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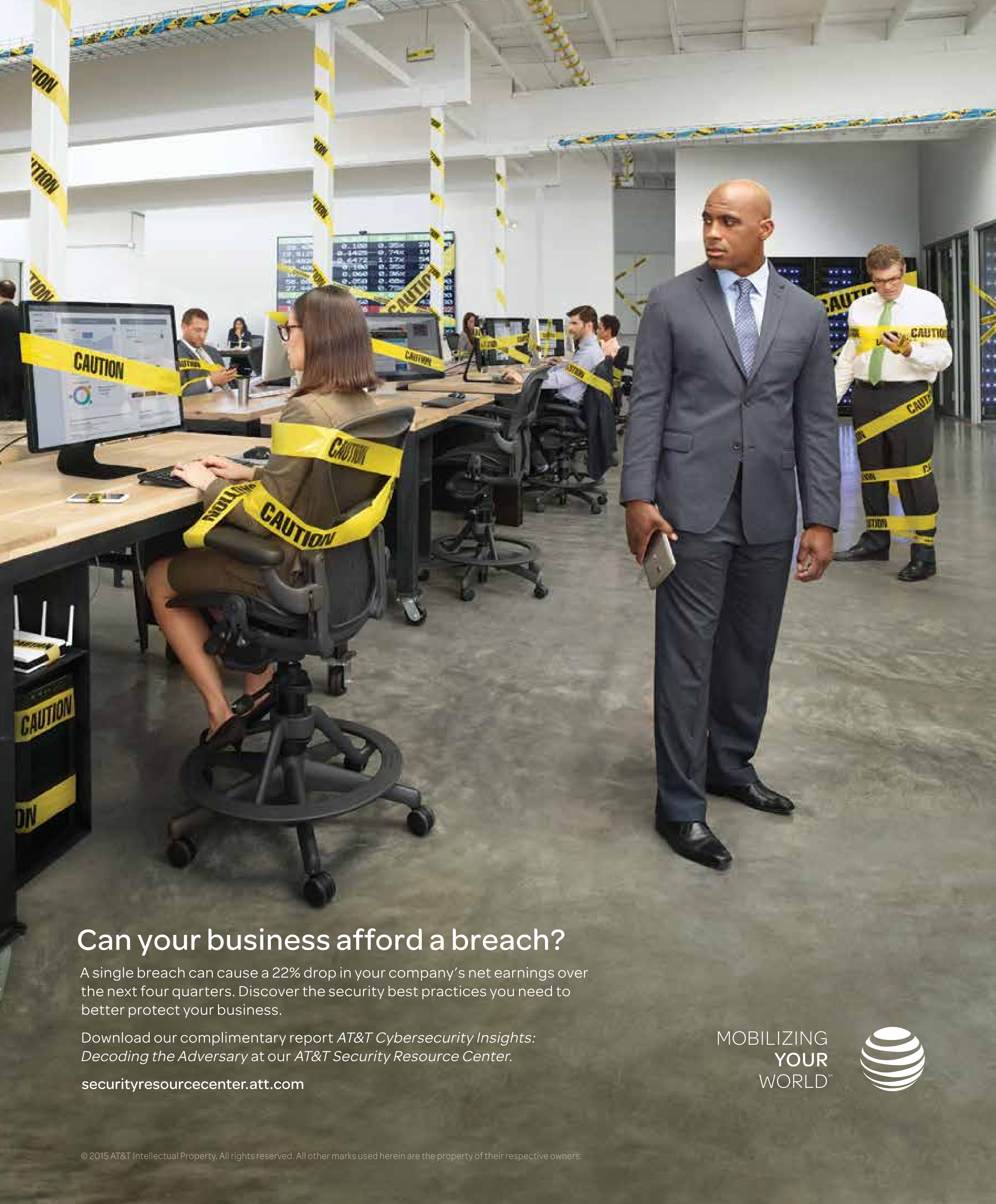
NACD Directorship

Boardroom Intelligence

November/December 2015

NACD Directorship 100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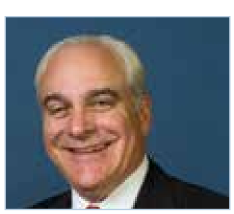

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The Power of One

Kenneth Daly is CEO of NACD.

As I write this letter, the National Association of Corporate Directors (NACD) is poised between two major events: our 2015 Global Board Leaders' Summit in September and our gala celebration of the NACD Directorship 100, where honorees and invited guests will gather to celebrate the directors and governance leaders who have made a critical difference this past year. Busy times. Directors often ask me which event is more important. Of course, my answer is "both." One is educational, the other celebratory. One enriches the other; both are meaningful.

With that in mind, I'd like to extend an invitation to a third event: the act of contemplation. That involves not the power of 1,000, or even the power of 100, but the power of one: you, a unique contributor to boardroom excellence.

Individual directors can make a critical difference in the boardroom, and it begins with their mind-set. An excellent director thinks deeply about a company's issues, reflects on financial soundness in the short and long term, ruminates on social impact, asks insightful and sometimes catalytic questions, and speaks his or her mind clearly—and then thinks some more.

Certainly there is a "sameness" to directorship. Much that happens at the board level is collective: directors must deliberate together to make a decision, they are updated through the same information streams, and have identical exposure to liability as fiduciaries. Meeting minutes rarely single out an individual's contributions despite the fact that the perspectives and experiences that each person brings to the table advance exemplary board leadership.

Our learning events and celebrations of role models ultimately find true purpose in fortifying one director serving one company at a time, one meeting at a time, one issue at a time. Consider the ways in which you promote excellence through board service. Now, think about the most pressing issue facing you today. I'd like to hear about it. Write me at kdaly@NACDonline.org. NACD wants to help you make positive change happen.

Ken Daly
kennethdaly@NACDonline.org


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1 Requires a compatible mobile device, active OnStar service and data plan. 4G LTE service available in select markets. Visit onstar.com for coverage map, details and system limitations.

Best Advice

Judy Warner is editor in chief of *NACD Directorship* magazine.

There is much to appreciate in this issue, and because I am rarely known for understatement, allow me to elaborate. The NACD Directorship D100 (D100) recognizes and celebrates those directors and governance professionals who, through their actions, words, and deeds, best exemplify NACD's mission to "advance exemplary board leadership."

The making of the D100 takes a full year and involves the insights and participation of NACD editorial and research staff members, our board, and our leadership. The list really begins, however, with you: our now 17,000-plus members who respond to NACD's request for nominations. This year our membership submitted close to 500 nominations from which we selected the 50 directors who were ultimately named to the list. Knowing how stretched directors are in their boardroom duties, I thank you.

This issue includes a special supplement, "The Changing Face of America and the Boardroom," which represents our third annual look at how demographics are reshaping boards amid greater cries for diversity. Bob O'Brien, CFO of Forest City Enterprises, echoes this theme in an article that walks readers through how this real-estate developer sought out the late Congressman Louis Stokes to join his company's board. Stokes helped to shape a diversity policy that transformed the culture and strategic direction of Forest City. Fifteen years later, Stokes' conscientious actions have resulted in both a highly diverse board and workforce. This story is both the latest in our continuing series on sustainability and a supplement to the findings of the *Report of the NACD Blue Ribbon Commission on the Diverse Board: Moving From Interest to Action*. (Full board members can download a free copy of this report at NACDonline.org/Library.)

So my best advice to you? Aside from reading every page, think about your director peers who go above and beyond the call of duty to oversee the health of our nation's companies. When you see a request for in the early part of 2016 D100 nominations, take a moment to recommend a colleague so that we can consider celebrating his or her achievements in these pages at this time next year.

Judy Warner

Judy Warner
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A Call for Greater Board Leadership Amid Shareholder Activism

By Reatha Clark King

Reatha Clark King, PhD, is chair of NACD and a member of the board of overseers of the Malcolm Baldrige National Quality Award program. She is a former board member of Allina Health System, ExxonMobil Corp., H.B. Fuller Co., Lenox Group, Minnesota Mutual Co., Wells Fargo Corp., and many nonprofit boards.

Monumental shifts in our business environment are causing directors to re-examine their roles, responsibilities, and practices in search of ways to be more effective as corporate fiduciaries. In addition to ongoing oversight of issues specific to CEO succession, executive compensation, and risk oversight, directors are now faced with increased demands from a variety of shareholders that want to change the course of board decisions—and even the composition of the board itself.

As Securities and Exchange Commission Chair Mary Jo White observed in a speech she gave at Tulane University earlier this year: "The term 'activism' captures the range of efforts by investors to influence a company's management or decision making." She said that activism is used to "achieve a variety of outcomes: board seats or control of the board; an acquisition or spin-off of a non-core or unprofitable line of business; or a share buyback." White also noted that companies are communicating on a more regular basis with shareholders, including activists. That increase in engagement is generally a good thing and is a growing necessity for companies of all sizes today.

There are, however, downsides to activism, namely the costs and reputational damage associated with a shareholder publicly challenging a company, whether through a resolution on a governance issue or through a proxy fight to gain board seats. Furthermore, that damage extends beyond the company embroiled in an engagement; the rhetoric accompanying the shareholder activist movement can lower the public's trust in corporations in general.

A number of governance publications have featured forward-looking articles that enhance and encourage director education on the theme of boardroom disruption, most notably "Is a Disruptive Innovator Attacking Your Company?" by National Association of Corporate Directors (NACD) colleague Raymond V. Gilmartin (*NACD Directorship*, September/October 2015).

Here, I will focus specifically on board leadership as a positive disruptive force that could mitigate or lessen the negative impact of an activist investor—or even turn it into a positive influence. But first: a call to action.

A Force for Good

I urge the director community to take charge and aim for exemplary board leadership and strong corporate governance. I am optimistic about the potential influence and power that companies and boards can have to respond effectively to, and even get ahead of, today's tide of complaints about corporate governance. My outlook stems from the examples of scores of companies that are a force for positive change in society and the way that successful companies benefit their shareholders, other stakeholders, and communities. Clearly, the complexity of business today requires that corporate officers and directors commit themselves to continuous improvement.

As NACD develops its educational programming, directors in particular should be aware that a director's work is becoming more challenging, the agenda of board tasks is growing longer, and critics are getting bolder in making their cases for change in board governance actions.

I believe that the best way to counteract these pressures is for boards to perform beyond the expectations of their critics. This is a lofty goal, and yet, it is attainable if we are motivated to act for the benefit of shareholders, investors, and other stakeholders. To help sustain a healthy corporate sector, it is particularly important for boards to support strategic decisions that will ensure long-term value creation.

Boards have a comprehensive role that includes overseeing all aspects of the corporation's work in addition to playing an advisory role and making specified decisions in key areas. Boards today need to excel in the traditional tactical, functional, and task-oriented governance work while also addressing critically important new issues that arise, such as cyber risks and shareholder activism. Managing these evolving sources of disruption requires visionary board leadership.

The following recommendations will enable boards to achieve excellence and distinction and to exceed the expectations of even their strongest critics.

1. **Understand the board's roles and responsibilities.** More than any other leadership function of being a director, I have reflected the most on the expectation that I act with integrity and am held accountable to my company's shareholders. I believe that to be effective in this era of increased shareholder activism, boards, individually and collectively, can benefit from updating their understanding of the board's roles and responsibilities. Making this review a part of our ongoing preparation for board work will provide a better foundation for engaging with both critics and supporters. For example, the board is expected to govern a company in the best interests of its shareholders and society at large. At first glance, disruptive shareholder challenges to board decisions suggest one of several things: the board is ineffective in performing its role and responsibilities; the challenger does not understand the company's strategy, objectives, and decisions; or a combination of these situations.

2. **Improve board-CEO relations.** The board plays a very different role than management and must be mindful of its three-part responsibility to oversee, advise, and act for the benefit of the corporation and its shareholders. When a board is described as being "strong," this means that the company has a board that leads and at the same time provides ample support and wise advice for the CEO.

