



**BNP PARIBAS**

**BNP PARIBAS RESPONSE TO THE EUROPEAN COMMISSION CONSULTATION ON GENDER  
IMBALANCE IN CORPORATE BOARD IN THE EU**

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Full name and contact details of the organisation: **BNP PARIBAS – 16 boulevard des Italiens – 75009 Paris – France**

The EU Interest Representative Register ID (if available) : **78787381113-69**

The level at which the organisation operates (national / EU / international) and the Member State or other country (in case of a national organisation) : **BNP Paribas Group (www.bnpparibas.com) is a European leader in banking and financial services, with a significant and growing presence in the United States and leading positions in Asia.**

The type of organisation (public authority / business or industry association / company / civil society organisation / trade union / research or academic institution / other) : **Banking and financial services**

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In France, the relevant rules were introduced by the Law of 27 January 2011, under which companies will have to ensure that members of each sex occupy at least 20 % of board seats within three years (i.e. by 2014) and 40 % within six years from the entry into force of the law (i.e. by 2017). These requirements apply to listed and non-listed companies with at least 500 employees and with revenues of over €50 million over the previous three consecutive years. Public companies regulated by commercial law, such as state owned companies are also covered.

**1. How effective is self-regulation by businesses to address the issue of gender imbalance in corporate boards in the EU?**

One of the lessons of the financial crisis is that the companies that resisted best are those that had the most competent and committed directors. Above all, priority should be given to competence, experience and integrity in recruitment policies. The nomination committee suggest to the board the necessary profiles, but this assessment can be done only on a case-by-case basis.

Moreover, the AFEP-MEDEF corporate governance code (which recommendations are intended for companies whose securities are admitted to trading on a regulated market) provide that : *“each board should consider what would be the desirable balance within its membership and within that of the committees of Board members which it has established, in particular as regards the representation of men and women and the diversity of competencies, and take appropriate action to assure the shareholders and market that its duties will be performed with the necessary independence and objectivity.”*

The objective pursued by the AFEP-MEDEF corporate governance code was that : *“each board shall reach and maintain a percentage of at least 20% of women within a period of three years and at least 40% of women within a period of six years, from the date of publication of this recommendation or from the date of the listing of the company’s shares on a regulated market, whichever is later. “*

Many companies, which are in compliance with the AFEP-MEDEF corporate governance code, were already in accordance with the AFEP-MEDEF recommendations before the promulgation of the law of 27 January 2011.

**2. What additional action (self-regulatory/regulatory) should be taken to address the issue of gender imbalance in corporate boards in the EU?**

Additional actions are not necessary taking into account the provisions (law and soft law) existing in the majority of the Members states (France, Belgium, Italy, Netherlands, Spain, Germany, ...).

**3. In your view, would an increased presence of women on company boards bring economic benefits, and which ones?**

Promoting the diversity of competencies and personalities within Boards should be a permanent objective. In that perspective we are naturally in favour of a balanced representation of men and women with an equal level of skills. However, this objective should not lead to “positive discrimination” but how many drawbacks.

The main challenge is to bring talent to light and we believe it appropriate to develop “mentoring” programs to help in that respect.

**4. Which objectives (e.g. 20%, 30%, 40%, 60%) should be defined for the share of the underrepresented sex on company boards and for which timeframe? Should these objectives be binding or a recommendation? Why?**

French law (as mentioned above) provides that a balanced representation of women and men must be sought in the composition of board of directors. The objective is to have a minimum of 40% of each sex in boards in 2017. Transition provisions are provided for until such date: one director at least immediately and 20% in 2014

Prior to the adoption of this law, the French association AFEP-MEDEF recommended, in the corporate governance code of listed corporations dated April 2010, to review the balance of the board and then to maintain a percentage of at least 20% of women in within a period of 3 years (2013) and at least 40% of women within a period of 6 years (2016).

In spite of these French law and soft law, we consider that the diversity within boards should be one of the elements in the selection of members of the management body and requires a level of flexibility in order to adapt to the specificities of each company.

Indeed, efforts shall be focused on getting a diversity really wanted by institutions, and not made mandatory toward quotas. In practice, diversity shall be promoted by actions led at all levels of the institutions that may, at the end, lead to positions within management body.

Furthermore, we consider that if the diversity policy consists of quotas combined with a reporting obligation, it may have diverse effects. For example, in the case of a resignation of a board member, the replacement shall be made according to the needs of the board at the time being and not in the aim of responding to a quota and/or disclosure obligation.

On the basis of the above, we are in opinion that these objectives must be considered under a recommendation which must leave a sufficient time for its implementation.

**5. Which companies (e.g. publicly listed / from a certain size) should be covered by such an initiative?**

The French law applies to listed and non-listed companies with at least 500 employees and with revenues of over €50 million over the previous three consecutive years.

In any case, it shall be noted that it would not be a good solution to impose heavy procedures to small companies, as it may exceed their means and the objectives pursued.

Any thoughts on those subjects shall take into account the existence of a group. For this reason, it would be advisable to consider only the situation of the controlling company.

As mentioned above, priority should be given to competence, experience and integrity in recruitment policies.

**6. Which boards/board members (executive / non-executive) should be covered by such an initiative?**

We draw your attention to the distinction often made between the model which derives from the Anglo-American tradition – the one-tier model (e.g. US and UK) and the European continental model (owed to the German tradition) – the two-tier model.

In the two-tier model, the separation between the supervisory board and the management board keeps the management focused on the operations and the directors on their overseeing and strategic functions. In this context, a distinction executive / non-executive seems not relevant.

To date, the French law and the AFEP-MEDEF corporate governance code broach the gender balanced issues on the level of the board composition only.

**7. Should there be any sanctions applied to companies which do not meet the objectives? Should there be any exception for not reaching the objectives?**

The French law envisages incentives and sanctions applied to companies which do not enforce the law : temporary nomination when the board composition is not in compliance with the threshold of 40%; nullity of the nominations occurred in violation of the threshold of the 40%; if the board is not composed in accordance with the above mentioned provisions, the director's fees can be suspended.

Moreover, the shareholders are kept informed of the gender balance policy of the company via the annual report. In the event of director's fees suspension due to irregular composition of the board, this suspension will be mentioned in the annual report.

In addition, the French law does not envisage any exception to companies which do not enforce the law.

An initiative of the European Commission could be planned in order to define temporary exceptions in particular at the end of the envisaged schedule but also adjustments at the time of specific situations intervening in spite of the best efforts of the company.

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