must-help-bottom-line-to-be-sustainable>

<sup>12</sup><http://ww2.wkkf.org/2018/bcfre/BCRE-National-Report.pdf>

<sup>13</sup><https://www.citivelocity.com/citigps/closing-the-racial-inequality-gaps/>

<sup>14</sup><https://www.pwc.co.uk/human-resource-services/assets/documents/diversity-and-inclusion-reputation-2017.pdf>

## **Diversity Internally at the CRF**

At the Fund, we are committed to inclusive hiring. A diverse staff of investment professionals means better and more thoughtful investment decisions leading to better outcomes. When I became New York State Comptroller, I made diversity one of my office's key strategic priorities, including as to management of pension fund assets.

My commitment to promote diversity started in-house, at the Fund's senior level positions. As New York State Comptroller, I have hired three women—including two Black women—to serve as Chief Investment Officer to manage the Fund. Their leadership was vital to the Fund's recovery from the Great Recession, helping us weather the storm and rapidly turn the page from a historically challenging period for all investors, and solidifying the Fund's position as one of nation's strongest large state pension funds.

In addition, diversity of gender, race, and ethnicity is reflected at every level, including senior levels, throughout the Fund. We track diversity internally so that we can measure our performance and make progress toward increased diversity. Currently, women comprise 47 percent of our investment staff, African Americans 19 percent, Asian Americans 10 percent and Hispanic Americans 6 percent. I strongly believe that the diversity of our staff has resulted in a stronger team which has undoubtedly contributed to the success of the Fund.

## **Diversity Among the CRF's External Asset Managers**

From the success of our own staff, I know firsthand the positive impact of having diversity in executive management — how a broader range of thought and experience can lead to better assessments of investment opportunities and produce higher returns. That's why when I became New York State Comptroller in 2007, I set out to work to increase diversity in the Fund's manager pool. I knew that increasing the talent pool of minority and/or women-owned business enterprises (MWBE) and emerging managers could help build significant, long-term gains for our Fund. I also made a commitment to launch an Emerging Managers Program in each of our major asset classes.

Today, the Fund is the gold standard in MWBE and Emerging Managers programs in the nation, with more than \$6.7 billion in emerging manager commitments and approximately \$20 billion in total MWBE investments and commitments through our Emerging Manager Program and direct allocations.<sup>15</sup> We currently have 128 MWBE relationships and 47 emerging manager relationships (non MWBE). This is the highest level of MWBE and emerging manager partnership in the Fund's history and it continues to grow each year. These relationships represent over 20 percent of the Fund's externally managed assets. We strongly believe that these firms provide top-tier service to the Fund and that our relationships with them have opened new opportunities to improve the Fund's returns.

Additionally, we hold an annual Emerging Managers/MWBE Conference to bring these managers together to improve the pipeline and open lines of communication between the Fund and potential

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<sup>15</sup> <https://www.osc.state.ny.us/files/reports/special-topics/pdf/mwbe-fiscal-2019-20.pdf>

MWBE managers. I am proud of this conference, and in February, our 14th annual conference attracted 800 attendees, and 520 independent firms.<sup>16</sup>

These investments aren't about making a statement or gesture, but about the results, and the numbers tell the story. As I expected, the firms in our Emerging Managers Program have delivered solid returns and have strengthened our bottom line.

A recent study from Bella Research Group and the John S. and James L. Knight Foundation found that while firms owned by women and minorities manage just 1.3 percent of assets in the \$69 trillion asset management industry, their performance is not statistically different from the industry as a whole.

As part of the Fund's rigorous investment process, Fund staff conducts due diligence on every prospective investment with external investment managers, enquiring about, among other things, each firm's DEI policies and practices. Additionally, the Fund asks its managers to agree to consider adopting and or reviewing and improving any existing DEI policies. Finally, the Fund reviews its investment managers and has begun to engage with them on their progress towards creating conditions that promote full inclusion of underrepresented racial minorities and women in all facets of their organization. While the Fund cannot make investment decisions solely based on this information, it can continue to encourage managers to continue to improve their DEI performance as a means to fully realize the financial benefits of diversity.