3. **Sharpen board preparation.** Board preparation is a never-ending imperative. New issues that require board oversight and responsibility increase daily, and underscore the need for continuing education through either formal or informal avenues, chosen according to the preference of the boards and their individual members. While the types of new issues might vary by industry and company, they all have one thing in common: their numbers will continue to grow in our volatile and increasingly global environment.

4. **Enhance disclosures and communications.** For as long as I have been a director, figuring out how to oversee disclosure and communication functions has been contentious. Determining when and what to disclose is oftentimes as perplexing as whether to act ahead of a regulator's requirement to disclose. On the surface, disclosure is not an urgent matter for boards, but it continues to be worrisome, especially for boards that strive to show strong leadership. Strong boards realize that disclosure can easily become a reputational matter, especially when the company is getting adverse publicity because of a problem. In these situations, the public collectively asks: "Where was the board?"

Because boards are expected to be accountable for the conduct of their companies, they must both collaborate with the CEO and proactively communicate with the public before a crisis occurs. Communications should be part of the board's ongoing dialogue and its preparation to reach out to any and every audience, be it formally through organized professional channels or informally through interactions with community members.

5. **Deepen shareholder and stakeholder relations.** Management should develop strong and productive relationships with certain audiences. These audiences—large and small investors, investment firms, suppliers, customers, regulators, employees, and communities—therefore should receive special outreach and ongoing attention. Although it is always critical to maintain communications with large investors, be sure to pay special attention to the "small" or "retail" investors. An oft-repeated adage, usually in reference to cybersecurity experts, is "to know them before you need them." In an era when competition for votes in proxy battles is likely, small shareholders can be powerful allies.

Strong board leaders seek to make interactions and exchanges with all shareholders mutually beneficial. But how well do boards understand the expectations of shareholders? Directors need to think like an activist. Know that not all activists seek to accomplish their aims in the same ways. Strong board leadership helps management decide the appropriate response to any shareholder proposal or challenge, whether it is from an activist or non-activist shareholder.

6. **Strengthen board leadership.** Shareholder activism underscores the imperative that board leadership needs to be stronger than ever. Robust board governance ensures long-term, sustainable success for shareholders and other company stakeholders in our society. Only with strong management and board leadership can companies outperform the expectations of corporate critics.

The question remains whether strong board and company leadership will decrease future activist disruptions that target board governance decisions. Although strong board leadership will lessen these attempts, I do believe that strong management and board leadership before and during conversations with shareholders and stakeholders will result in more favorable outcomes for all. D

Need To Know

Edited by Katie Grills

A New Tipping Point at the SEC

When President Obama nominated Lisa M. Fairfax and Hester Maria Peirce to fill two vacancies at the U.S. Securities and Exchange Commission (SEC), he put the regulator on track to be led by a majority of women for the first time in its 81-year history. These appointments would, respectively, fill vacancies left by Commissioners Luis A. Aguilar (D) and Daniel M. Gallagher (R).

Fairfax, an expert on shareholder activism and corporate governance, is the Leroy Sorenson Merrifield Research Professor of Law at the George Washington University Law School. She is also co-director of the DirectWomen Board Institute, a nonprofit that works to increase the representation of women lawyers on corporate boards. Peirce is a senior research fellow and director of the Financial Markets Working Group, a think tank within George Mason University's Mercatus Center, which aims to develop solutions for sustainable economic recovery. A critic of the regulations and reforms passed in response to the financial crisis, Peirce co-authored the book *Dodd–Frank: What It Does and Why It's Flawed.*


Lisa M. Fairfax (left) and Hester Maria Peirce

The appointments are subject to Senate approval. If both nominees are confirmed, it will be the first time in SEC history that four of the five commissioners are women.

In recent years, the departure of some legal officers from the SEC for positions on Wall Street have raised questions about potential conflicts of interest. Even a 2011 Government Accountability Office report criticized the SEC for its lack of post-employment controls to prevent such conflicts and suggested that expanding the talent pool beyond corporate lawyers would better serve the financial system. By looking to the academic sector for talent, Obama has—at least for now—appeased the critics on this score.—*Jesse Rhodes*

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Moynihan Stays in C-Suite and Board Seat

Bank of America CEO Brian T. Moynihan remains board chair after 63 percent of investors voted in favor of the combined role. The majority were wooed by executives' efforts to engage in deeper conversations about board-investor relations in the weeks leading up to the vote. Since then, BofA has continued cost-cutting efforts and posted a third-quarter profit, breaking the company's run of losses and reversing a $232 million third-quarter loss in 2014. The *2015–2016 NACD Public Company Governance Survey* indicated that the combined chair and CEO role is common among Russell 3000 boards: 47 percent of board chairs are also executives in their company, and 43 percent serve as CEO.

Bank of America's Brian Moynihan.

Regulating Cyber Risk

In September, the SEC settled its first cybersecurity enforcement case with R.T. Jones Capital Equities Management, an investment firm that managed 8,400 client accounts and claimed $480 million in assets under management. A 2013 cybersecurity breach compromised the data of more than 100,000 individual customers. Citing the Safeguards Rule, the SEC faulted R.T. Jones for its "failure to adopt written policies and procedures reasonably designed to protect customer records and information," and imposed a $75,000 civil penalty. The firm also agreed to cease and desist from further violation of the rule. The settlement is reportedly a signal of the SEC's growing interest in regulating cybersecurity risks and holding accountable those who fail to adequately protect sensitive customer information.

Pay-Ratio Disclosure Nets Mixed Opinions Among Executives

Los Angeles-based executive talent firm Korn Ferry surveyed more than 700 executives to gauge their perception of the SEC's recent CEO pay-ratio disclosure. Their findings were mixed. While 62 percent of respondents approved of the mandate that corporations should disclose CEO-to-worker pay ratios, nearly 23 percent felt that the disclosure would provide "little or no benefit" to their company. Some respondents said that the disclosure could offer specific advantages, such as accurate reflection of CEO value to the company (28 percent); increased transparency about the income gap between CEOs and workers (21 percent); fuller shareholder insight into compensation strategy fairness (14 percent); and the ability to provide directors with greater clarity when determining CEO compensation packages (13 percent).

Defining Cyber Metrics

To take a holistic and comprehensive view of IT risks, boards need reliable cyber metrics, according to a report published as part of PwC's Audit Committee Excellence Series. The publication defines the most important cyber metrics that management should report to boards to enable them to effectively oversee cyber risks and strategy. Boards need to have the following baseline information: how "crown jewel" information is protected; whether the company is covered by cybersecurity insurance; critical IT upgrade needs; the current and aspirational states of IT infrastructure; the status of baseline IT "health"; and an assessment of the tone and frequency of IT executive communications about the state of the department's operations. In addition, because of the pace of change, cyber metrics need to be continuously reviewed and revised so that they reflect the operating environment.

N.Y. Regulator Wants Cyber Policies Put in Writing

Anthony Albanese, New York's acting superintendent of financial services, has written a memo to federal and state regulators seeking input into the creation of a proposal that would require financial institutions to have written cybersecurity policies, according to a *New York Times* report. In addition, Albanese is exploring whether banks and insurance companies should be required to appoint or hire a dedicated chief information security officer responsible for their cybersecurity program and annual testing and vulnerability assessments. The proposal also would require companies to notify the regulator of any incidents that have a "reasonable likelihood" of materially affecting normal operations.

WCD Transitions to Foundation

WomenCorporateDirectors (WCD) recently restructured to become a 501(c)(3) nonprofit now called WomenCorporateDirectors Education and Development Foundation. WCD Chair and CEO Susan Stautberg will lead the new organization. The transition was facilitated by KPMG through its purchase and subsequent donation of WCD assets to the new foundation. KPMG's continued sponsorship and an expected increase in pro-bono services will allow the organization to advance its mission to promote greater gender diversity in the boardroom. "We're excited about the possibilities this development

NACD Exclusive

Survey Finds Directors Unprepared for Activist Investors

The NACD *2015–2016 Public Company Survey* explores how prepared public company directors feel in the face of emerging governance challenges. The results—which for the first time include analysis of director attitudes toward activist investors—shareholders, and cybersecurity issues, reveal these highlights:

- 46 percent of boards have no plan in place to address challenges by proxy investors.
- Strategic planning and oversight remains a key priority for public company boards, with corporate restructuring, including M&A, emerging as one of five top issues.
- The turnover rate on public company boards increased from 2014 to 2015.
- The number of women in the boardroom continued its slow but steady rise.
- A mere 14 percent of directors believe their boards possess a deep understanding of cybersecurity issues.

To download these insights, including an appendix with comprehensive coverage of the survey questions and answers, visit NACDonline.org/PublicSurvey.

America's 20 Richest Investors

1. Warren Buffett
2. George Soros
3. Carl Icahn
4. Raymond Dalio
5. Abigail P. Johnson
6. James Simons
7. Thomas Peterffy
8. Ronald Perelman
9. Steven Cohen
10. Stephen Schwartzman
11. David Tepper
12. John Paulson
13. Andrew Beal
14. Phillip Anschutz
15. Edward Johnson III
16. Eli Broad
17. Ken Griffin
18. Charles Schwab
19. Charles Johnson
20. Bruce Covner

Source: *Forbes* magazine

creates for WCD and its members throughout the world," said KPMG Global Chairman John Veihmeyer in a press release. The foundation is already anticipating expanding its global chapter network by seven or eight chapters in the coming year and offering more educational and networking events for directors.

Coming Home to Roost

Following several months of media speculation, Jack Dorsey recently returned as CEO of Twitter, the social network giant he co-founded in 2006. He stepped down from the chief executive role in October 2008; but the company quickly suffered declining user growth and ad dollars. Soon after rejoining Twitter, Dorsey sold $200 million worth of his shares back to the company to fund an employee bonus pool.

Dorsey will continue to serve as CEO of Square, a payment company that in early November began a road show in advance of an anticipated initial public offering (IPO). While the *San Francisco Chronicle* and others were reporting tumult on the Twitter board—three directors are expected to be replaced and Dorsey has said he will relinquish his role as chair—he also made leadership changes. Omid Kordestani, Google's eleventh employee and famed chief business officer, was named to executive chair. In addition, the Square board is comprised of former Goldman Sachs chief financial officer David Viniar, Kleiner Perkins partner Mary Meeker, and basketball great Earvin "Magic" Johnson.

Transatlantic Data Challenges

The Court of Justice, the European Union's highest court, ruled on October 6 that the Data Protection Directive, more commonly known as the Safe Harbor rule, does not afford American companies the blanket right to open transatlantic data transfers. The decision concluded that the United States had violated a provision requiring that nations receiving data to provide an "adequate level of protection to the data." The decision states that this provision was violated when the U.S. government allowed the National Security Administration (NSA) access to E.U. citizens' data. According to a report from Reuters, European Union data protection authorities will set a deadline of "the end of January" for the United States to establish a new plan that protects the data of its citizens. While around 70 American companies already have bespoke privacy settings in place for European citizens, many other companies do not, and could face operational disruptions if an agreement is not reached between the U.S. government and the European Union by the end of January 2016.

Middle Market IPOs Net Top Dollar

New research from New York-based accounting, tax, and advisory firm CohnReznick indicates that while middle-market IPO activity has dropped 41 percent since the third quarter of 2014, the average proceeds per IPO increased by nearly 46 percent. This trend mirrors steady growth in middle market offerings over the past several years, with 2014 being the most significant year in growth overall for public offerings

Etsy employees in June celebrate the company's IPO at the Nasdaq MarketSite.

ASSOCIATED PRESS

since 2000, according to *The Wall Street Journal*. "Despite the lag in the number of IPOs, good deals will rise to the top, and when they do, they will be recognized and rewarded by investors," said Alex Castelli, co-leader of CohnReznick's National Liquidity and Capital Formation Advisory group, in a statement published on the firm's website.

