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CANADA

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Introduction

Corporate governance remains a priority for Canadian public companies. Amid economic uncertainty, geopolitical instability, and rapid technological change, the importance of maintaining effective and adaptive corporate governance cannot be overstated. While Canada's corporate governance framework is rooted in law, it is also shaped by stock exchange requirements, proxy advisor voting guidelines, investor voting policies and sentiment, and peer practice. Consequently, Canadian corporate governance is continuously evolving, and boards that treat governance as static risk exposing themselves to shareholder activism and investor and regulatory scrutiny.

AI governance remains a board priority

As public companies rapidly integrate artificial intelligence (AI) into their operations and governance, effective oversight has become a pressing issue. Stakeholders are seeking transparency on the use, development and oversight of AI, and regulators and governance advocates are responding accordingly.

In 2024, the Canadian Securities Administrators (CSA) published guidance on how securities laws apply to AI use by capital markets participants. It emphasizes that issuers should adopt procedures governing AI usage and disclose their use or development of AI systems and related risks. It also cautions against "AI washing". Proxy advisory firm Glass Lewis & Co. (Glass Lewis) has likewise introduced a policy on board oversight of AI.

Many issuers are responding by adopting AI governance tools, including responsible AI use policies that distinguish legitimate from unduly risky deployments at various organizational levels. Boards are also tailoring crisis management plans to address technology-related risks (including AI and cybersecurity exposures) as part of broader crisis preparedness initiatives.

As AI gains prominence, Canadian issuers should expect greater scrutiny regarding how AI is used, managed and disclosed. Directors must ensure AI governance is understood at the board level, integrated into company strategy and operations, and supported by appropriate skills and experience.

Board diversity: slower progress, continued relevance

In 2023, the CSA proposed changes that would have expanded Canada's "comply-or-explain" diversity disclosure regime. However, in 2025, the CSA paused this work amid shifts in the global landscape, a renewed focus on the competitiveness of Canada's capital markets and anti-DEI sentiment in the United States.

Although DEI momentum has slowed — including a decline in DEI-focused shareholder proposals — board diversity remains under focus in Canada. Gender diversity disclosure requirements apply to senior public issuers, and public companies under Canada's federal corporate statute must disclose similar diversity information for broader designated groups, including women, Indigenous peoples, persons with disabilities and visible minorities. Proxy advisors Institutional Shareholder Services (ISS) and Glass Lewis also apply Canadian-specific voting policies — distinct from their US policies — on board diversity.

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While Canadian issuers' DEI reporting language has softened or become more nuanced, the expectation that boards and management reflect diversity of thought, experience and attributes remains, and issuers must meet Canadian DEI disclosure obligations. For dual-listed issuers or those with operations or a significant shareholder base in the United States or elsewhere, the challenge is satisfying Canadian disclosure requirements while managing DEI-related risks abroad.

Auditor tenure and independence face greater scrutiny

Canadian issuers are not required to rotate their audit firm, but other safeguards promote auditor independence, including mandatory lead partner rotations. Nonetheless, many institutional investors have begun withholding support for auditor reappointments where the auditor has served a lengthy tenure. What constitutes a "long tenure" varies by investor; in some cases, a tenure as short as 15 years may trigger a negative vote.

With support for auditor appointment resolutions declining at Canadian shareholder meetings, and average auditor tenure for Canadian issuers at approximately 20.5 years, many audit committees are focused on the issue. In response, issuers should enhance public disclosure regarding auditor tenure and engage with shareholders on the topic.

Boards must weigh the benefits of retaining a long-tenured auditor — industry expertise, institutional knowledge and efficiency — against the risks to audit quality, independence, and shareholder support, particularly where other governance concerns exist. A refreshed auditor, by contrast, can bring a new perspective and reinforce independence.

As investors devote their attention to auditor tenure and independence, audit committees should proactively adopt controls that support auditor objectivity and independence, including:

- reviewing the independence and objectivity of the auditor and lead partner, and the quality of the audit team and services annually;
- monitoring the rotation timing of senior audit partners, including mandatory lead partner rotation at least every seven years; and
- pre-approving all audit and non-audit engagements with the auditor.

Be prepared: a board's best defense to shareholder activism

Shareholder activism remains at sustained high levels in Canada and continues to shape the corporate governance (and M&A) landscape. Issuers lagging in good governance, particularly where they are also underperforming peers, remain especially vulnerable. Despite a difficult economic and geopolitical backdrop, 2025 activity was consistent with 2024, and activists achieved at least some of their objectives in roughly two-thirds of campaigns seeking board representation. Many campaigns were driven by US-based activists targeting large-cap issuers, although no company of any size and no industry player is immune.

