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European Women's Lobby response to the European Commission's Green Paper "Corporate governance in financial institutions and remuneration policies"

This document is the European Women's Lobby's (EWL) response to the Green Paper "Corporate governance in financial institutions and remuneration policies".

1. Overall assessment and general EWL comments on the Green Paper "Corporate governance in financial institutions and remuneration policies"

Messages are being spread that Europe is now seeing the end of the economic, financial and social crisis; for instance, the Commission reports that unemployment rates have stabilized and that the UK and German markets amongst others are returning to substantial growth. The fact that European financial markets are recovering does not however imply that the economic and social situation is improving significantly and that we can now relax and go back to business as usual. Women have been hit especially hard by this recession, and the long-term effects are yet to be seen. The EWL foresees that this will be one of the main challenges in the progress towards gender equality in the coming years. It is still difficult to outline the full impact of the crisis, which is why increasing efforts for a comprehensive analysis and assessment, also of the hidden costs, as well as corresponding responses taking into account women's needs and situation will be needed.

In this respect The EWL and Oxfam have released in March 2010 a joint report on **Women's poverty and social exclusion in the European Union at a time of recession – An Invisible Crisis?** This report provides a snapshot of the impact of the recession on women and identifies areas where further gender analysis, research and data are necessary in order to gain full insight into the impact of the recession on women both in the labour-market and beyond.

The report also contains analysis, of existing recovery plans and stimulus packages and provides an assessment of the distribution of resources within the European Economic Recovery Plan to ascertain its impact on gender equality. It notes that in many countries, no specific plans or action have taken into consideration the impact of the crisis on women. See:

http://www.womenlobby.org/SiteResources/data/MediaArchive/Private/Board%20mailing/23%20April%202010/Oxfam_LEF_women_in_recession_an_invisible_crisis_March2010_final.pdf

The crisis revealed the great weaknesses of European and international financial structures, which will undoubtedly cause more problems in the future if redressing action are not taken. This crisis should be used as an opportunity to start doing things differently. The Commission has in its Green Paper acknowledged that the architecture of the financial institutions will need to undergo fundamental changes. In order to understand the crisis and avoid repeating the same mistakes in the future, the EWL stresses that a comprehensive gendered analysis of economic and financial policies is crucial in order to best determine which responsive measures are needed.



2. EWL responses to relevant sections of the questionnaire

Should the number of boards on which a director may sit be limited (for example, no more than three at once)?

Yes. This to ensure that board members have sufficient time to spend in order to perform their duties and to avoid possible conflicts of interests. A regulation limiting the number of seats one person could be on would give more people the opportunity to get board experience, including more women and other under-represented groups. One argument often expressed against this is that there is not enough experienced “new” women and men to populate the board rooms of European corporations. Given the high level of educational attainment in Europe, this seems to be a false problem (see also the information on the Norwegian gender quota experience hereunder). In this respect, one of the solutions might well be in changing the ways of working of selection committee, in order to widen their perspective. Another tool recently used by the Norwegian government was to provide courses on management and board-related topics¹.

In Norway, databases have also been set up where people interested in board posts register their previous experience and are also offered courses on board-related topics. This is a good example of how to make recruitment more transparent and possible to monitor, and also visualize the vast number of qualified women that are in fact eligible for the positions.

Should recruitment policies specify the duties and profile of directors, including the chairman, ensure that directors have adequate skills, and ensure that the composition of the board of directors is suitably diverse? If so, how?

Improving recruitment policies for members of boards of directors

Clearly and formally outlined duties and profile criteria would make the selection more transparent, ensuring that the most suitable persons are chosen. With formal recruitment policies, recruiters may have to expand their perspective and also motivate/justify their choice. This may also help recruiting beyond traditional circles, including among the huge pool of competent women available in Europe who are ready to serve on boards.

Pioneer Norwegian quota legislation helped reaching a share of 44% women in boards of public joint companies in 2008. In Norway when the quota law was proposed in 2002, women held less than 7 % of the board seats in the country, even though more than 80 % of the country’s women work outside the home. In 2008, only two years after the law was implemented, all companies that fall under the law complied by having at least 40 % women in their board rooms. In fact, even in a small country, female board member candidates proved not to be that scarce; they had just not previously been in the field of vision of the recruiters.