Health Scares

The CEOs of Goldman Sachs and United Airlines both faced life-threatening illnesses this fall. New United Airlines CEO Oscar Munoz suffered a heart attack less than two months after replacing Jeff Smisek. Goldman Sachs' Lloyd Blankfein announced that he would continue to lead the investment bank while he undergoes cancer treatment. The executives' health concerns underscore the growing demand by investors for boards to craft situation-specific succession plans for their executives. Publications such as *The Wall Street Journal* and *The Economist* put a spotlight on CEO succession planning shortly after Blankfein's diagnosis, especially the requirement for strategic, vetted communications about the executive's health to assuage shareholder and market concerns. A similar issue was taken up at United, which appointed general counsel Brett J. Hart as interim CEO while Munoz recuperates. Munoz has been on the job for about a month, since the unexpected ouster in September of former CEO Jeff Smisek that was linked to ongoing internal and federal probes associated with the Port Authority of New York and New Jersey.

Interest Rate Tango

Global financial and political unrest ultimately prompted the Federal Reserve to hold off on hiking interest rates. This strategy will allow the U.S. to wait and see whether the Chinese yuan settles in value; it will also allow the European Union to evaluate courses of action in light of Greece's debt default. Media outlets are speculating as to when an increase might happen. Traditionally, increases are announced after quarterly Federal Open Market Committee meetings, the next of which is scheduled for mid-December.

Korn Ferry, Hay Group to Merge

Hay Group is to be acquired by Korn Ferry pending regulatory review and approval, which is expected by the end of the year. The merger will combine Korn Ferry's Leadership and Talent Consulting practice with Hay Group's work in human resources talent management and development under the Hay Group brand. The acquisition, which is valued at $452 million, will position the merged organization as an international leader in recruitment and human capital development. According to coverage of the acquisition in *The Wall Street Journal*, Korn Ferry CEO Gary Burnison is seeking to double revenue from fees by providing consumer-facing skills-development products. The combined company will also consolidate some offices to save on real estate costs.

Shareholder Lawsuit Claims Director Pay at Facebook Is Overly Inflated

A Facebook shareholder filed a lawsuit claiming directors paid themselves too much for their board service—$461,265 on average for outside directors in 2013. That amount is 43 percent higher than director pay among Facebook's peer companies. The lawsuit raises questions about how much pay is appropriate for directors, who are now expected to do more than they have in the past, partly because of—in the case of public companies—increased regulatory requirements such as Sarbanes–Oxley and Dodd–Frank. Many now argue that directors are underpaid for the level of work they do. Directors on average dedicated about 248 hours toward board-related matters over the past year, according to data from the *2015–2016 NACD Public Company Governance Survey*.

Icahn Funds Super PAC to Change Tax Policy, Eliminate Inversions

While billionaire investor Carl Icahn takes aim at AIG to break the company into three parts, he is also targeting U.S. lawmakers. In late October, the 79-year-old Icahn launched a $150 million super PAC to force change in corporate tax policy. Specifically, Icahn wants Congress to pass legislation that would prevent U.S. companies from moving profits overseas for lower tax rates in what have become known as tax inversions. *Forbes* recently valued Icahn's personal net worth to be north of $20 billion.

Is a 'Corporate Compliance Crackdown' Coming?

By Alexandra R. Lajoux

Is the U.S. federal government planning a massive crackdown on corporations and their directors and officers to ensure full compliance with the growing number of regulations? This theory may be overstated, but reading federal budget tea leaves and weighing recent developments in Washington can raise valid concerns. To best survey the situation, here is a close look at corporate compliance developments across all three branches of government.

Closing the Tax Gap

Washington is likely to have more troops and a bigger war chest to pit against perceived corporate scofflaws: double-digit increases and new programs seem to be the order of the day when comparing compliance enforcement from year to year. The federal government's 2016 fiscal year began on October 1, and while the usual squabbles still plague the budgetary process, it's clear that corporate compliance will be a focal point in the coming year.

The federal budget as proposed by President Barack Obama aims to close the tax gap—the difference between taxes owed and taxes paid—by improving tax compliance by businesses, thus saving $89 million in 2016 and $10.4 billion by 2025 by collecting more tax revenue from businesses.

Of course, the only federal budget that matters is the one that Congress approves, typically a series of appropriations to each of the federal agencies rather than a single omnibus bill. Two appropriation requests stand out:

- The Securities and Exchange Commission's (SEC) Office of Compliance Inspections and Examinations (OCIE) seeks to increase its work force by more than 14 percent, going from 964 full-time employees to 1,106. According to the SEC's proposed 2016 budget, most of the employees will be devoted to "foster and enforce compliance with federal securities laws." The SEC also states that "the OCIE will continue its efforts to meet with senior management and boards of entities registered with the SEC…to discuss how each firm identifies and mitigates conflicts of interest and legal, compliance, financial, and operational risks. This initiative is designed to evaluate firms' control environment and tone at the top, understand firms' approach to conflict and risk management, and initiate a dialogue on key risks and regulatory requirements."
- On a parallel track, the Department of Labor's Office of Federal Contract Compliance Programs (OFCCP) has asked for a budget of $113.7 million—an increase of $7.2 million—and to increase its work force by 10 people to 650 full-time employees. Given the pressure to cut budget numbers, these increases are hardly paltry. And note that $3.3 million of the OFCCP budget will be earmarked for a new enforcement database, as well as another $1.1 million for a new initiative that aims to enhance pay discrimination protections. The agenda at issue is the broader enforcement of antidiscrimination laws to ensure fair treatment of women, persons with disabilities, and veterans, as well as "new protections for lesbian, gay, bisexual and transgender workers." Since 2009, the OFCCP has resolved over 500 cases "remedying discrimination."

Compliance Oversight Gets Personal

Meanwhile, compliance oversight may entail a new focus on people rather than programs. Under various legal rubrics, directors have a duty to oversee how their company complies with federal regulations, but the U.S. Department of Justice (DOJ) has announced a new policy that may have an impact on how boards fulfill this obligation.

Legal developments over the past four decades—all of which are still in force—either require or incentivize this oversight: The Foreign Corrupt Practices Act of 1977 requires corporate record keeping; the Federal Sentencing Guidelines of 1987 set forth corporate compliance program requirements; the famed 1996 *Caremark* decision asserts that directors must ensure internal reporting on compliance; and rules promulgated under the Sarbanes-Oxley Act of 2002 require whistle-blowing programs, ethics codes, and, in a listing rule of the New York Stock Exchange, make compliance oversight a function of the audit or other independent committee. To top it all off, rules under the Dodd-Frank Act of 2010 offer whistleblower bounties.

As a result, many corporations have established dedicated compliance programs, and the DOJ has placed high value on these programs and board oversight of them. The DOJ's Principles of Federal Prosecution of Organizations, as currently posted, makes this clear: "Compliance programs are established by corporate management to prevent and detect misconduct and to ensure that corporate activities are conducted in accordance with applicable criminal and civil laws, regulations, and rules. The department encourages such corporate self-policing, including voluntary disclosures to the government of any problems that a corporation discovers on its own." The DOJ also states that when "determining whether to bring charges, and negotiating plea or other agreements," they will consider "the existence and effectiveness of the corporation's pre-existing compliance program" and "any efforts to implement an effective corporate compliance program or to improve an existing one," among other factors.

But this emphasis on corporate programs yielded to a more personal approach this fall. On September 9, DOJ Deputy Attorney General Sally Quillian Yates issued a memo to all United States attorneys and heads of DOJ departments, including antitrust, civil, criminal, environmental, national security, and tax. The memo outlines the key steps to "strengthen our pursuit of individual corporate wrongdoing."

Historically, the DOJ's prosecution principles provided that the corporate identification of wrongdoers was not a required condition of leniency. Furthermore, corporations charged with legal violations, or directors or officers sued for failure to detect and/or address violations, could get some credit for having good systems in place. However, according to Yates's memo, even if corporations have strong compliance programs, they cannot get any legal credit with prosecutors for those programs without naming names. The memo states that "in order to qualify for any corporate credit, corporations must provide…all relevant facts relating to the individuals responsible for the misconduct." This new approach may foster scapegoating, creating new challenges for employee relations.

Deferring Prosecution Agreements

Meanwhile, the U.S. Court of Appeals for the D.C. Circuit Court is poised to make a decision on the DOJ's deferred prosecution agreements (DPA) for corporations, which show some leniency to corporations: if they admit wrongdoing, pay fines, and agree to probation, they can avoid criminal conviction. The DOJ has also used non-prosecution agreements for a similar effect.

But if the DOJ seems to err on the side of mercy in these arrangements, the courts are bringing in a strong dose of decisive justice. In February, Judge Richard Leon of the United States District Court for the District of Columbia rejected a DPA in a case involving Fokker Services BV, a Dutch aerospace firm with some U.S. presence that sells U.S.-manufactured parts. The United States had accused the company of violating trade sanctions and endangering national security by selling aircraft parts to Iran, Sudan, and Burma, and offered a DPA, which Judge Leon denied. Some legal experts are concerned that if a court can abrogate a DPA, the DOJ will have no choice but to take a harder line in prosecutions, which, taken into consideration with the Yates memo, heightens concerns surrounding crackdowns on alleged corporate crimes. (A similar pattern of judicial activism is occurring in the European Union. On October 6, the European Court of Justice gave a green light to national regulators in Europe to enforce their data privacy laws more stringently. This could increase legal exposure for more than 4,000 companies worldwide, including U.S. technology leaders such as Alphabet, provider of Google.com.)

The U.S. Court of Appeals for the D.C. Circuit is now reviewing this decision in a ruling still anticipated at presstime. In early arguments as reported by the *Wall Street Journal*, Justice Department lawyer Aditya Bamzai told the three justices on the appeals bench that Judge Leon intruded "into the discretion that is properly allocated to the prosecutor." Protecting prosecutorial discretion may indeed be important, but given the "get tough" spirit that seems to be pervasive in Washington, it is unclear how this discretion will be exercised going forward—with or without DPAs.

Given all these developments, mostly trending toward crackdown, boards would be wise to keep compliance oversight in mind when wrapping up planning for 2016. D

Director/Attorney Privilege: Communications Are Not Always Confidential

By Francis G. X. Pileggi

Most directors harbor the view that their communications with their lawyers or with the company's lawyers are privileged from public disclosure. A recent decision by the Delaware Court of Chancery serves as a reminder that there are exceptions to that general rule. In the matter of *TCV VI, L.P. v. TradingScreen*, the court found that certain communications between a special committee of the board and its lawyers had to be disclosed.

Privilege Waived

In this case, investment fund TCV alleged that TradingScreen, an electronic trading solutions company, ignored a contractual obligation to redeem preferred shares. TradingScreen in its defense asserted that the board acted in good faith because the advice of their attorneys supported their refusal to redeem the shares.

The court was called upon to address the extent to which the attorney-client privilege was waived. Not only was the subject matter of the waiver disputed, but the scope of the waiver was also contested. In addition to the waiver, the court addressed whether the redaction of approximately 1,900 documents was based on the same subject matter and scope of the privilege that was waived.

Shield or Sword

The purpose of the attorney-client privilege, as articulated in Delaware Rule of Evidence 502, is to protect certain communications from discovery in litigation. This rule is based on the rationale that protection from disclosure encourages candid communications between clients and their attorneys. This privilege can be waived where, for example, the communications that would otherwise be privileged are at issue, either because a party injects those communications into the litigation, or because an issue in the litigation requires an examination of those communications in order to resolve the dispute.

In this case, there was no question that there was a waiver at least to some of the documents, which contained advice on which the special committee relied, but there was a disagreement about other communications for which privilege might also have been waived as a result of four memoranda from lawyers being voluntarily disclosed.

