

WGEA Review Team – Consultation
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Public Submission to the Review of the Workplace Gender Equality Act 2012

This submission in response to the Review of WorkPlace Gender Equality Act 2021 is made by the staff of Melior Investment Management, a public equities fund manager. Melior operates on Gadigal Land in Sydney, NSW.

About Melior Investment Management

Melior seeks to drive positive change by actively investing in listed companies that we believe deliver a net positive social or environmental impact aligned to the United Nations' Sustainable Development Goals (SDGs). The SDGs are an internationally agreed set of goals to achieve a better world. We believe that purpose-driven companies that endeavour to address global challenges, such as climate change and gender equality, can outperform over time.

Gender Equality and Reduced Inequalities are two of Melior's Key Strategic Advocacy Themes with which we are engaging with Corporate Australia and New Zealand. Progress towards these goals are currently rated as facing "significant challenges" on Australia's SDG dashboard¹. In addition, the lack of progress in advancing gender equality is evident in Australia's ranking in the World Economic Forum Global Gender Gap Index², the widening of the gender pay gap in 2021 and the findings of the CEW Senior Executive Census 2021³, of which Melior was a contributor, that shows the progress on gender balanced leadership teams in the ASX300 has stalled.

Melior believes that corporate Australia and New Zealand has a significant role to play in addressing key societal challenges such as gender equality given that the ASX300 collectively employs ~2 million people. With regard to gender equality, our advocacy work is focusing on ensuring women's full and effective participation in the workforce, particularly in leadership positions, and eliminating pay gaps.

¹ <https://s3.amazonaws.com/sustainabledevelopment.report/2021/2021-sustainable-development-report.pdf>

² World Economic Forum, 2021, Global Gender Gap Report, https://www3.weforum.org/docs/WEF_GGGR_2021.pdf.

³ https://cew.org.au/wp-content/uploads/2021/09/CEWCENSUS21_ASX300Report-FINAL.pdf

Melior has set a number of 2030 targets aligned with the Sustainable Development Goals for companies within our Sphere of Advocacy to achieve.

Figure 1. Melior’s 2030 Impact Goals

STRATEGIC THEMES	2030 IMPACT GOAL FOR 'ALL COMPANIES'
5 GENDER EQUALITY 	Achieve 40:40:20 target for ELT ¹¹ Have a pay gap of +/-5%
10 REDUCED INEQUALITIES 	Have at least one director from a minority ¹² Have a RAP ¹³ or equivalent
13 CLIMATE ACTION 	Have Net Zero Emissions targets Have water and waste reduction policies and targets

Two of Melior’s absolute targets relate specifically to Gender Equality:

- We are advocating for all companies to set 40:40:20 gender representation targets for executive leadership teams (CEO-1) and are tracking the progress of companies towards these targets. Melior are a supporter of Hesta’s 40:40 Vision.
- We are also advocating for all companies to reach a pay gap of +/-5%.

In addition to our absolute targets, Melior assesses the quarterly performance of its fund holdings versus the ASX300 against a number of Environmental Social and Governance (ESG) Key Performance Indicators (KPIs). These KPIs include % of women in management (CEO-1), % of female leaders (CEO and Chair), % of companies with a pay gap target, and % of female directors.

Melior is one of the first Australian equities investment managers to apply a gender lens to its investment process. As an organisation, we are committed to gender equality and have a woman CEO and an investment team that is >50% women. Our inclusion and diversity framework states:

“At Melior we value a diverse workforce and inclusive culture where people feel they have a voice and are respected so that they can thrive at work. We want everyone to feel a sense of belonging and to have the freedom to contribute in a safe environment.

We understand the benefits that diversity generates. A broad range of views and experiences strengthens our team and leads to better decisions and investments.

Through inclusive leadership that models openness and transparency we are encouraging workplace participation to move our company forward.”

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Submission on the consultation questions

We have responded to select consultation questions below.