Ensuring a suitably balanced composition of boards of directors: a call for gender quotas

¹ Women on Board – the Norwegian Experience. By Storvik and Teigen, June 2010



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Women are affected heavily and disproportionately by the crisis². Although not being responsible for the causes of the crisis, they have come out as the main victims. Ensuring equal access to, and influence over, the work of the financial institutions to both women and men is a matter of justice and democracy.

In general, the picture of women's representation in board rooms looks very disappointing in according to a recent study; the top 300 European companies had 9.7% of women on their boards in 2008, a painstakingly slow progress compared to 8% in 2004. Excluding Norway, where gender quotas exist, women held only 9.1% of total board seats in 2008 and a quarter of European companies still have an entirely male board³!

In banks, although the number of women within the decision-making bodies of the EU 27 National banks increased from 2003 to 2009 by 2,1 %, the current rate of 17,7 % is still not even near half-half, and the increase is not fast enough.

The consequences of the decisions taken by the financial institutions affect all citizens. Therefore, the board rooms where these decisions are made should better reflect the diversity of its stakeholders. A basic request is therefore to take efficient measures to ensure the equal representation of men and women in decision-making positions in financial institutions.

The financial crisis and failure of the current financial governance structures call for strong and legally binding action on the part of Member States and the European institutions to ensure the equal representation of women and men in financial decision-making in the future, so far only proven measure to ensure progress in ensuring more equality in boardrooms. The EWL welcomes the steps made in this direction by some EU Member States (Spain and France) and other European countries (Norway and Iceland) and recent announcements made by the European Commission to put forward legislation in this area.

The Norwegian example is indeed starting to have followers: the 2007 Spanish equality law recommends that women's share in boards reaches 40% by 2015; in March 2010 the Icelandic parliament has passed a law requiring companies with more than 50 employees to have at least 40 per cent of both genders represented on their boards by September 2013 and in France, a draft law requiring companies to have 50% of women in their boards 5 years after its adoption is under consideration.

Legislated gender quotas for boards of directors have already proven to be successful in the countries where it has been implemented. When Norway and Spain adopted the legislation on quotas they immediately saw a positive change of increased numbers of women elected to the posts. None of the EU member states are even close to the rates of women on company boards in Norway, which is the only country who has implemented efficient quota legislation so far. Sweden and Finland are the only countries with rates even above 20 %, at 26,8 % and 23,6 % respectively. The gap even between these compared to Norway with regulated quotas, speaks for itself; any serious commitment to achieve the equal representation of women and men in boards and in senior management needs active and concrete measures i.e. binding legislative measures.

² See Ibid, EWL and Oxfam have released in March 2010 a joint report on Women's poverty and social exclusion in the European Union at a time of recession – An Invisible Crisis?

³ Egon Zehnder International & European Professional Women's Network (EPWN) , Third survey on the representation of women on European board, 2010, <http://www.egonzehnder.com/global/thoughtleadership/hottopic/id/78402633/article/id/11900485>



The European Union has a strong competence and a leading role to play in this area. According to the Treaty, the EU has a mission to promote equality between women and men. Article 157 §4 TFEU states “*With a view to ensuring full equality in practice between men and women in working life, the principle of equal treatment shall not prevent any Member State from maintaining or adopting measures providing for specific advantages in order to make it easier for the underrepresented sex to pursue a vocational activity or to prevent or compensate for disadvantages in professional careers*”. Quotas or positive actions are therefore allowed by the EU Treaty and necessary to attain equality in practice, as foreseen by the Treaty. The introduction of legislation to improve women’s representation in decision-making in private (including financial) sector would also complement the existing body of legislation on employment.

Do you agree that including more women and individuals with different backgrounds in the board of directors could improve their functioning and efficiency?

Yes. Balanced representation is a question of democracy and of more efficiency. As the Commission acknowledges in the Green paper, one of the key failures of the financial institutions that ultimately contributed to the financial crisis, was the fact that the members of the boards of directors of the financial institutions did not come from sufficiently diverse backgrounds.