Directors must understand that a court decision that asserts that certain otherwise privileged communications between a board and its lawyers must be disclosed is not the product of a mathematically precise equation. Rather, that decision depends on what the court views as necessary as a matter of fairness. The fairness concept is designed to prevent a party from using privileged communications as both a shield and sword.

Scope of Waiver

In determining the scope of the waiver in this case, the court addressed the sub-issue of whether a waiver by the board's special committee members regarding advice they received extended only to the documents and other information communicated by the attorneys to those committee members. To resolve this issue, the court identified the documents containing privileged advice that the directors voluntarily disclosed in order to use that advice as a potential weapon in defending against the claims in the case.

Waiver Rules

Delaware Rule of Evidence 510(c) governs whether the inadvertent disclosure of otherwise privileged documents constitutes a waiver of attorney-client privilege. This rule provides that a disclosure does not operate as a waiver if three conditions are met:

1. the disclosure is inadvertent;
2. the holder of the privilege took reasonable steps to prevent disclosure; and
3. the holder promptly took reasonable steps to rectify the error, including following any applicable court procedures to notify the opposing party or to retrieve or request destruction of the information disclosed.

The court found in this case that those

requirements had been satisfied and attorney-client privilege had not been waived. It reasoned that the legal advice provided to the board's special committee members should define the limitations on the scope of the waiver. This decision also relied on reasoning that cautioned against creating a waiver rule that would chill non-directors and management from seeking legal advice if the waiver was too easily imposed.

In prior decisions, the court ordered disclosure only for the advice presented to the board members who received it even if officers of the company received the same advice. Nor did the court allow for the waiver of underlying attorney notes and other attorney work-product beyond the actual communication to the directors.

Thus, the court held that the only waiver of the attorney-client privilege was for the advice that was actually presented to individual members of the special committee. That waiver extended to several law firms that sent legal advice to those directors.

Privilege and Redaction Logs

Delaware case law is clear on the requirements for drafting a privilege log that describes documents withheld based on a claim of privilege. However, the standards applicable to redaction logs for documents partially redacted is not as well defined.

When preparing a privilege log, even if attorney-client communications are withheld and not waived, the following information must still be disclosed about those communications:

1. the date of the communications;
2. the parties to the communications, including their names and corporate positions;
3. the names of the attorneys who are parties to the communications; and
4. a description of the subject of the communications that sufficiently shows why the privilege applies and the issue to which it pertains.

Thus, even if a particular communication is not disclosed, the foregoing information about the document withheld must be described in order to allow the opposing party to make their own analysis about whether privilege was properly asserted. Failure to adequately describe the withheld documents might result in a waiver of the privilege for those documents.

Be Judicious

In sum, even if a letter from an attorney to a member of the board is withheld based on an assertion of attorney-client privilege, certain details about that communication, as opposed to the document itself, will need to be disclosed. And even if parts of a document are privileged, the circumstances of the case and practicality considerations may, however, require that censored documents be described on a separate redaction log.

Although the attorney-client privilege is still an important principle in the law, careful directors will realize that their communications with their attorneys may, in some situations, be disclosed for the world to see. Even if the actual document or e-mail that contained the communication is not produced, precise details about that communication will always need to be provided on a privilege log.

This should serve as a useful reminder about the need for board members to be judicious in what they include in their communications with their attorneys. D

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Staying True to a Mission

Audit Chair at World Bank Lends His Expertise

Interview conducted and edited by Ashley Marchand Orme

As Minister for Foreign Trade for the Netherlands from 2007 to 2010, one of Frank Heemskerk's primary missions was to promote trade investments from and into the Netherlands. His portfolio now expands far beyond Dutch borders. Heemskerk, a trained economist, chairs the audit committee of the World Bank Group in Washington, D.C., a global nonpartisan organization that aims to end extreme poverty and promote shared prosperity.

Established in 1944, the World Bank Group is composed of 188 member nations and five institutions: the International Bank for Reconstruction and Development, which provides financial assistance to middle-income families; the International Development Association, which makes interest-free loans and grants to the poorest of countries; the International Finance Corp., which makes financing and advisory services available to private businesses and governments; an agency that offers political risk insurance to investors and lenders; and an arbitration and resolution service for international investment disputes.

The economic and political interests of the member nations vary greatly, which makes governing the World Bank Group no simple task. Members—all of whom provide the investment capital to advance the bank's goals—select a governor, usually a country's minister of finance or head of its central bank, to hold a seat on the bank's board of governors. These governors become involved when the bank makes major policy decisions.

The second governing body—of which Heemskerk has been a part since 2013—is the board of directors, comprising 25 executive directors plus the World Bank president. Each executive director represents the interests of a group of member countries. Heemskerk represents the interests of 13 countries, including Armenia, Croatia, Israel, the Netherlands, Romania, and Ukraine. Executive directors are responsible for policy issues that affect daily operations and for the approval of loan and credit proposals. If a country is unhappy with how that executive director is representing their interests, they can seek representation by a different director. And, when a country leaves the umbrella of one director, they take with them their voting weight based on the shares they own. Thus, when that director goes to the table to help make major decisions, he or she has less of a voice.

It's an unusual system to be sure, and the challenges that Heemskerk faces are multifaceted, interconnected, and extremely delicate. The World Bank Group navigates geopolitical risks around the globe, balancing its humanitarian mission with the real-world obligations that come with being an operational bank. Heemskerk offered his thoughts on addressing those challenges in an interview with *NACD Directorship* magazine in late summer.

PHOTO COURTESY OF FRANK HEEMSKERK

The World Bank is a mission-driven organization. How does its humanitarian focus affect the work of the audit committee?

The World Bank is a complex organization. We have goals to end extreme poverty and boost shared prosperity. We also work in a political, non-financial environment. And we have a lot of passionate people who want to do well and are convinced that the work they're doing is so important that the money should follow their goals, and that the organization should be driven by our mission and not by our financials. That makes the work for the audit committee complex because, on one end, we are a mission-driven organization in a political environment. On the other hand, we're a bank. We have a lot of business lines, but also we have important known financial obligations. We need to manage our non-performing loans. We need to manage our funding strategy. It's finding that balance between these two elements that makes the committee work very interesting.

How do you keep the World Bank's mission top of mind when the audit committee's work can be so quantitative?

The audit committee has the advantage of a balanced membership. Some members do have a strong financial background, other members have a more political or governmental background. Those worlds already come together in the committee [composition].

Because we are a bank, we can't afford not to make decisions. We have to meet deadlines. We have to have a financially stable business model. It's an advantage that we're not purely political, we're not just financially driven, but we are that strange animal that combines those two elements.

What has been the most surprising thing that you've learned since becoming audit committee chair?

The fact that we have to balance those two elements. [Also], we're a multilateral institution, so we're not regulated. Of course, we do use the highest standards and we do source in a lot of knowledge through the capitals that are represented at the board. But, ultimately, the audit committee has final oversight.

> "We're an institution where Israel is a member, Pakistan is a member, Iran is a member, the U.S. is a member, Russia is a member, Ukraine is a member, China is a member, and we're nonpolitical."
>
> —FRANK HEEMSKERK

What risks are top of mind for you?

Country counterparty risks in a geopolitical setting. We lend money to countries facing difficult geopolitical circumstances. [There are also] market risks—funding, interest rate sensitivities. I also think it's important from time to time to take a deep dive into operational risks—risk in our financial priorities, but also risks in how we structure our lending to countries, for example, through concrete investment projects or budget support.

What is the most difficult to grasp, is our reputational risk. There, I think it helps that I have a political background. It's about thinking, "Am I able to explain things that appear on the front page of the *Financial Times* to all these different shareholders?" We're an institution where Israel is a member, Pakistan is a member, Iran is a member, the U.S. is a member, Russia is a member, Ukraine is a member, China is a member, and we're nonpolitical.

How do you balance short-term goals with longer-term goals?

We have two long-term goals: ending extreme poverty and boosting shared prosperity. Our short-term goals feed into that. If we modernize our procurement strategy, that adds to our longer-term goals. If you get value for money in the way you do your tendering for infrastructure projects in Africa that, in the end, acts toward eliminating poverty and boosting prosperity.

How do you ensure the audit committee focuses on all critical agenda items?

There's a difference between briefings and information exchange on the one hand and committee meetings on the other. I try to make sure that information exchange is done as much as possible before a committee meeting, in writing or in technical briefings. When we come together for meetings, we insist that management does the kick-off. Management should be very explicit on what they expect from the audit committee. The audit committee should stick to the topic of the meeting and be focused with their questions.

What makes an audit committee effective?

[First,] make a distinction between information and discussion and decisions. On the one hand, you have information exchanges and briefings. On the other, you have committee meetings where you really take positions. Second, have formal gatherings with self-assessments. You can always learn. Third, make sure management understands that there's an open door. If they have an issue with the internal auditor, the executive vice president, or the risk officer, they can approach the chair, the co-chair, or any member of the audit committee. Fourth, make sure you get information not only from management, but also from outsiders—most importantly, the external auditor, but also through other networks and news sources.

What I really appreciate is operating in a high-trust environment. And high trust means that we should not sit in the chair of management. We should not check everything they're doing. But also take responsibility for management to come back to the audit committee and to address challenges or problems that they face. If something really goes wrong, they should tell us the bad news first. It also asks for management to be transparent on the issues they face. But they should know that we're not on their backs all the time.

How do board members cultivate that trust?

It has to do with personal integrity. All the committees have to make clear to management what the key issues are that we worry about and say, "Please come back to us if things go wrong. If you make a mistake and things go wrong, that happens, we won't ask you immediately to come up with a solution." It's [about] being open on delicate matters. And that's difficult. It means also that you have to share the same agenda. It also means that you have to be able to call each other in the evenings or over the weekend when it's needed so that if there would be a negative thing in the newspaper tomorrow, that there are no unpleasant surprises.

The Compensation as Catalyst Series
Interview #1

How to use compensation as a tool to drive value creation.

Our Compensation as Catalyst (CAC) interview series explores how innovative new approaches are leveraging executive compensation as a powerful tool for driving value creation. In our first installment, we hear from David Swinford, President and CEO of Pearl Meyer.

CAC: What is the biggest challenge for Boards in terms of embracing compensation as a mode of value creation?

Dave Swinford: It's changing the historical perspective. Until fairly recently, the concept of compensation has been viewed primarily as a cost of doing business. But we are beginning to see leading organizations change their compensation philosophies. They're thinking about it as an effective tool for the Board to reinforce behaviors that drive the company's business goals. Then it actually becomes a point of differentiation in how a company operates and executes. When there's clear alignment between corporate strategy and the compensation program, everyone can be more precise in short- and long-term goal-setting and most importantly, successful in *achieving* those goals. And that's going to set them apart from the vast majority of their competitors.

