Published By
NACD

THE POWER OF DIFFERENCE

An anthology of expert perspectives about how boards can build cultures of equity and inclusion.

The following excerpt is KPMG's contribution to NACD's Power of Difference publication. To read the publication in its entirety, please visit:
https://www.nacdonline.org/files/Magazine/pdf/2022_Power_of_Difference.pdf

Board Diversity Disclosure: The Time Is Now

By Annalisa Barrett and Susan M. Angele

Annalisa Barrett and Susan M. Angele are senior advisors with the KPMG BLC. The authors would like to thank Katie Keally, BLC manager, for her invaluable contributions to this article.

In today's business environment, boards need directors with diverse backgrounds and perspectives. Transparency about board composition is key to building trust. Investors, employees, and other stakeholders are demanding increased disclosure on many aspects of board diversity to hold companies accountable, measure against their policies, and track progress over time.

Amid this environment, the KPMG Board Leadership Center (BLC) has been tracking public company board diversity disclosures since January 2021 through the KPMG Board Diversity Disclosure Benchmarking Tool, powered by ESGAUGE. We have found that:

- While gender is almost always evident through the use of pronouns in director biographies, a large and increasing majority of companies now also disclose their board's racial and ethnic diversity.
- Disclosure of the presence of members in the boardroom who are LGBTQ is nascent and rising. (As a note, different entities use different terminology around sexual orientation and gender identity: LGBTQ+, LGBTQ, LGBT, and others. This article's use varies depending on the source language.)
- California-headquartered and Nasdaq-listed companies have more specific and higher disclosure rates in certain areas than other companies.

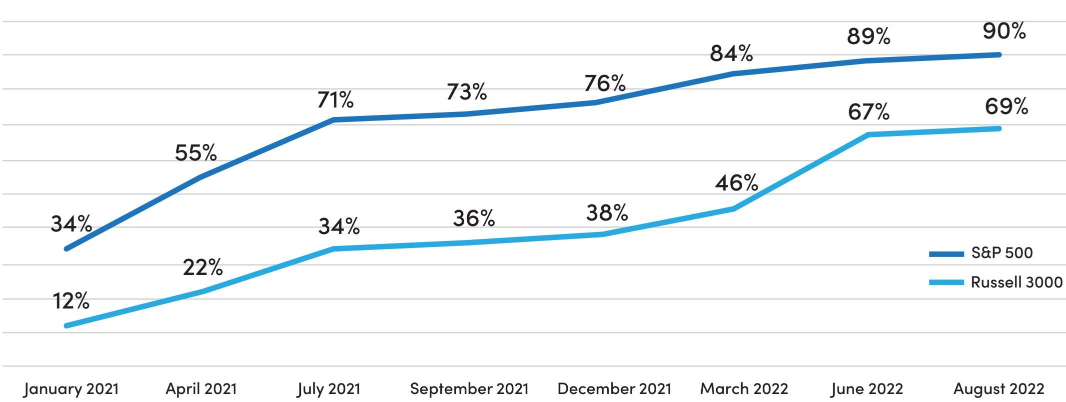
DISCLOSURE OF RACE AND ETHNICITY

Almost all S&P 500 companies (90 percent) disclose board racial and ethnic diversity in some form. Stakeholders interested in board racial and ethnic diversity may find this information difficult to discern with any degree of certainty in the absence of publicly available disclosures based on voluntary self-identification. Researchers often rely on surnames and photos—an imprecise and potentially misleading process. Likewise, LGBTQ diversity is impossible to determine accurately without voluntary self-identification and disclosure. The following analysis is based on data ESGAUGE sourced solely from corporate disclosures.