For example, in August 2020, I sent a letter to all of our external managers to reinforce the Fund's views on the importance of encouraging DEI policies throughout their organizations. My letter also asked for a response on a number of important issues, including:

- What policies, plans, or strategies does your firm have in place or plan to implement that promote inclusion and diversity, including racial, ethnic, gender, age, disability, sexual orientation and gender identity diversity, among its management and workforce? We are particularly interested in efforts to address these issues in the firm's recruitment, hiring, retention and engagement policies.
- Does your firm have specific internship programs and recruitment initiatives to increase representation of diverse talent? Please provide the number of minority and women interns and new hires that currently are employed by your firm as a result of these internship programs or recruitment initiatives.
- How has your firm made sure the importance of diversity was understood and acted upon when employing management-level professionals, including operations leadership, managing directors or managing partners, and partners/principals/vice presidents? Has your firm done so with respect to third-party consultants, advisors and professional service providers?
- If your firm is public, does the board have minority and women members? Please provide the number of minority and women executives that are managing directors or partners at your firm, and the number of minority and women executives that are members of the firm's executive committee, management committee or equivalent leadership group.

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<sup>16</sup> <https://www.osc.state.ny.us/common-retirement-fund/emerging-manager/conference>

- Does your firm track and report on the self-identified race, ethnicity and gender of its management and workforce? If so, please share your findings.
- Does your firm consider diversity issues, including diversity in a company’s management and workforce, and policies and practices to promote diversity, when considering a prospective investment? If your firm invests in private companies, what percentage of the members of the boards of those companies are minorities and women?
- Has your firm adopted policies and practices to engage with its portfolio companies on diversity and inclusion issues? If so, what are those policies and practices, how have they improved diversity and inclusion among portfolio companies, and how is company improvement monitored? If not, will your firm adopt policies and practices to encourage portfolio companies to improve on these issues?

The information and data collected from those responses will be used for future tracking and monitoring, and will allow us to assess our managers’ improvement on DEI to inform further engagement.

The Fund is also working with an external vendor to help standardize a metric that could assess diversity, equity and inclusion efforts in a comparable format across a wide range of firms. This will provide us with an assessment that goes beyond ownership percentages to incorporate firm leadership and total workforce data. Our broad goal is to promote and encourage a more advanced and sustainable approach to measuring the impact of dollars allocated across the asset management industry and across asset classes.

### **Diversity Among Companies in the CRF’s Public Equity Portfolio**

As a long-term shareowner that invests across all sectors of the economy, the Fund works to promote sound environmental, social, and governance (ESG) practices at the companies in its public equity portfolio through active ownership. ESG factors can have a profound impact on both risks and returns, so it is vital to evaluate the long-term impact that such factors may have on the performance of the Fund’s investments. A key tenet of the Fund’s ESG Strategy is the belief that high-performing, diverse boards of directors, good governance, and prudent management of environmental and social factors provide the foundation for sustainable long-term company success.<sup>17</sup>

As a result of being a long-term shareowner with a majority of its public equity investment through passive index strategies, the Fund is committed to engaging with its portfolio companies through active ownership, because using the Fund’s voice and votes to mitigate risks can support the long-term success of its portfolio investments.

The Fund’s robust public company engagement activities take various forms, including proxy voting, shareholder proposals, written correspondence, investor statements, press strategies and direct dialogue. These efforts have resulted in many important company actions, commitments and disclosures, which can protect the long-term value of the Fund’s investments.

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<sup>17</sup> <https://www.osc.state.ny.us/files/common-retirement-fund/2020/pdf/ESG-strategy-report-2020.pdf>

Since I have been New York State Comptroller, the Fund's Corporate Governance team has been active on DEI. From board diversity to workforce diversity to pay equity, the Fund has been advocating for better corporate policies, disclosure, and reporting related to DEI that can lead to sustainable, long-term value for shareholders.

Encouraging board diversity has been an important part of our engagement with portfolio companies for many years, and we continue to increase our focus on racial and ethnic diversity at companies in our investment portfolio. This includes asking our portfolio companies to publicly commit to a policy of board inclusiveness to ensure that minority and women candidates are routinely sought as part of every board search the company undertakes. Since 2010, the Fund has filed 37 shareholder proposals calling on public companies in its portfolio to increase board diversity. Through those proposals, the Fund has secured 19 agreements with companies to promote diversity on their respective boards, and engagement successes have added 29 diverse members to boards of directors.

