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Board Diversity: How Much Progress Have We Really Made? By Christina Scully, J.D. Candidate 2021[DATE]

Women now hold more than 25% of S&P 500 board seats. This represents a modest increase from a mere 16% recorded in 2009, with notable improvements occurring over the last two years as gender diversity continues to garner attention. In the past year alone, 46% of new directors appointed to S&P 500 boards were women and 23% self-identified as racial or ethnic minorities. Strikingly, July 2019 marked the first time each member company of the S&P 500 had at least one woman on its board of directors. With increased public pressures, many stakeholders are choosing to play an active role in ensuring board diversity rather than remaining passive and adhering to the status quo.

Lawmakers, in addition to shareholders and other C-Level executives, have decided to tackle gender diversity head-on. Last year, California passed <u>SB 826</u>, mandating public companies with executive offices in the state to appoint at least one female director by 2019. Illinois followed suit with a law requiring that corporations based in the state report their female and minority board membership on an annual basis. Other bills subsequently surfaced in New Jersey and Washington, but have yet to crystallize. Despite multiple states expressing interest in pursuing board diversity through legislation, critics are skeptical of whether this is the right avenue to achieve meaningful diversity and inclusion at the board level. A recently filed <u>lawsuit</u> claims SB 826 is unconstitutional, while other critics see SB 826's quota approach as tokenistic and reductionist.

Overall this advancement is certainly a welcomed change, but much remains to be accomplished if women are to have real representation at the highest executive levels. Among 31 CEOs appointed to S&P 500 companies during the first half of 2019, <u>only four were women</u>. And while women now make up a quarter of S&P 500 board seats, there are <u>only six companies</u> where they constitute a majority of the board. The same can be said about racial diversity at the board and executive levels which lags behind any progress made in gender diversity. According to <u>a study</u> of the Fortune 500 companies conducted by Deloitte in 2018, only 12% of board directors identified as minority men and only 5% as minority women.

With so much work left to be done to achieve gender and racial parity at the board level, the challenge might unfortunately become even more difficult. According to Harvard Business Review's 2018 Annual Corporate Directors Survey, 48% of polled directors believed that "shareholders are too preoccupied with diversity," a phenomenon HBR called "diversity fatigue." Desensitization to such matters reflects a poor understanding of the importance of achieving diversity beyond meaningless check-the-box-criteria. Without continued prioritization and buy-in from all stakeholders, any near-term progress will likely face challenges. We can remain hopeful, however, that the progress made to date – however slight – is worthwhile.

