

California Enacts Law Requiring Public Company Boards to Include Women

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On September 30, 2018, California Governor Jerry Brown signed a bill, S.B. 826, which will require all NYSE- and Nasdaq-listed public companies with principal executive offices located in California, regardless of the state or jurisdiction of incorporation, to have at least one woman board member by December 31, 2019 and up to three women board members by the end of 2021 depending on the size of board of directors. Specifically, the law requires California-based companies (according to the company's address on its Form 10-K) listed on a major U.S. stock exchange to have a minimum of one female director by December 31, 2019. By December 31, 2021, the applicable minimum number will increase to:

- three female directors, if the company has six or more directors,
- two female directors, if the company has five directors, and
- one female director, if the company has four or fewer directors.

The law defines “female” as “an individual who self-identifies her gender as a woman, without regard to the individual’s designated sex at birth.” The California Secretary of State is authorized to impose fines of \$100,000 for the first violation and \$300,000 for any subsequent violation. The law provides that a female director need only hold a seat for a portion of the applicable calendar year to not be a violation. The California Secretary of State may also impose a \$100,000 fine for failing to file board member information. The law applies to corporations incorporated under California law as well as corporations incorporated under the laws of other states or jurisdictions, including companies incorporated in Delaware.

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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