

Companies Commit to Including Diverse Candidates in Board Searches

May 23, 2018 | Client Update | 3-minute read

Six shareholder proposals are on ballots this season asking for increased board diversity, or disclosure about board diversity.

Amazon's proposal asks the board to adopt a policy requiring that the initial list of potential candidates "should include (but need not be limited to) qualified women and minority candidates," and that search firms or other consultants make those types of candidates part of the first pool of qualified individuals that they create. The policy is intended to replicate the Rooney Rule in the National Football League, which mandate the inclusion of minority candidates for certain job positions. The company has three women directors, but the supporting statement argued that the board lacked racial or ethnic minorities. The proponent also claimed that the company has a dearth of women and other minorities in the senior executive ranks.

Amazon's proxy statement opposed the proposal, indicating that the board already seeks candidates with "a diversity of experience and perspectives, including diversity with respect to race, gender, geography, and areas of expertise," and that given their "commitment to equality and the nature of our business," the proposal was not necessary.

According to [several news reports](#), employees in [email threads](#) questioned the company's opposition statement. The company also [received letters](#) from the Congressional Hispanic Caucus and members of the Congressional Black Caucus regarding the proposal.

The company has since [disclosed changes](#) to its corporate governance guidelines to announce that the "the Nominating and Corporate Governance Committee includes, and has any search firm that it engages include, women and minority candidates in the pool from which the Committee selects director candidates." The company stated that the policy of including a slate of diverse candidates for all director openings "formalizes a practice already in place."

Below are some other companies with similar language about diverse candidate pools in their governance guidelines:

- [Microsoft](#): The Board is committed to actively seeking highly qualified women and individuals from minority groups to include in the pool from which Board nominees are selected.
- [Costco](#): The Company is committed to a policy of inclusiveness. In performing its responsibilities for identifying, screening and recommending candidates to the Board, the Committee should: ensure that candidates with a diversity of ethnicity and gender are included in each pool of candidates from which Board nominees are chosen; and seek diverse candidates by including in the candidate pool (among others) individuals from nonexecutive corporate positions and non-traditional environments.
- [United Continental](#): The Nominating/Governance Committee is committed to actively seeking women and minority candidates for the pool from which director candidates are chosen.
- [Allergen](#): When conducting searches for new directors, the Nominating and Corporate Governance Committee will take reasonable steps to include diverse candidates in the pool of nominees and any search firm engaged by the Nominating and Corporate Governance Committee will affirmatively be instructed to seek to include diverse candidates.

If you have any questions regarding the matters covered in this publication, please reach out to any of the lawyers listed below or your usual Davis Polk contact.

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