Consultation question 1. Are the functions and powers of WGEA appropriate for promoting and improving gender equality in the workplace? How effective is WGEA in achieving its functions to promote and improve gender equality in the workplace including by enabling relevant employers to report on the gender equality indicators, developing benchmarks and reports, undertaking research, education and leading practice programs and contributing to the public discussion on gender equality?

Companies are facing ever increasing scrutiny across a range of ESG issues from stakeholders including customers, employees, communities, investors and regulators. We make this submission from the perspective of a listed equities investor who frequently engages with companies across the ASX300 and NZ50. One of the greatest challenges we see facing both the broader investment community and the companies they invest in, is the lack of regulation and consistent standards on how ESG data is reported. One of these challenges relates to lack of comparability and consistency of data.

WGEA already provides a valuable resource by which to obtain data on key gender metrics for many listed companies. However, we have suggestions for improving the functions of the WGEA data which relate specifically to developing benchmarks and reports, and undertaking research.

- **Identification of listed companies** - the majority of equity fund managers use the ASX200 and ASX300 indices as a benchmark. Therefore designation of ASX300 companies and the ability to filter the WGEA data set to listed companies would greatly assist in measuring the performance of companies on key gender metrics.
- **Reporting of CEO-1 data** – As mentioned above, we are advocating for all companies to reach 40:40:20 gender representation for executive leadership teams (defined as CEO-1) by 2030 which is consistent with the Hesta 40:40 Vision. Management data categories available on the WGEA Data Explorer are KMP, Other executives/general managers and Senior managers. We would encourage WGEA to include CEO-1 data on the Data Explorer or to make it more easily accessible.
- **Offshore employee data** - Many ASX300 companies have significant numbers of employees based offshore. We understand the complexities of comparing policies and practices across jurisdictions. However, as a starting point, we would encourage WGEA to collect data on the global workforce composition of Australian companies.

We believe that incorporating these changes in the WGEA Act would improve the ability of investors to compare company performance across a range of diversity and inclusion metrics and therefore provide the opportunity to deploy capital to companies demonstrating superior performance in improving gender equality.

Consultation question 4. Are the gender equality indicators (GEIs) in the Workplace Gender Equality Act, and the data collected with respect to the GEIs, appropriate to promote and improve gender equality? How could they be improved?

The Chief Executive Women Annual Census found that “intentional action in the form of targets correlates with greater gender balance in executive leadership teams. It demonstrates a need for targets to be set for executive leadership teams.”⁴

With reference to GEI 1 - gender composition of the workforce, we recommend that companies should have to disclose whether a) targets that have been set for the gender composition of the senior leadership team (CEO-1), similar to GEI 2.3 referring to the composition of governing bodies, and, b) disclose what those targets are. As stated above, we are advocating for companies to set 40:40:20 gender representation targets and are a supporter of Hesta’s 40:40 Vision.

Consultation question 5. In addition to gender, should WGEA collect other data on diversity and inclusion criteria on a mandatory basis, to enable a more nuanced analysis of men and women’s experiences in the workplace? If yes, please specify criteria (eg cultural and linguistic diversity, disability, age, location of primary workplace). If not, why not?

We believe that diversity is multi-dimensional and may result from a range of factors, including but not limited to age, gender identity, race, cultural heritage, physical ability, language, sexual orientation and religious beliefs. While gender diversity has historically seen a greater focus, we are seeing an increased awareness of other dimensions of diversity emerging. Several events during the past 18 months have focussed public attention on systemic racism and lack of cultural representation in the corporate world. These include:

- the COVID-19 pandemic which has disproportionately impacted people from ethnic minorities in terms of health and wealth outcomes;
- Black Lives Matters movements around the world including in Australia protesting racial injustice and the oppression of Aboriginal and Torres Strait Islander Peoples; and
- the destruction of culturally significant 46,000 year old caves at the Juukan Gorge in the Pilbara region of Western Australia by resources company, Rio Tinto.