Today, none of the central banks in Europe have a female governor, and only one of six on the executive board of the governing council of the European Central bank is a woman. Greater diversity in the corporate management in terms of gender, but also ethnical, social, cultural and educational background, would mean better quality decision-making, which ensures less vulnerable governance of the financial institutions. Diversity means a broader base of perspectives and knowledge; a key to well-grounded decision-making. Having a more diverse composition of the boards would entail a broader set of interests being taken into account.

Further, studies show that companies with female CEO’s perform better than those with male ones. Their annual growth is up to 10 % bigger and they have also proven to be more resilient to the crisis⁴.

Should a compulsory evaluation of the functioning of the board of directors, carried out by an external evaluator, be put in place? Should the result of this evaluation be made available to supervisory authorities and shareholders?

Outside evaluation processes in general tend to increase transparency, which seems highly necessary to avoid the dramatic excesses of the past. Such an evaluation should also encompass gender equality assessment, i.e. how well the boards succeeds in progressing towards the equal representation of women and men, but also towards more diversity in terms of other factors (age, background etc).

⁴ Female Leadership and Firm Profitability: Annu Kotiranta – Anne Kovalainen – Petri Rouvinen: http://www.eva.fi/wpcontent/uploads/files/2133_Analyysi_no_003_eng_FemaleLeadership.pdf



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Should it be compulsory to set up a risk committee within the board of directors and establish rules regarding the composition and functioning of this committee?

If risk committees are set up, it is vital that they include criteria on gender assessment. As analyses of the crisis have shown, risk governance failed among both executive and non-executive board members. Excessive risk-taking and lack of assessing the consequences of their decisions, due to non-adequate understanding of the financial products that they were responsible for contributed to economic failure. In the redesigning of the risk governance, ensure a gendered risk analysis (impact on different stake-holders).

The review of the main features and inherent risks of (new) products should not only take into account the interests of depositors in general, but break it down by gender. Women and men tend to be recipients of different products such as life insurance and pensions, they also have different needs and situations which should be assessed before designing and redesigning these. Existing discrimination based on sex for insurance and financial products already reinforces the weaker economic position of women especially when they reach old age, this is an example of aspects that need to be integrated in risk assessment.

Should a specific duty be established for the board of directors to take into account the interests of depositors and other stakeholders during the decision-making procedure ('duty of care')?

Yes. It is crucial to understand the relation between all stakeholders of the financial institutions: shareholders (more likely to be men) and creditors (holders of life insurances, pensions) etc. have different interests in financial activities. Shareholders of the financial institutions are less interested in low risk governance as this also means smaller chances of immediate/short-term profit maximization. On the other hand, creditors are interested in safe and steady growth in order to safeguard their returned investments. One of the reasons for the vulnerability of the institutions that caused the crisis was the lack of risk assessment by its leaders, i.e. boards of directors. Their own interests in fast profit lead them to neglect the outcomes for the stakeholders, and made the creditors and citizens pay the price in the end to correct their mistakes.

The causes and consequences of, as well as the solutions to, the crisis are gendered. When the financial institutions encountered hardship, governments choose to use public funding to solve the problems, which ultimately bore consequences for individual tax payers, women and men. Neither before the crisis nor now is women's economic position equal to that of men. The gender segregated labour market, where women more often work under precarious conditions, the gender pay gap and the uneven distribution of unpaid care tasks put women at disadvantage, especially in times of public expenditure cuts. Women therefore bear the effects of both the crisis, and of the responses to the crisis, but decision-makers have failed to take their situation into account.

3. European Women's Lobby further recommendations concerning governance within the financial institutions

The need for gender quotas goes beyond boards of directors, which are sometimes remote from the concrete life of companies and day to day management equal representation is needed on all levels of companies; boards, management, supervisory authorities, employees. The quotas on Norwegian boards of directors was assumed to have a spill-over effect on management in general, leading to equal representation of men and women throughout leading posts. This has in fact not yet happened. Although Norway now has the highest



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female representation in the board rooms, in 2009 still only 10 % of the executive posts in Norwegian companies are held by women. Legislation needs to go beyond board and relate to all levels of decision-making, and in particular the highest level of internal management.