



## California Law Requires Female Presence in Boardrooms

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By: Carlos M. Bermudez

One of the significant aspects of the law is that it applies to all public companies whose principal executive office (as listed on the company's Securities and Exchange Commission (SEC) form 10-K) is in California, regardless of where the company is organized. The result is that the law has a greater impact because it reaches more companies than if the law applied only to companies organized in California. The law will also impact private companies based in California that are planning to go public (including many tech companies) as they will need to reorganize their board structures prior to an initial public offering (IPO) if their boards do not satisfy the quota.

The law was born out of recognition that women are significantly under-represented in boardrooms, especially in California. In 2017, out of 445 public companies headquartered in California in the Russell 3000 Index, women held only 15.5% of the board seats and 26% of the companies did not have any women on their boards, according to the Board Governance Research LLC's "Women on Boards of Public Companies Headquartered in California 2017 Report". Studies indicate that it will take up to 50 years to achieve gender parity in the boardroom, and the legislation aims to accelerate the achievement of this goal. The new California law is the first of its kind in the United States, but follows the lead of many European countries (including France, Germany, Italy and Norway) that have successfully enacted similar requirements.

Opponents argue that the law only addresses one aspect of diversity and is overregulation by the state. They assert that the market is already addressing the issue with investors demanding greater diversity (and specifically, more women) on boards. State Street and BlackRock have threatened to withhold votes if boards do not meet their diversity

requirements. There is a real possibility that the law could be successfully challenged as unconstitutional and violative of equal protection rights as the result of the law is that male board members could be displaced by women. Although a number of business organizations in California opposed the law, no lawsuits challenging the law have been filed yet.

California public companies that do not currently meet the requirements need not fret. Companies with all-male boards have more than a year to comply and only need to fill one board seat with a woman by the end of 2019. In addition, companies do not have to replace the men currently on the board – they can satisfy the requirements by increasing the total number of board seats and filling the new seats with women.

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