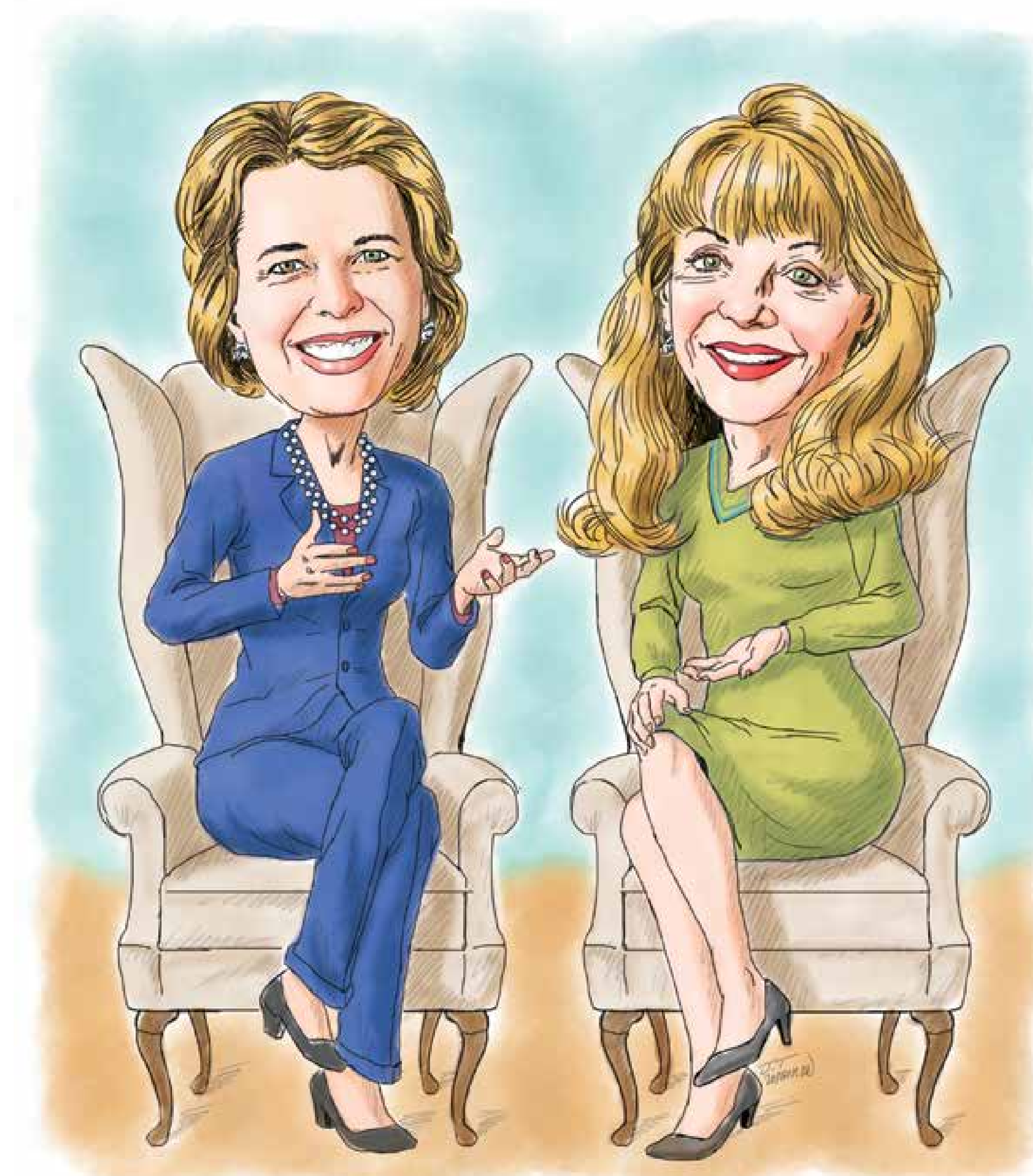
CAC: How can Boards begin to align pay and business strategies?

Dave Swinford: First, move away from the idea that conforming to the norm, or matching best practices, is a healthy approach. You want to incorporate market intelligence and data, but let it *inform*, not dictate your compensation program. This is especially important when new regulations introduce complexity. As the companies we work with begin this journey, we suggest maintaining a sharp focus on what's best for the organization and adopting a long-term mindset. Where you can truly achieve success is by identifying the unique compensation approach that drives value for your company.

"Of course you want to incorporate market intelligence and data, but let it inform and not dictate your compensation program."

Learn more about using Compensation as a Catalyst at **pearlmeyer.com/valuecreation**

Pearl Meyer



Balancing Priorities: Governance Pro Meets Lead Director

Edited by Judy Warner

To write that Ronna Romney has led a full and varied life would be an understatement. This Michigan mother of five grown children is the lead director of Molina Healthcare, where she chairs the transaction committee and serves on the compensation and corporate governance and nominating committees. She is also a director of Park-Ohio Holdings Corp., a publicly traded logistics and manufacturing company where she chairs the compensation committee. In addition, Romney is an author and has hosted both radio and television issues-oriented programs. She was appointed by President Ronald Reagan to serve as chair of the President's Commission on White House Presidential Scholars and President George H.

ILLUSTRATION BY JT MORROW

W. Bush named her chair of the President's Commission on White House Fellowships, making her the first woman to hold this role. In 1996, she was the Republican U.S. Senate nominee, but lost to the incumbent, Democratic Sen. Carl Levin. While she is emphatic that she is proud of all her children, her namesake, Ronna Romney McDaniel, was elected in 2014 as the Republican National Committeewoman for the State of Michigan, a position Ronna Romney held from 1984 to 1992. They were the first mother and daughter in the history of Michigan to serve in this position. Her daughter was elected chair of the Republican Party in Michigan earlier this year, the fourth woman elected to this position.

Paula Loop is the leader of PwC's Center for Board Governance and Investor Resource Institute. Prior to her appointment in July, Loop was the New York metro regional assurance leader. She also served as U.S. and global talent leader at PwC, where she set strategy for the recruitment, onboarding, and management of the firm's talent around the world. Together, these two women at the top of their chosen professions compare notes on their careers, the role of the lead director, and what they see working for board renewal.

Pathways to the Boardroom

Loop: Please share some elements of your background. It must have shaped who you are today and what you do now in your board roles.

Romney: I've given it a lot of thought, how I got from being a young woman who got a degree in education just in case my husband died to where I am today. My life has been sequential, with each chapter opening up new paths that I took without knowing where they would take me. I've found that great opportunities were afforded to me, and that help came from men because I'm of that era where women weren't in key roles.

Loop: I can relate. I always think about my career as being circuitous because I left it midstream for eight years to raise my children and then came back. I have moved forward, but it hasn't been a straight shot.

Romney: What you did was very brave. You knew when you decided to step off the career track that there was a good chance you would not have the same success or the same rate of promotion as your male counterparts, didn't you?

Loop: Yes, you're absolutely right. There is risk associated with it.

Romney: And you decided to accept the risks. Was the reward worth it?

Loop: The reward was very worth it. With different phases of a career, different things matter more, and you have to weigh and balance those. A career is a journey, right? It's not a short-term experience and that's why the journey is more important than what's happening in the near term. The interesting thing about you, Ronna, is that you did some very different things with your political activities. How do you think politics helped shape your career?

Romney: Well, politics opened up doors and that surprised me and a lot of others. When I was elected Michigan's National Republican Committeewoman there were very few expectations from the people who tapped me to run. It came as a happy surprise that I could actually lead, organize, and fundraise.

I look at people like you, Paula, and you are well rounded. You have had a chance to experience so much that you can give back later in your career. That's what women bring who stepped off the fast track.

Loop: It's rare for women to be able to succeed in a straight shot. It just doesn't seem to work that way. You've demonstrated how you can use those talents from different sectors, and apply those now in your board roles.

Romney: As I look forward, you and I and others like us will open doors for women. I told my daughter, who was just elected chair of the Republican Party of Michigan, that she stands on many shoulders. I basically stood on men's shoulders to get to where I am today. She is standing on the shoulders of men *and* women, and then she will be there for the next generation.

Many men have a way of getting things done head-on, and I've learned through the years that strategically, the head-on approach doesn't always work. I've often told women that I talk to, my daughters included, that you should have several tactics in your arsenal. If the head-on approach works for you, use it, but I have found that end runs can be very effective to get to the goal line.

Intentional Board Service

Loop: It takes a lot of time and energy to be on a board. It's hard to be on one board, and certainly multiple boards, especially if you also have a full-time day job. I do think that the shift in demographics is going to change the way boards approach refreshment and renewal in the future. What do you think?

Romney: Park-Ohio and Molina's directors work hundreds of hours. We need people who can give us time, and that is now moving toward a much older director. People who are employed in significant positions don't have time for more than one board, and many can't even do one. We're watching for the leaders in corporate America, academia, government, and less obvious areas who are nearing retirement, and are contacting them ahead of time.

Loop: Some of the large pension funds have come out and said

Paula Loop

"The first person to live to 150 years old has already been born. ...If we're going to live well over 100 years, we are going to want to work longer and seek new, challenging opportunities. I certainly think that being a board member qualifies."

that in their wish list, they did not want any board member that had been on more than four boards. I imagine, Ronna, that the scheduling alone would be really challenging work.

Romney: It is unless you decide you want to be a full-time director. You will be in the air and on conference calls all the time. If that's what you want to do, that's fine—as long as you are willing to put in the work that is necessary.

I believe that I represent a lot of companies when I say that we want directors who bring value to the board—not to themselves, but to the board and shareholders, and we spend a lot of time trying to find them. We bring them in, maybe have them come in and speak. We'll have them to dinner. We want to make sure that this candidate is going to work well with the board.

Loop: I've heard you talk about board roles being somewhat like a marriage. How so?

Romney: If you have a person who is disruptive, your board can become dysfunctional and the work that you're doing on behalf of the shareholders is diminished. I have experienced it, and because of that I'm sensitive to it, and so are my fellow board members.

We do not have just one interview. All board members will interview potential directors, and we will look at them for a long period of time because we want to be a collaborative body that is unafraid to dissent, and works on behalf of the shareholder. If you have one person who is disruptive and causes trouble, the board as a whole brings less value. Like a marriage, let's say it isn't working out. You have to end it. So, isn't it better to do the hard work ahead of time and get the right fit?

Loop: Right. It's really important at a board level to make sure that everybody is comfortable in the room, that they can and should ask questions, that they should feel comfortable contributing, and they can make sure that everybody feels that this is a wide-open opportunity. You're hoping and wanting to get contributions from everyone. What are some signs that a director is losing energy or interest?

Romney: When you see that the director isn't bringing the same enthusiasm, fresh ideas, and commentary over a period of time to a board, it is up to the lead director and/or the CEO to take that person aside and say, "You've had a great run, you've done a great job, but we want to refresh the board and I would like to thank you for the great work you did as a board member." And then you move on.

I want to just go back to directors because we had this discussion earlier about cybersecurity and I told you that my personal philosophy is you hire expertise. You don't bring somebody on a board because he or she is a cybersecurity expert. You hire a consultant for things like that.

Loop: So you prefer to have directors that have broad skills?

Romney: And strategic skills. It's what makes them wise. Yes, they were great in their industry, but beyond that they are thoughtful and strategically minded. They know that collaboration is important. It's a unique set of skills beyond what they did corporately.

On Being a Lead Director

Loop: Let's talk about your work as a lead director. There aren't many women lead directors, and it's not tokenism because your fellow board members elect you. Do you think you made it here because of the skills we talked about earlier?

Romney: I don't know many other female lead directors so I can't speak to that, but I can tell you that an essential ingredient for being a good lead director is having a strong relationship with the chair and CEO and with your fellow board members. You don't always have to agree, but as liaison, you have to have mutual respect.

Both the chairs in my companies are so busy they couldn't possibly put in the amount of time that I do staying in touch and keeping directors informed. So, if there is a problem to be conveyed to management, oftentimes they will call me, I will run it by the CEO, and vice versa. My goal is to have no surprises in a board meeting. A good lead director anticipates landmines, or tries to make sure that if there are going to be any problems, that they are resolved diplomatically before meetings.

Loop: And does that require you to have one-on-one conversations with the board members before the meeting?

Romney: I probably speak to some of my fellow board members once or twice a week, depending on what's happening in the company. It's all about being in constant contact so they feel very comfortable calling me anytime. Every director should feel like they are fully informed. What does not work in a boardroom is if you enter a meeting and it becomes clear that only one or two directors are in the loop. At Molina, we also added an interim phone call between board meetings for the full board to keep everyone abreast of developments.

Loop: That's another sign of strength--that you think preparedness is so important, that you work extra hard at it.

Romney: Absolutely. One of the things I remind our independent directors is to resist the natural inclination to micromanage. Our main jobs are oversight and strategy. You're always going to think about adding value with advice, and looking at the big picture, but you can't micromanage.