As seen in *Figure 1*, 90 percent of S&P 500 and

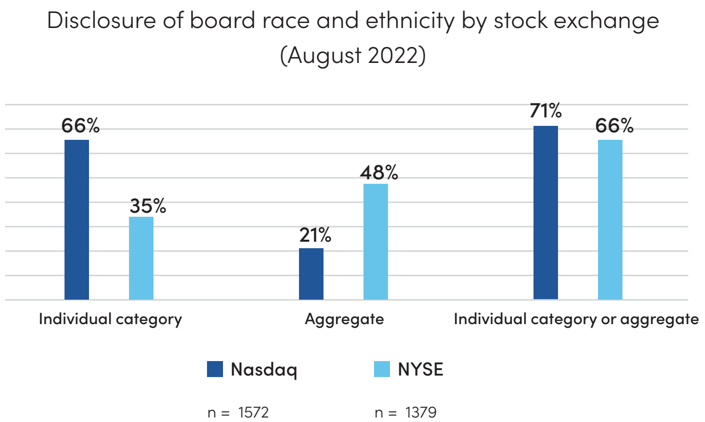
FIGURE 1: DISCLOSURE OF BOARD RACE AND ETHNICITY BY INDEX (2021–2022)

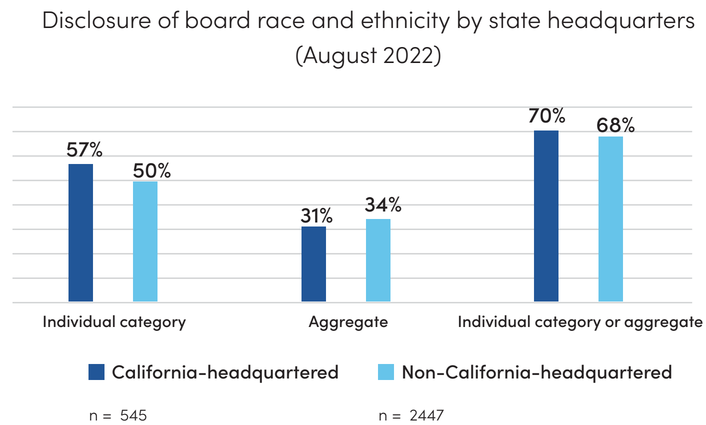
Percentage that disclose by individual category, in aggregate, or both



Source: KPMG Board Diversity Disclosure Benchmarking Tool, powered by ESGAUGE

FIGURE 2





Source: KPMG Board Diversity Disclosure Benchmarking Tool, powered by ESGAUGE

69 percent of Russell 3000 companies now disclose the board's race and ethnicity by individual category (e.g., "Mr. Smith is Black"; "Two of our board members are Asian"; "Ten percent of the board is Latino"), by aggregating racial and ethnic categories (e.g., "Thirty percent of the board is racially and ethnically diverse"), or both. This represents a significant increase since January 2021 among both S&P 500 and Russell 3000 companies.

It is particularly notable that the smaller companies in the Russell 3000 that make the disclosure are now more likely to disclose the board's race and ethnicity by individual category (51 percent do this) than in aggregate (34 percent). In a twist from the typical finding that larger companies are first to adopt leading governance and disclosure practices, the ratio for S&P 500 companies is flipped. Among these larger companies, the predominant form of disclosure is in aggregate (68 percent, compared to 57 percent by individual category).

This may reflect the influence of Nasdaq's Board Diversity Rule, which requires disclosure of the board's diversity statistics, broken down by category, by August 8, 2022, or the company's 2022 proxy filing date. A majority of Russell 3000 companies are listed on Nasdaq, which may have contributed to more disclosure of board racial and ethnic diversity data in the Russell 3000 index during the 2022 proxy season.