The concept that diverse and inclusive teams lead to better decision-making and innovation is broadly accepted and supported by a maturing body of evidence⁵. This suggests that WGEA’s remit should be reconsidered to encompass a broader notion of inclusion and diversity. However, we recognise and acknowledge the complexities and challenges involved – for example, how to define the different dimensions of diversity, lack of data, and privacy considerations. In order for the data collection to be meaningful, useful and drive action, these issues should be considered with the input of academia, leading inclusion and diversity experts and the businesses who are collecting and intending to use this data.

⁴ https://cew.org.au/wp-content/uploads/2021/09/CEWCENSUS21_ASX300Report_FINAL.pdf

⁵ <https://hbr.org/2013/12/how-diversity-can-drive-innovation>

The push for gender equality amongst listed companies began with the 30% Club's focus on board directors, and the ASX Corporate Governance Principles have been a big driver of improving disclosure, target setting and reporting around gender diversity. Recently, we have seen board diversity come into focus by regulatory bodies in the UK and US:

- The UK Parker Review set out objectives and timescales to encourage, through voluntary data submission, greater diversity including for each FTSE 100 Board to have at least one director from an ethnic minority background by 2021.
- In August 2021 the US Securities and Exchange Commission (SEC) approved a proposal by Nasdaq requiring companies that list shares on its exchanges to have at least one woman director in addition to another board member who self-identifies as an underrepresented minority or LGBTQ+.

We believe that scrutiny from multiple stakeholders of the broader diversity of Australian company boards and workforces will increase in coming years and encourage WGEA to expand its remit to encompass a broader notion of inclusion and diversity in its data collection. As shown in Figure 1, we have set a target under our Reduced Inequalities Strategic Theme for companies to have at least one director who self-identifies as being from a minority group by 2030.

Consultation question 6. How could data be better collected and/or used by WGEA to promote and improve gender equality? Should there be some form of pay transparency – should remuneration data in some form be public?

With Australia's full-time gender pay gap at 14.2% as of May 2021⁶, we would like to see all companies report both their pay gap for like-for-like roles and their overall organisational pay gap.

We consider New Zealand-based Spark as a best practice example in terms of pay gap disclosure as it is one of a handful of ASX300 companies which discloses its organisational gender pay gap data by job function:

⁶ <https://www.wgea.gov.au/publications/australias-gender-pay-gap-statistics>

Figure 2: Spark NZ's gender pay gap disclosure

Gender pay ratio

Category	Number of employees in category	Pay Ratio: Mean ¹ (Year-on-year change)	Pay Ratio: Median ² (Year-on-year change)
Leadership: Spark's wider leadership group, including the Leadership Squad	69	5% (+3%) FY20: 2%	-4% (-2%) FY20: -2%
Network, Infrastructure & Security: Employees that work in technology focused areas of the business	2,256	-15% (+3%) FY20: -18%	-21% (+5%) FY20: -26%
Customer Channels: People primarily employed within our contact centres and retail operations	1,137	-2% (-2%) FY20: 0%	0% (No change) FY20: 0%
Rest of Spark: including corporate, product, data, automation, marketing and customer units	1,621	-17% (-2%) FY20: -15%	-25% (-4%) FY20: -21%
Total	5,083	-16% (+1%) FY20: -17%	-28% (-2%) FY20: -26%

¹ Pay Ratio = (mean female salary - mean male salary) / mean male salary

² Pay Ratio = (median female salary - median male salary) / median male salary

Source: [Spark 2021 Annual Report](#)

We would like to see all companies disclose this data and set a target for gender pay gaps to be +/-5%.

Conclusion

We are hopeful that the outcome of this Review will be to improve the comparability and consistency of gender metrics data, and provide a broader data set which will help to drive meaningful and sustained improvements in gender (and other) diversity outcomes across Australia.

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