Loop: You have to step back and be in your oversight role.

A Broader Approach to Diversity

Loop: When we talk about diversity in the boardroom, a lot of times we talk about gender or racial diversity, but maybe we should be thinking on a broader scale.

Romney: Having served on boards for a while, we're always looking to the future for a new director. We don't start out by saying we want a woman or a diverse candidate. We start out identifying a skill set we need and then whoever that person happens to be, they're in the mix. We're really looking for someone who can really add another dimension to the board.

I'll add one more point about diversity in a boardroom: Age is important to have. I think, for example, that in most cases age limits are silly because the skill sets that older directors bring to the board are real wisdom and historical knowledge that others might not have.

Loop: Where do you see the board roles going in the future?

Romney: A lot of people call me to say, "Hey, I'm retiring. I'd love to get on a board. I'd be a great addition to a board." What I tell people is that it is a real commitment. If you're joining a board, you have to join to add value. Because there's so much work, you're going to have to like being on this board and working with the people. You're going to have to buy into the mission and believe that you can help evolve change. I believe the average age on the board of the future will be older because of the time it takes to be a contributing board member.

I also believe that boards will begin to resemble the population more because corporate America is becoming more diverse. It's a United Nations here, and boards will begin to evolve to that naturally. The skill sets needed are going to come from those who are collaborative, strategic, and trustworthy, and I place integrity at the top of the list.

Loop: Yes, that's the collective vision of crystal ball gazers. Meanwhile, the first person to live to 150 years old has already been born. It is interesting to see what opportunities there are going to be for people who will want to work longer. If we are going to live well over 100 years, we are going to want to work longer and seek new, challenging opportunities. I certainly think that being a board member qualifies.

Romney: You'll see more directors coming from nontraditional backgrounds, and not necessarily a corporate background. You might also see people within the company wanting to join the board that you would not have expected. I hope that companies and boards will begin to encourage such people to learn more about board service and elevate that person.

Loop: When you talk about more people from diverse backgrounds joining boards in the future, their service alone will address the diversity-on-the-board concept. Their differing prior experiences will get that diverse thinking on the board.

Romney: Yes, that's exactly right. This is the next great place to be, especially for somebody who's leaving corporate America, or academia, or the government, or running a household. It's another chapter in a person's life. By the way, that's the way women are. We keep having new chapters. How exciting is that, to bring value from all these different segments of your life into the boardroom?

Ronna Romney

"My goal is to have no surprises in a board meeting. A good lead director anticipates landmines, or tries to make sure that if there are going to be any problems, that they are resolved diplomatically before meetings."

Stuart R. Levine on the Complexities of Modern Shareholder Communications

The 2008 financial crisis and resulting federal regulations have reinforced the primacy of public-company shareholders. Consequently, shareholders are demanding more information about company strategy, operations, directors, and governance principles in action. For boards, this creates the challenge of learning the composition of their shareholder base and effectively communicating how board actions reinforce and advance the value of the company. Stuart R. Levine, a director of Broadridge Financial Solutions and chair and CEO of Stuart Levine & Associates, spoke with *NACD Directorship* about current trends in shareholder communications. He provides his well-tested and proven advice for directors trying to navigate this increasingly complex area of governance.

From a director's perspective, how do you define meaningful and robust shareholder engagement?

I think everything that resides in the boardroom and in the culture of the board must focus on the shareholder—that relentless focus on the creation of long-term value. And so, questions around strategy and creating value really start with a focus by the board on the shareholder. This creates higher-level strategic discussions, because focusing on the shareholder moves conversation away from tactical discussions and gets the board focsued in the right direction.

The way you ensure a respectful relationship between shareholders and the board is by focusing on important forms of communication. For example, there's a powerful opportunity for respectful communications that add value in how a proxy is written and in how the candidates for election or re-election are submitted for a vote. It's important that those communications reflect activities that directors are involved in personally and professionally so that shareholders get a better sense of how their representatives are helping to ensure shareholder interests. We should be moving away from boilerplate and going to focused communication that gives shareholders better insights into the candidates.

We are on the eve of the 2016 proxy season. What should boards be doing right now in regard to shareholder outreach?

It's very easy to focus on institutional investors, but the reality is that if you look at the underlying accounts of brokerage firms, this year 32 percent of outstanding shares are actually held directly by retail investors. I think it's important to stimulate the discussion of reaching out to retail investors through communication and information that engages with those people, because one-third of your base is comprised of actual people—not entities or investment companies—that are investing and showing incredible faith in your service and in your company. It's the responsible thing to consider all of your total shareholders, not just the few that may initiate direct communications with you.

Are there differences between how the board reaches out to institutional investors and retail investors?

Because of technology, we have better tools out there today. For example, when you engage in a virtual shareholder meeting, an individual does not have to travel out of state to attend the meeting. A virtual meeting opens up the doors to all people, and potential investors as well. It gives people a chance to hear from the CEO about corporate governance and about the strategic direction of the corporation, all through an intelligent technology portal.

Shareholders want more and more data, but doing a data dump is not the most helpful way of presenting that information. How can directors approach creating meaningful communications that are on-point but also provide investors with the breadth of information they want?

I'm a great proponent of crisping up communication so people can have information presented in a clear way. When you talk about unloading volumes of data, it's interesting, but it doesn't get to the core issue, which is letting shareholders understand what your strategy is, the metrics behind those decisions, and how you're deploying capital, be it financial or intellectual.

Activist investors have become almost omnipresent. From a communications standpoint, how can directors anticipate and approach their engagement with activists, and what can they do to remain in touch with and represent the entire shareholder base?

At the end of the day, all directors have to look at themselves in the mirror. They need to define how the board is functioning, how the charter reflects the particular responsibilities of board members, and drill down on whether the right questions are being asked around strategy and the deployment of capital before an activist even comes in. We must be proactive in communicating the company's strategy and governance principles. Activist investors can be divided into two broad categories—those who want value now and those who have broader questions about your corporate governance. We shouldn't need the motivation of an activist banging on the door or acquiring shares of stock.

Each director has the responsibility to ask focused questions on strategy, succession planning, and deployment of capital. Those robust discussions are really important. When you hear other colleagues talk about activists, some people are threatened by them and not welcoming. Personally, I think activists are raising very important questions and some of them are incredibly effective in analyzing corporations and understanding how to add shareholder value. So before you start talking about activists, look internally and ask, "If I was an activist, what are the three or four questions I would be asking at this table?" When an activist comes through the door, they know if there's been a good strategic discussion—they can tell by the direction the company is taking. Every director has an obligation to ask intelligent questions and share intelligent strategic perspectives. And directors have to get past their fears.

You mentioned strategy. What general questions would you advise all directors to ask?

Strategy is based on many things, including changes and complexity in the regulatory world and in the world of the company's consumers and customers. Strategy is a subject that deserves to be on every board agenda and it's not a matter of doing one strategy retreat once a year. I think that those days should be over because a more hands-on approach is needed. When we talk about strategy, we talk about increasing volatility in the consumer's market and impact on brand. So for me, strategy is a living, very vital conversation and it's certainly not a one-off event—that's for sure. That's a big change. Directors can no longer fake it. The details matter.

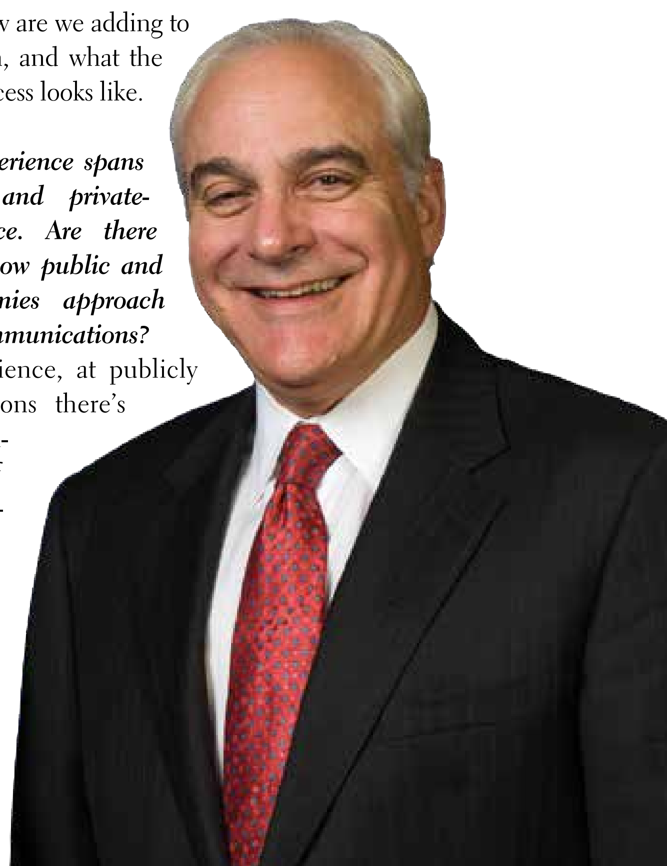
What is the benefit of using technology in a shareholder communications program and are there pitfalls that directors may need to look out for?

Technology is a very cost-effective way to reach out to shareholders, number one. And shareholder communications are becoming far more efficient and data driven. From a strategic point of view, asking the CEO and the independent chair of the board how we're deploying technology to increase the strength of our relationship with our shareholder base is a really good question. Many of us now walk around with devices all day long, but most retail investors need to be reminded why it is in their best interest to vote. The more engagement, the better it is for the well-being of the corporation. I think developing programs on a regular basis that allow the company to share its strategy and results is critical, where appropriate.

Another hot topic right now is the issue of proxy access, i.e., shareholder director nominations. What do you think boards need to be thinking about in terms of composition?

Board composition is a really important conversation because you cannot afford to have underperforming assets as board members. When you talk about board recruitment and retention, I strongly believe that the board should begin to reflect the company's customer base. For me, it's hard to believe that there still are large percentages of corporations that lack diversity. It's hard for me to understand how current demographics in this country—if not the world—are not represented at the board level.

This conversation needs to start with a robust discussion about criteria at the board level. Look to see, for example, if you have enough technology knowledge and strength on the board. And that becomes a good conversation, because, when you talk about shareholder value, you are making sure that you have somebody on that board or some "bodies" on the board that can add new insights and new experiences to the conversation. The resiliency of a board comes from a discussion of where is the world going, how are we adding to the conversation, and what the recruitment process looks like.



PETER KEOUGH

Your board experience spans both public- and private-company service. Are there differences in how public and private companies approach shareholder communications?

In my experience, at publicly listed corporations there's a greater understanding of regulatory realities, foreign corrupt practices, Dodd-Frank, and so forth. I think some of the smaller family-owned businesses are not as familiar with the implications of these issues because their shareholder meetings are considerably different than how we engage in the public sector.

Having said that, I think there should be a more robust engagement of family-owned businesses and private businesses to ensure that they are compliant with current regulations. For example, things like whistleblower protections and other relevant policies are leading indicators of the culture of an organization.

If management is not tracking whistleblowers in a private corporation and reporting that data to the board, they are missing an opportunity for that board to see how strong the company culture is around ethics and important compliance issues.

In your experience, what have been some of the biggest benefits of shareholder engagement?

The institutional shareholders study the corporation, they understand the balance sheet, and they're going to ask strenuous questions. That stimulates discussion in the boardroom and I think sometimes they bring ideas that really help move a discussion around new strategies, new technologies, and intelligent deployment of capital. As a director at Broadridge, I find those conversations really helpful; shareholders get deeper insight into how we view issues of compensation and fairness and so forth. And I think there's a good dialogue.

Corporations are better served when they hear from all of their shareholders including their retail investors. Directors have an obligation to talk to and encourage retail investors to vote their shares because the more that people engage, the more robust those conversations become, and the corporation functions better.

Is the In-Person Annual Meeting a Relic of the Past?