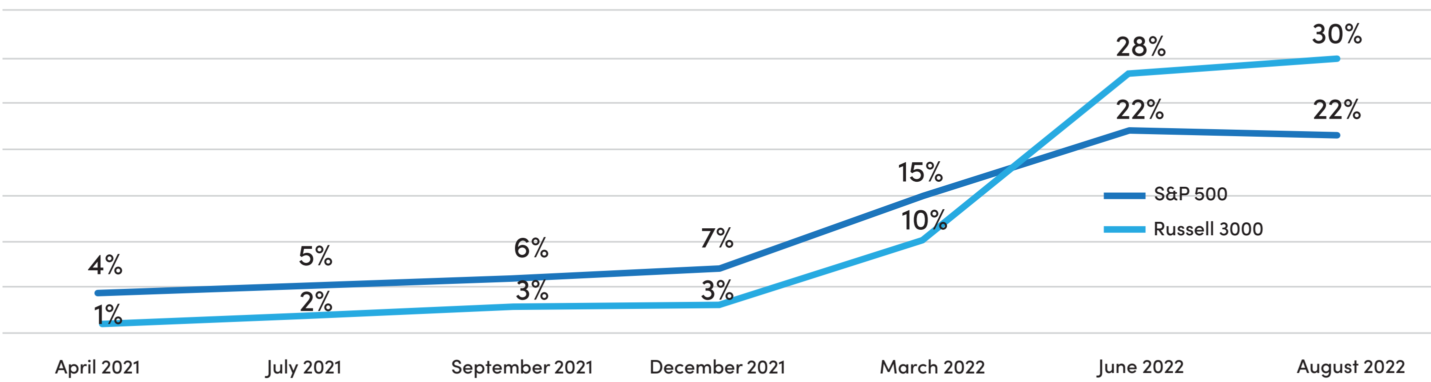
Companies based in California or listed on the Nasdaq are more likely to disclose director race and ethnicity by individual category. Under Nasdaq's Board Diversity Rule, most companies listed on its US exchange are required to disclose a board matrix that includes the number of directors voluntarily self-identifying with each listed racial and ethnic category, in addition to gender and LGBTQ+ status. Subsequent deadlines under the rule will generally require boards to include at least two directors from underrepresented groups (or explain why they do not), with at least one director self-identifying as a member of a designated underrepresented group or as LGBTQ+, and at least one self-identifying as female.

Several states, such as Illinois, now require board diversity reporting for public companies headquartered there. However, California's laws mandating board diversity—SB 826 on gender and AB 979 on underrepresented communities—were the most far-reaching before being ruled unconstitutional. (The decisions are currently facing appeal.) AB 979, relevant to the racial and ethnic diversity disclosures discussed here, had required public companies headquartered in California to include at least one board member from an underrepresented community.

Figure 2 shows disclosure of board race and ethnicity by stock exchange listing and headquarters location. Although overall disclosure levels are reasonably consistent, the type of disclosure varies. Disclosure of individual race and ethnic category is much more prominent among Nasdaq-listed companies, and should be near 100 percent by the end of 2022 to comply with the new disclosure requirements. California-headquartered companies are also more likely to disclose on an individual category basis, though the difference is not as dramatic. It is possible that boards identified their diverse directors individually more often in California in order to publicly show evidence of compliance with AB 979.

FIGURE 3: DISCLOSURE OF DIRECTOR LGBTQ STATUS BY INDEX (2021–2022)

Percentage that disclose by individual, in aggregate, or both



Source: KPMG Board Diversity Disclosure Benchmarking Tool, powered by ESGAUGE

Half of S&P 500 and Russell 3000 companies disclose race and ethnicity on an individual category basis. Despite the increase in disclosure since 2021, only half of companies in both the S&P 500 and Russell 3000 currently disclose their directors' race and ethnicity on an individual category basis (i.e., caucasian/white; Black/African American; Hispanic/Latino; Asian, Hawaiian, Pacific Islander; other). This incomplete picture of the racial and ethnic composition makes it difficult to judge the progress made by distinct racial and ethnic groups without more information.

While there is a long way to go to achieve full disclosure, there has been significant growth in the number of board seats with the corresponding race and ethnicity of the board members disclosed, increasing from 894 to 3,056 seats in the S&P 500 and from 1,657 to 13,834 seats in the Russell 3000 from January 2021 to August 2022. Given that these disclosures are based on self-identification, more than 10,000 corporate directors have shared information about their demographics in response to calls for more transparency and diversity in the boardroom.

The utilities (67 percent), health care (64 percent), and information technology (55 percent) sectors are most likely to disclose individual race and ethnic category. The health care and information technology sectors had the most significant increases in the percentage of companies making these disclosures from September 2021 to August 2022—increasing by 55 and 41 percentage points, respectively.