While great progress has been made on board diversity over recent years, the boards of the 3,000 largest publicly traded companies remain overwhelmingly white. Underrepresented ethnic and racial groups make up 40% of the U.S. population but just 12.5% of board directors, according to Institutional Shareholder Services.<sup>18</sup> Black directors make up just 4% of the total, while Black women make up just 1.5% of the more than 20,000 directors.

Recently, the Fund has asked its portfolio companies to publicly disclose their filed Equal Employment Opportunity reports detailing the race, ethnicity and gender of their workforce, including senior management. Disclosure of EEO-1 data helps investors assess their portfolio companies' commitments to greater racial inclusion not just in a given year, but over time, by comparing how representation of Black women, for example, has changed in a given job category from one year to another.

In August 2020, I wrote to 74 S&P 500 companies from different sectors that share a common trait: they appeared to have no racially or ethnically diverse board members. The letter asked these portfolio companies to provide answers to these questions:

- Does the company have a plan to nominate at least one person of color as a director at its 2021 Annual Meeting?
- Has the company adopted a Rooney Rule or other policies to ensure the consideration of diverse directors?
- How has the company established a commitment to consider diverse candidates, including people of color, for nomination as directors in its governing documents and policies?
- Does the company report to shareholders the number of diverse candidates in every pool of director nominees? If it does not already, will the company annually disclose, beginning with its 2021 proxy materials, the self-identified race, ethnicity and gender of its director nominees?
- Does the company leverage succession planning to increase diversity at the board and management levels?

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<sup>18</sup> <https://www.nytimes.com/2020/09/15/business/economy/corporate-boards-black-hispanic-directors.html>

- Will the company annually disclose its policies, plans, and strategies to promote inclusion and diversity, including racial, ethnic, gender, age, disability, sexual orientation and gender identity diversity, among its board of directors, executive officers, management and workforce? We are particularly interested in efforts to address these issues in company recruitment, hiring, retention, promotion and workforce engagement policies.
- Does the company track and report on the self-identified race, ethnicity and gender of its management and workforce? If so, please share your findings.
- If it is not doing so already, will the company disclose, beginning with its 2021 proxy materials, the last three years of workforce diversity data on the EEO-1 report that it is required to file with the U.S. Equal Employment Opportunity Commission?

The company responses, or lack of responses, will be incorporated into the Fund's proxy voting decisions during the 2021 season. We recently announced that companies that failed to respond to the letter or provided inadequate responses will face adverse votes against incumbent board of director nominees at 2021 annual meetings.

During 2021, the Fund has also been prioritizing engagement with portfolio companies regarding how they are addressing potential and actual inequalities, including racial equity and equity in opportunity, pay, and benefits for all employees and stakeholders. Higher levels of inequality can negatively impact the economy as a whole, and therefore negatively impact the companies in which the Fund invests. A key example of the importance of this work is a shareholder proposal that the Fund filed at Amazon.com, Inc. asking for an independent audit to assess the company's policies and practices on civil rights, equity, diversity and inclusion, and how they affect the company's business.<sup>19</sup> Broadly speaking, many companies would benefit from assessing the risks of products, services and overall corporate practices that are or are perceived to be discriminatory, racist, or increasing inequalities, and the Fund believes that Amazon in particular could benefit from just such an audit.<sup>20</sup>

The Fund views proxy voting at its portfolio company meetings as an effective means of engaging and communicating with boards of directors and management about the Fund's ESG priorities. The Fund's independent proxy voting is a powerful tool for protecting long-term value.

To this end, the Fund uses diversity-related data when making proxy voting decisions. Since 2018, the Fund has voted against all incumbent board directors standing for re-election at companies that have no women on their boards.<sup>21</sup> In situations where a company has just one woman on its board, the Fund has withheld support from all incumbent members of the board's nominating committee. In 2020, the Fund withheld support from 879 incumbent directors at 193 public companies with

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<sup>19</sup> <https://www.osc.state.ny.us/press/releases/2020/12/nys-comptroller-dinapoli-amazon-must-ensure-its-business-not-adding-racial-inequality>

<sup>20</sup> Amazon has requested no-action relief from the Securities and Exchange Commission to exclude the shareholder proposal from its 2021 proxy materials. At the time of submission, the Securities and Exchange Commission has not responded to Amazon's request.