By Jonathan Foster

For most publicly-traded companies, the annual report used to be a detailed document printed on high-quality paper with first-class graphics and photographs describing a company's business and financial results. Today, it is often just a few pages attached to the Form 10-K required by the Securities and Exchange Commission. It's time that the in-person annual meeting is streamlined into a partially or even entirely electronic meeting.


Jonathan Foster

Although many companies incorporate in Delaware, all states require public companies to hold an annual shareholder meeting to elect the board of directors and transact other business that requires shareholder approval. Notice of the annual general meeting must be in writing and is subject to a minimum notice period that varies by state.

For decades, it was a legal requirement under Delaware corporate law to hold a live annual meeting. However, some corporations saw these meetings as a waste of time and effort, in part because attendance was generally very low, except for maybe large companies or companies that were under pressure from shareholders. About 15 years ago, Delaware, under pressure from these companies, decided that companies could hold meetings electronically—even by conference call.

Some companies host in-person annual meetings that are extravagant events. Berkshire Hathaway sets the standard for these corporate celebrations. This year's three-day celebration had numerous exhibits, a road race, various receptions and meals and, of course, the core annual meeting component where the highlight was several prominent journalists posing questions from shareholders to Warren Buffett and Charles Munger. Not even at this extravaganza did every shareholder question get answered. Wal-Mart has also elevated its annual meeting to the level of an "event." What do Will Smith, Taylor Swift, Ben Stiller, Miley Cyrus, Mariah Carey and Tom Cruise have in common? They have all participated in Wal-Mart's shareholder meetings, as the embattled retailer has deployed celebrities to improve its image. But unless you are a company of exceptional means, this model of "annual meeting as extravaganza" is hardly a realistic way to encourage shareholder attendance. And if anything, most companies are looking to curb costs wherever possible.

In 2001, Inforte Corp., a technology consulting firm, was the first company to host a virtual annual meeting. Before the meeting began, 97 percent of shares were voted via fax and the company was prepared to respond to shareholder questions transmitted electron-

ically. Inforte kept with this format the following year and received few complaints. In 2002, another technology consulting company, Ciber Inc., held its meeting via webcast. According to then-CEO Mac Slingerland, no more than 10 people who weren't employees ever attended the in-person meeting, and he hoped that the new format would attract a larger portion of its 28,000 shareholders.

Last year, Hewlett-Packard Co. became the largest company to host a virtual annual meeting. It joined a growing number of companies foregoing ballrooms and conducting their meetings virtually.

According to Broadridge Financial Solutions, about 90 companies in the United States held entirely virtual annual meetings in 2015. There are a number of benefits to consider. First, shareholders who might not be able to attend a meeting in person due to their location or other factors are able to participate. Second, this format encourages shareholder participation by providing a secure platform on which to vote directly. Third, there is also a cost savings to be considered for both shareholders who can forgo travel, and the company, which is freed of meeting production and security costs. And finally, the environmental impact of hosting a meeting—from transportation-related fuel consumption to resources expended to create print materials for the meeting—is drastically reduced.

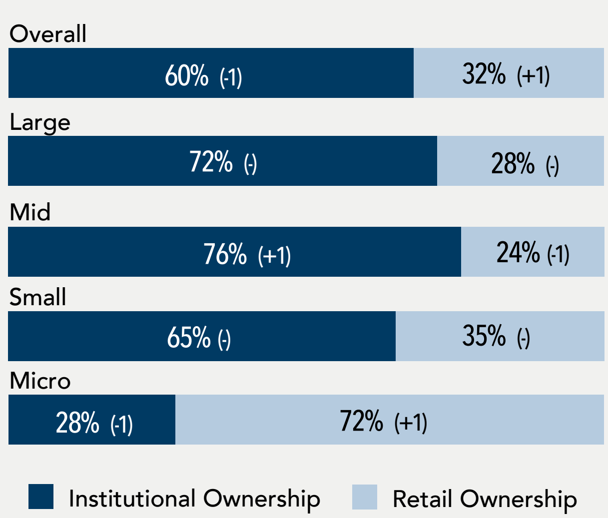
The annual meeting is no longer the primary place to air shareholder concerns, as the growing—and vocal—activist investor community has demonstrated. In fact, the Manhattan Institute this year issued a report concluding, among other things, that only three "corporate gadflies" were responsible for 70 percent of all shareholder proposals in 2014.

Some shareholders and their advocates assert that online-only meetings limit shareholders' face time with company executives and directors, hinder relationship building, and give companies greater control over the questions that are answered—specifically because they allow companies to guard against embarrassing protests or awk-

How the Numbers Add Up

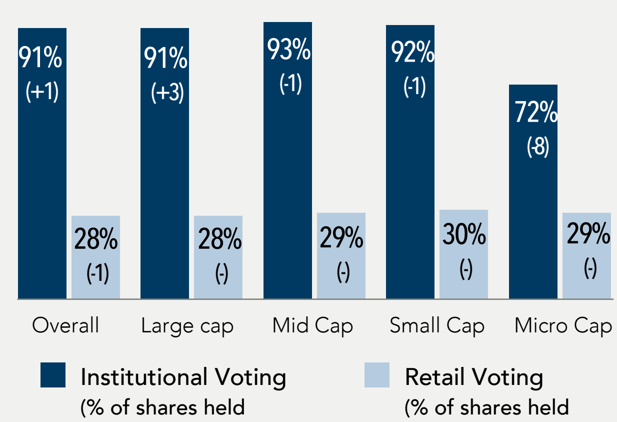
KNOW YOUR INVESTORS. Boards need to know how their shares are held. Although the initial inclination may be to focus on institutional investors, the ratio of institutional to retail investors can vary radically depending on the company's market capitalization. To look at both ends of the spectrum, while retail investors own 28 percent of shares in large-cap companies, they have a greater presence in micro-cap companies, holding 72 percent of shares.

Shares Ownership by Company Size
Proxy Season 2015



VOTING TRENDS. Although share ownership varies by market capitalization, institutional shareholders vote at higher rates. Furthermore, there has been a decline in the number of retail shares voted during proxy season: 28 percent of this segment's shares were voted in 2015, down from 31 percent in 2012. It remains to be seen how virtual or hybrid annual meetings, which ostensibly offer all shareholders greater opportunities to participate in a company's governance, will impact this trend.

Shares Voted by Company Size
Proxy Season 2015



+/- Indicates percentage point increase or decrease from proxy season 2014 ward face-offs between management and shareholders. This format also presumes that shareholders have an Internet connection and the necessary digital savvy to participate in these meetings.

These concerns are impacting how companies make digital access a component of the annual meeting. Several years ago, Procter & Gamble Co. amended its bylaws to allow virtual meetings, only to backtrack following objections from shareholders. After Symantec Corp. hosted an online-only meeting in 2010 and heard complaints, it compromised by switching to a hybrid format where a physical event is held but investors can also "attend" online. Intel Corp. and Microsoft Corp. have followed suit.

Here are a few suggestions to make virtual meetings inclusive and productive:

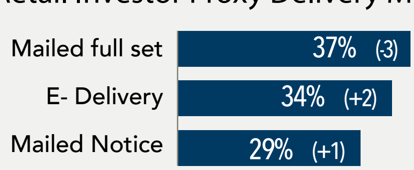
- Establish procedures for shareholders to vote remotely.
- Establish guidelines for handling questions from shareholders who are participating electronically, specifically with regard to posting questions before, during, and after the meeting.
- Archive and post the meeting to a location that can be readily accessed by shareholders.

Stringent disclosure requirements, extensive media outlets, and a vocal activist community make the in-person annual meeting feel outdated. Do concerned shareholders wait for the annual meeting to ask hard questions or air their grievances? A virtual or hybrid meeting should satisfy the intent of the annual meeting and can be of greater benefit to both companies and shareholders. D

Jonathan Foster is the founder and a managing director of Current Capital LLC, a private-equity investing and management services company. He has more than 25 years of investment banking, private-equity, and corporate director experience. He also served on the 2015 NACD Blue Ribbon Commission on the Board and Long-Term Value Creation.

STRATEGIC COMMUNICATIONS. With knowledge of the composition of the shareholder base and how they vote, companies must then develop a communications strategy that will be impactful. Considering the variety of shareholders and their voting habits, a one-size-fits-all approach is not effective in many solicitations. A combination of targeted messaging, customized packaging, and providing multichannel experiences, which demonstrates that the company understands its shareholders, do more to encourage participation. Technology is impacting how companies engage with shareholders and directors need to consider how digital messaging can be used in communication efforts. Looking at data from the 2015 proxy season, electronic delivery of proxy materials to retail investors rose by 2 percent, while mailed materials dropped by 3 percent.

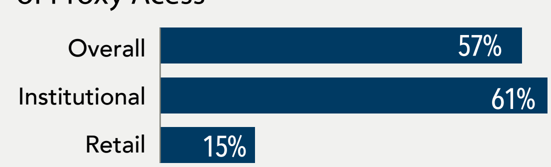
Retail Investor Proxy Delivery Methods



(-) Indicates no change year over year. Source: *Proxy Pulse*

POWER TO THE PEOPLE. The battle for proxy access is gaining momentum, however, not all shareholder are fighting to influence board composition. Looking at the 2015 proxy season data, 85 percent of votes cast by retail shareholders opposed proxy access proposals, while 61 percent of votes cast by institutional shareholders were cast in favor of such proposals. Broadridge anticipates that by the end of 2015, more than 100 proposals for proxy access will come to a vote.

Percentage of Shares Voted in Support of Proxy Acess



ProxyPulse is a collaboration between Broadridge and PwC's Center for Board Governance. The analysis is based upon Broadridge's processing of shares held in the name of a brokerage firm, which accounts for over 80 percent of all shares outstanding of U.S. publicly-listed companies. Shareholder voting trends during the proxy season represent a snapshot in time and may not be predictive of full-year results. For purposes of this report, the term "institutional shareholders" refers to mutual funds, public and private pension funds, hedge funds, investment managers, most managed accounts and vote agents. The term "retail shareholders" refers to individuals whose shares are held beneficially in brokerage accounts. Visit www.proxypulse.com for more information.

2015 NACD Directorship 100

A Pantheon of Power and Influence

Edited by Judy Warner, Alexandra R. Lajoux, Jesse Rhodes, and Katie Grills

The National Association of Corporate Directors' (NACD) ninth annual Directorship 100 (D100) is a deep trove of influential directors and governance professionals—and special mentions of a few whose day jobs are allied to the boardroom. Since its inception, this listing of the most influential people in boardrooms and on corporate governance celebrates directorship by shining a light on those who we believe are tops in the profession. That said, we are pleased to introduce you to the four Corporate Governance Hall of Fame inductees, the NACD Director of the Year, the B. Kenneth West Lifetime Achievement Award recipient, the 50 exemplary directors and the 50-plus governance professionals or institutions that comprise our list.

This year, we asked each D100 honoree to provide a short answer to the following question: "What is the best advice you would give to a first-time director?" We were pleased to read through the wealth of sage insights that flooded our inboxes, and we have edited those answers to their essence in these pages. Be sure to visit NACDonline.org/Magazine to read their many full responses.