DISCLOSURE OF LGBTQ STATUS

Disclosure of directors' LGBTQ status is on the rise in both indices. Overall, disclosure of directors' LGBTQ status in any form has not yet gained the same traction as board racial and ethnic disclosures. Twenty-two percent of S&P 500 companies and 30 percent of Russell 3000 companies now disclose directors' voluntarily self-identified LGBTQ status by individual (e.g., "Courtney Smith identifies as LGBTQ"), in aggregate (e.g., "Ten percent of our board self-identifies as LGBTQ"; "None of our directors self-identify as LGBTQ"), or both. This is a significant gain since April 2021 when such disclosure was almost nonexistent (see *Figure 3*). This includes companies that disclosed that none of their directors self-identified as LGBTQ. However, individual disclosure of directors' LGBTQ status (i.e., by name) remains low: 5 percent of S&P 500 companies and 2 percent of Russell 3000 companies do this.

Having said that, a greater percentage of Russell 3000 companies disclose directors' aggregate LGBTQ status (which includes those companies disclosing that they have no directors self-identifying as LGBTQ) and the percentage of Russell 3000 companies that disclose director LGBTQ status in any form outpaces the S&P 500. This may be attributable to the higher percentage of Russell 3000 companies listed on the Nasdaq and the impact of Nasdaq's Board Diversity Rule, which, as noted above, includes a call for disclosure of the number of members of the LGBTQ+ community serving the boards of listed companies.

GETTY IMAGES

Nasdaq-listed companies are far more likely to disclose the board's LGBTQ status in the aggregate, including those disclosing they have no directors who self-identify as LGBTQ, compared to NYSE-listed companies (50 percent versus 4 percent)—although the same percentage for each exchange disclose it on an individual director basis (2 percent). California-headquartered companies had a greater rate of disclosure of the board's LGBTQ status in any form compared to companies headquartered in other states (39 percent versus 28 percent), which could be due to the impact of AB 979 before it was ruled unconstitutional. It may also be due to California's inclusive culture: As reported by the US Census, California has one of the highest percentages of adults who identify as LGBT.

The number of board seats held by LGBTQ directors is on the rise. The number of board seats disclosed as being held by LGBTQ directors is extremely low, though a year-over-year comparison does show an increase. Among Russell 3000 companies, 198 board seats are held by individuals who voluntarily self-identify as LGBTQ, up from 30 seats in April 2021. Among S&P 500 companies, LGBTQ individuals hold 43 board seats, up from 13 in April 2021. It is worth noting, however, that self-identifying LGBTQ individuals still represent a small percentage of overall board seats: they fill less than 1 percent of both S&P 500 and Russell 3000 board seats, compared to 7 percent of the US adult population, according to a Gallup poll.

DISCLOSURE OF GENDER DIVERSITY AS A SEARCH CRITERION

Gender diversity is included as a board search criterion for nearly all S&P 500 companies, but women are still underrepresented. Since 2009, the US Securities and Exchange Commission has required public companies to describe if and how they incorporate diversity into director search criteria. All S&P 500 companies and 99 percent of Russell 3000 companies reference diversity generally in their search criteria, and 95 percent of S&P 500 companies and 82 percent of Russell 3000 companies specifically include a reference to gender diversity.

Nevertheless, women only held 32 percent of S&P 500 board seats and 28 percent of Russell 3000 board seats as of August 2022. Equilar has projected that Russell 3000 boards will not reach gender parity until 2032.

California SB 826 likely had some impact before it was struck down in May 2022. One third of the board seats of S&P 500 and Russell 3000 companies headquartered in California are held by women, compared to slightly more than one quarter of the board seats at companies headquartered elsewhere. It is worth noting, based on our prior research, that the women who joined boards in California were highly educated and experienced business leaders.

As our data show, state mandates and stock exchange listing requirements correlate with a greater rate of board diversity disclosure. However, companies that wait for mandates may be missing an opportunity. Diversity enables broad perspectives and better decision-making. As investors and other stakeholders continue to focus on board diversity, companies that tell their stories are not only able to showcase their commitment to board diversity but also demonstrate their dedication to transparency. We look forward to seeing an increase in the rates of board diversity disclosure and will continue to track and report on progress going forward.