<sup>21</sup> <https://www.osc.state.ny.us/press/releases/2018/03/dinapoli-state-pension-fund-will-vote-against-board-members-corporations-no-women-directors>

no women on their boards. The Fund also withheld support from 1,574 incumbent nominating committee members at 673 public companies with only one woman on their boards.

Additionally, in 2020, the Fund updated its Proxy Voting Guidelines to formalize the Fund's opposition to boards that are not sufficiently diverse, including diverse attributes based on age, race, gender, ethnicity, sexual orientation and gender identity, geography, and disability.<sup>22</sup> Last year, the Fund withheld support from 227 incumbent directors at 55 companies that did not include underrepresented racial minorities among their nominees. During the 2021 proxy season, the Fund will expand its voting position at S&P 500 companies and will vote against:

- All incumbent directors at companies with zero directors identifying as an underrepresented minority on their board (as defined by the U.S. Equal Employment Opportunity Commission, this includes one or more of the following: Black or African American, Hispanic or Latino, Asian, Native American or Alaska Native, Native Hawaiian or Pacific Islander, or Two or More Races or Ethnicities).
- All incumbent nominating committee directors at companies with just one director identifying as an underrepresented minority. Nominating committees are responsible for nominating new board directors.
- Board chairs and incumbent audit committee members at S&P 500 companies that do not disclose the individual racial/ethnic diversity of their board directors.
- All incumbent nominating committee members at companies that have not made both gender and racial/ethnic diversity explicit considerations in their search for directors.<sup>23</sup>

The Fund also encourages its portfolio companies to disclose whether directors identify themselves as LGBTQ+ or a person with a disability, with the goal of further expanding the Fund's DEI voting policies in coming years.

### **Recommendations for the Subcommittee**

Over the last year, the renewed focus on DEI has been paired with strong investor interest in reliable and comparable data. This fact is evident based on Nasdaq's recent proposed rule change to adopt listing rules related to board diversity, which I have supported.<sup>24</sup>

I believe investors currently face a lack of standardized disclosure around DEI, and in particular, board diversity, due to inaction by critical market participants, including the Securities and Exchange Commission (SEC) and self-regulatory organizations.<sup>25</sup>

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<sup>22</sup> <https://www.osc.state.ny.us/files/common-retirement-fund/corporate-governance/pdf/proxy-voting-guidelines-2020.pdf>

<sup>23</sup> <https://www.osc.state.ny.us/press/releases/2021/02/ny-state-comptroller-dinapoli-calls-corporate-america-address-lack-diversity-equity-inclusion>

<sup>24</sup> <https://www.sec.gov/comments/sr-nasdaq-2020-081/srnasdaq2020081-8259868-227940.pdf>

<sup>25</sup> The SEC has largely declined to require diversity-related disclosure. In 2009, the SEC adopted a requirement for companies to disclose if and how diversity is considered as a factor in the process for considering candidates for board positions, including any policies related to the consideration of diversity. In 2018, the SEC issued guidance encouraging the disclosure of self-identified characteristics of board candidates.

I have long advocated for SEC action on the topic of board<sup>26</sup> and workforce diversity disclosure,<sup>27</sup> including supporting a 2015 petition for rulemaking.<sup>28</sup>

However, in recent years, there has been a focus on broad, principles-based disclosures at the SEC. As a result, some companies have taken the position that diversity information is not material, and therefore not disclosed this information to shareholders. I could not disagree more. This position has led to DEI and board diversity data often being non-existent, inconsistent or, because of compatibility issues, unusable by investors who need this information for engagement, proxy voting decisions, and in the case of some investors, for investment decisions. The SEC's broad, principles-based disclosure regime which allows companies to decide if or what to disclose in this area, has certainly exacerbated that problem.