While relative operational and market under-performance is typically the main target for would-be activists, governance deficiencies feature prominently in their narratives to generate support in campaigns for change. Consistent with

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prior years, activist campaigns also pressed for changes in business strategy and execution, capital reallocation, and board and leadership composition. The rise in strategy-driven campaigns underscores that, in an uncertain environment, boards that fail to adapt quickly will be increasingly vulnerable to activist pressure.

Shareholder proposals in Canada also increased in 2025, with financial institutions in particular receiving a disproportionate number (as in previous years). Although typically advisory, these proposals give shareholders a mechanism to publicize views on environmental, social, compensation and governance matters. Issuers should engage actively with proponents: proposals attracting significant support indicate shareholder sentiment and can reveal vulnerabilities for activists.

Canadian public companies should expect activism to remain elevated in 2026. Many 2025 campaigns were resolved before a shareholder vote through proactive board refreshment, governance changes or pivots in strategic direction, underscoring board preparedness and nimbleness as critical lines of defense. No issuer is immune to an activist challenge, including in the M&A context, so boards must remain attuned to investor expectations when setting strategy or pursuing fundamental transactions. They should also prepare through thoughtful shareholder engagement, regular assessment of governance vulnerabilities, succession and refreshment planning and a credible narrative.

ESG recalibration

Although ESG and sustainability remain important board priorities, the pace of change has slowed as issuers reassess the appropriate scope of disclosures in light of "greenwashing" risks, geopolitical headwinds and evolving stakeholder expectations, including growing recognition that the path to net zero will be lengthy and deliberate. In 2021, the CSA published proposed mandatory climate-related disclosure rules but paused that work in response to recent global developments.

This slowdown does not mean climate and sustainability disclosure have disappeared in Canada; rather, boards are being pushed toward a more disciplined, materiality-based approach, with the CSA emphasizing that environmental disclosure should be specific, factual and balanced. Existing securities laws still require disclosure of material climate-related risks, and issuers must continue to avoid greenwashing.

Against this backdrop, some issuers have narrowed or refocused the scope of their climate-related reporting. At the same time, supply-chain accountability and reporting remain a growing area of focus in Canada, particularly under the Fighting Against Forced Labour and Child Labour in Supply Chains Act, which is driving greater disclosure on supply-chain risks, due diligence, training and remediation.

Key takeaways for boards and management

Together, these trends reinforce a central message: effective corporate governance is neither static nor optional. To maintain investor, regulator and proxy advisor

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confidence, and to position companies to navigate uncertainty and capture opportunity in an environment of rapid disruption, boards and management must remain adaptive and resist "one-size-fits-all" approaches, focusing on the following:

- Strengthen AI oversight by adopting responsible AI policies and integrating AI-related opportunities and risks into strategy and crisis management plans. Ensure the board has the requisite skills and expertise to oversee AI use, development and disclosure.
- Keep an eye on diversity, including by meeting diversity disclosure obligations and upholding the principle that diversity of thought, experience and attributes strengthens board decision-making, while monitoring trends outside Canada.
- Reinforce and communicate auditor independence through reviews of auditor objectivity, audit team quality, lead partner rotations, pre-approval of audit and non-audit services, and enhanced disclosure of, and engagement on, auditor tenure and oversight processes.
- Stay activism-ready by "being your own activist", assessing governance vulnerabilities and peer performance, investing in proactive board refreshment and management succession planning, developing a credible narrative and maintaining robust shareholder engagement.
- Apply a disciplined, materiality-based approach to ESG, including by ensuring climate and sustainability disclosure is specific, factual and balanced, addressing material climate-related and net zero transition risks, and meeting growing supply-chain accountability obligations.

Ultimately, boards that treat corporate governance as a living discipline — that evolves alongside market expectations, regulatory change and the company's own strategies and risk appetite — will be best positioned to protect long-term value, withstand external pressures and seize opportunities.

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Samantha Pettinato is a partner in McCarthy Tétrault's Business Law Group in Toronto. She practices corporate and securities law, with a focus on M&A, corporate governance, capital markets, and shareholder activism. Samantha advises boards of directors, special committees, investors, and business leaders across a range of industries, with notable experience in the metals and mining and financial services sectors. Samantha assists clients with executing a variety of complex transactions, including arrangements, reverse take-overs, going-private transactions, take-over bids, public offerings, strategic investments, private placements, and stock exchange listings. She also frequently provides advice to public companies on corporate governance matters and ongoing securities law requirements. Samantha speaks regularly on corporate governance and securities law topics and has been recognized by Best Lawyers in Canada as "Ones to Watch" in the areas of corporate law, securities law and M&A.

FIRM PROFILE

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