For example, while companies in the United States are required by regulators to track racial diversity data, only 4% of Russell 1000 companies publicly share detailed data on their employees' gender and ethnicity.<sup>29</sup> Furthermore, less than half of all Fortune 100 companies disclose data on the ethnic and gender compositions of their boards.<sup>30</sup>

As a result, investors, including the Fund, must rely on third-party research and data or directly engage with individual companies to gather information on DEI. Both lead to additional costs for investors and may lead to inconsistent data throughout the marketplace.

I believe it's time for the SEC to mandate the disclosure of decision-useful DEI information in a standardized manner, thereby enhancing the consistency and comparability of the information. For example, the SEC could do this by reviewing Regulation S-K to require disclosure of workforce diversity data for all levels of a company. Likewise, the SEC could strengthen their 2018 guidance on disclosure of board candidate diversity characteristics.

More broadly, the subcommittee and the SEC should consider requirements for public disclosure and discussion of the following DEI-related issues:

- Disclosure of the voluntary, self-identified race, ethnicity, gender, age, disability, and sexual orientation of each director, director nominee, and executive officer.
- Whether each company has established a commitment to consider diverse candidates for nomination as directors and executives in its governing documents and policies, description of such commitment, how this policy is implemented, as well as how the nominating committee (or the board) assesses the effectiveness of its policy.
- Disclosure of how the board executes its oversight role on DEI-related issues.
- Disclosure of the role DEI plays in a company's broader human capital management practices and long-term strategy.

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<sup>26</sup> <https://www.sec.gov/comments/sr-nasdaq-2020-081/srnasdaq2020081-8259868-227940.pdf>

<sup>27</sup> <https://www.sec.gov/comments/s7-11-19/s71119-6323154-194594.pdf>

<sup>28</sup> <https://www.sec.gov/rules/petitions/2015/petn4-682.pdf>

<sup>29</sup> <https://www.bloomberg.com/news/articles/2020-07-27/big-companies-track-workforce-diversity-but-won-t-share-the-results?sref=cYdQRSp4>

<sup>30</sup> <https://cooleypubco.com/2020/07/15/calls-for-actions-racial-ethnic-diversity/>

- Disclosure of workforce diversity broken down by industry-relevant employment categories or levels of seniority, for all full-time employees. Companies should, at a minimum, use the disclosure framework set forth by the United States Equal Employment Opportunity Commission’s EEO-1 Report.<sup>31</sup>
- Disclosure of internal pay equity, specifically what women/underrepresented minorities are paid versus their direct male/non-minority peers, statistically adjusted for factors such as job, seniority, and geography.
- Disclosure of the company’s policies, plans, and strategies to promote inclusion and diversity, including racial, ethnic, gender, age, disability, and sexual orientation, among its board of directors, executive officers, management and workforce. This should include efforts to address these issues in company recruitment, hiring, retention, promotion and workforce engagement policies.
- Disclosure of how DEI goals contribute to the company’s overall strategy, how the goals are managed, what key performance indicators are assessed to measure progress, and the actual outcomes of those key performance indicators.

Additionally, I have publicly supported the “Improving Corporate Governance Through Diversity Act of 2019,” which would provide investors with information critical to assessing the diversity of boards and senior executives at public companies and would improve the management of investment capital.<sup>32</sup> Support of this legislation has also come from the U.S. Chamber of Commerce,<sup>33</sup> American Bankers Association, the Real Estate Roundtable, Bank Policy Institute, International Council of Shopping Centers, National Association of Investment Companies, Retail Industry Leaders Association, National Black Chamber of Commerce and TechNet.<sup>34</sup> I would like to thank Congressman Meeks for his work on this important piece of legislation. Additionally, I would like to thank Congresswoman Maloney for her years of advocacy in support of diversity disclosure.

Again, I commend the work of this subcommittee and am committed to working with you on these issues. Thank you, and I look forward to taking your questions.

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<sup>31</sup> The Fund would recommend companies disclose three years of reporting so investors can assess progress on diversity over time.

<sup>32</sup> <https://www.osc.state.ny.us/files/reports/special-topics/pdf/2019-corporate-governance-stewardship-report.pdf>

<sup>33</sup> <https://www.uschamber.com/letters-congress/improving-corporate-governance-through-diversity-act-of-2019>

<sup>34</sup> <https://thehill.com/business-a-lobbying/business-a-lobbying/509157-chamber-of-commerce-banking-industry-groups-call-on>