CORPORATE GOVERNANCE HALL OF FAME

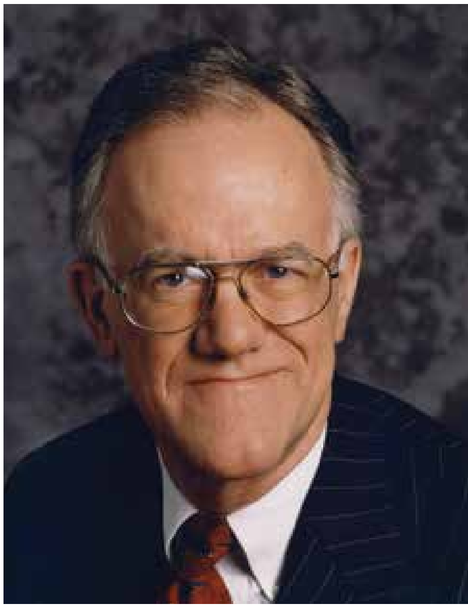
Noblesse Oblige JOHN H. BIGGS

John H. Biggs vividly remembers when the 61-year-old headmaster of the private Thomas Jefferson School in his native St. Louis opted out of Social Security, played the stock market, and lost everything, forcing him to rely on the school and its alumni for financial support. It was an experience that ultimately led Biggs to the Teachers Insurance and Annuity Association-College Retirement Equities Fund (TIAA-CREF), a Fortune 100 company that stands as the nation's largest pension fund, as it did under his tenure.

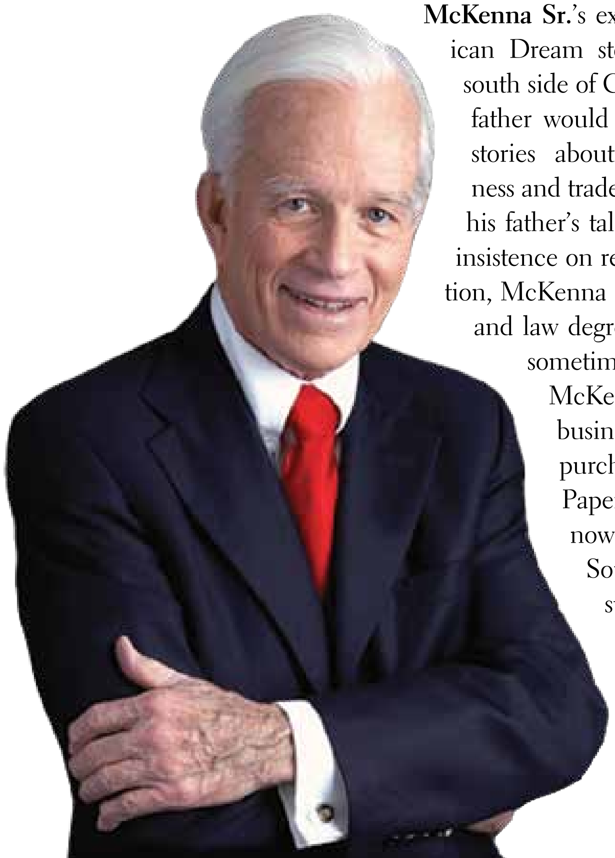
Biggs served as chair and CEO of the company from 1993 until 2002, always keeping the interests of fund participants at the fore. In 1997, Congress sought to strip TIAA-CREF of its tax-exempt status. While the move would have opened up new and highly lucrative markets for the fund, Biggs fought the bill, estimating that retirees could lose as much as 15 percent of their annuity incomes. Congress ultimately favored the estimated $1.2 billion that would come from taxing TIAA-CREF and Mutual of America. Nevertheless, Biggs was able to continue to control costs and pass savings on to pensioners.

Biggs brought that same level of dedication to his directorships, which included the Boeing Co. and JPMorgan Chase, serving on the audit committees at both companies. Prior to those roles, he was a director of Ralston Purina Co. and McDonnell Douglas Corp. He has published a number of papers on corporate governance, variable annuities, social security, the regulation and taxation of pension plans, and demographic effects on pensions.

Biggs is currently an executive-in-residence at the Leonard N. Stern School of Business at New York University, where he teaches courses on corporate governance, accounting, finance, and investments. —*Jesse Rhodes*



Living the American Dream ANDREW J. MCKENNA SR.



McDonald's Corp. Chair **Andrew J. McKenna Sr.**'s extraordinary American Dream story began in the south side of Chicago, where his father would tell him bedtime stories about successful business and tradesmen. Inspired by his father's tales of industry and insistence on receiving an education, McKenna earned his college and law degrees while working sometimes up to four jobs.

McKenna's first notable business success was the purchase of Schwarz Paper Company, now Schwarz Supply Source, where he started his post-academic career as a salesman.

McKenna's extraordinary career—lauded in 1993 by the Horatio Alger Society as an example of the power of the American Dream—has included executive tenure at private and public companies and prodigious service to several corporate boards. A McDonald's director since 2004, McKenna has helped guide the iconic American brand through some of its most disruptive challenges, including rapid-fire CEO successions, the effects of digital innovation on the enterprise, and the rise of competing fast-casual dining concepts.

In addition to serving as chair of McDonald's, McKenna chairs Schwarz Supply Source and two other private companies. He is also advisory chair of Edgewater Funds' executive advisory board. McKenna's current and previous board service at the likes of Skyline Corp. and Aon PLC make him a sought-out advisor in the Chicago business community and beyond.

McKenna is committed to directorship of Chicago organizations that enhance and improve the lives of his neighbors. His current charitable directorships include A Better Chicago, Ronald McDonald House Charities, and the United Way of Metropolitan Chicago. He is also an advisory board member of Lyric Opera of Chicago and of the Museum of Science and Industry. A proponent of keeping both mind and body active, McKenna is a director and co-owner of the Chicago Bears Football Club. —*Katie Grills*

The Man in the White Hat

RALPH V. WHITWORTH

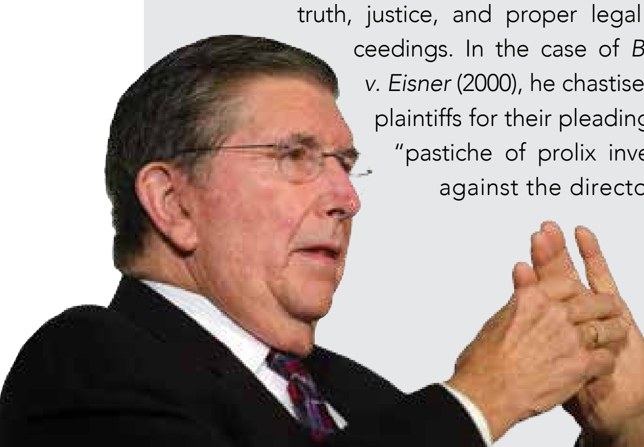
Ralph V. Whitworth could have stepped right out of a classic Western movie, given his propensity for dry delivery and decisive action. From pro bono shareholder advocate, to activist investor, to corporate director (dissident or otherwise), he has faced controversy with courage and integrity. And although not everyone in town would vote him in as sheriff, it's generally agreed that the hue of his hat is white.

With a Georgetown University law degree, Whitworth began his career in the nation's capital, serving on the staff of Sen. Paul Laxalt (R-Nev.). He soon affiliated with oilman T. Boone Pickens at Mesa Limited Partnership, an investment fund. When Pickens turned to advocacy, Whitworth joined and succeeded him. He co-founded the United Shareholder Association with Pickens to work for proxy voting reform, serving as president without pay until he voluntarily closed the organization, having achieved its legislative goals. As an outgrowth of his investment work, Whitworth founded Relational Investors in 1996 and began serving on corporate boards, often as a part of his investment strategy. He has been chair of Apria Healthcare Group and Waste Management and interim non-executive chair of Hewlett-Packard Co., as well as director at Genzyme, Mattel, Sirius, Sovereign Bancorp, and Wilshire Technologies. He has served on expert advisory panels formed by a variety of organizations, including NACD, to further improve board-shareholder relations. —*Alexandra R. Lajoux*

Raising the Bar E. NORMAN VEASEY

"Raising the bar" may be a metaphor, but in the case of this honoree, it is the literal truth. Throughout his storied career as attorney, teacher, author, public servant, and, most notably, a judge presiding over the highest court in the leading state for business jurisprudence, Justice **E. Norman Veasey** has worked tirelessly and successfully to elevate the practice of law in all its dimensions.

Veasey may be best known for his integrity on the high court bench, which he served from 1992 to 2004. His opinions showed an unbiased mind focused on truth, justice, and proper legal proceedings. In the case of *Brehm v. Eisner* (2000), he chastised the plaintiffs for their pleading as a "pastiche of prolix invective against the director defendants," but allowed the case to proceed, reasoning that because they do not always have access to all relevant facts, "[p]laintiffs must not be held to a too-high standard of pleading." The case ultimately found in favor of the defendants and resulted in the famed *Disney* decision affirming the business judgment rule.



Since his retirement from the high court, he has remained active in raising standards for corporate governance and the law, serving as a director of NACD and senior partner at Weil, Gotshal, and Manges, and then special counsel with Gordon Fournaris & Mammarella. He chaired the Business Law Section at the American Bar Association and oversaw the sixth edition of the ABA's *Corporate Director's Guidebook* (2011). In addition, he co-authored *Indispensable Counsel: The Chief Legal Officer in the New Reality* (2012).

Veasey teaches at the University of Pennsylvania Law School as an adjunct professor, one of his many distinguished academic appointments. In recognition of his public service, he has received the Order of the First State from the Governor of Delaware, the state's highest honor. —*Alexandra R. Lajoux*

CLASS OF 2014
- Ilene Lang
- Barbara Hackman Franklin
- Myron T. Steele

CLASS OF 2013
- Anne M. Mulcahy
- David A. Nadler
- John M. Nash
- John F. Olson

CLASS OF 2012
- James D. Robinson III
- William B. Chandler III

CLASS OF 2011
- Norman R. Augustine
- Warren E. Buffett
- Ann M. Fudge
- Charles T. Munger
- Harvey L. Pitt
- Jack F. Welch Jr.

CLASS OF 2010
- H. Rodgin Cohen
- Edward A. Kangas
- Alan G. Lafley
- Carol J. Loomis
- Paul A. Volcker

CLASS OF 2009
- Martin Lipton
- Jay W. Lorsch
- Pearl Meyer
- Thomas J. Neff

CLASS OF 2008
- John C. Bogle
- William G. Donaldson
- Arthur Levitt
- Ira M. Millstein
- Robert A. G. Monks
- Michael Oxley
- Paul Sarbanes

DIRECTORS

B. Kenneth West Lifetime Achievement Winner BONNIE G. HILL

Bonnie G. Hill's more than 30-year career spans government, education, and media in addition to serving for more than 25 years as a director of several Fortune 500 companies, including A. K. Steel, Hershey, Home Depot, and Yum! Brands. Her current sole directorship is with the California Water Service Group. Described by her peers as a mentor and role model possessing wisdom and integrity that raises the bar for director service and enriches board and company culture, Hill is this year's recipient of the B. Kenneth West Lifetime Achievement Award.

Hill's tenure as lead director of Home Depot coincided with a global economic crisis. Nevertheless, aided by her leadership, the retailer rose from a market cap low of roughly $32 billion in 2009 to $150 billion today, returning some $50 million to shareholders in the form of dividends and buybacks.

Her dedication to the company's shareholders was further reflected in how she drove board alignment and stressed the value of effective shareholder communications. "Hers was always a wise voice on what needed to be done, when to be cautious, and when to be aggressive," said former Home Depot chair and CEO Frank Blake in a letter of recommendation. "As the CEO of a company going through major changes, I can attest that one of the most important elements of success is having a lead director who is a great sounding board on decisions, a partner in deciding on the path forward, and a leader in driving alignment on the board."

Since 1987, this annual award is given to a director who best exemplifies the work of former NACD Chair B. Kenneth West, whose leadership and consensus-building skills were prodigious and inspirational. Each year, both the B. Kenneth West and Director of the Year honorees are nominated and vetted by a special committee and endorsed by the NACD board. Praise for Hill's leadership excellence readily set her above her peers.

Hill is currently president of B. Hill Enterprises, a consulting firm focusing on corporate governance and board organizational and public policy issues, and co-founder of Icon Blue, a Los Angeles-based brand marketing company.

—Jesse Rhodes

2015 Director of the Year CHRISTOPHER J. COUGHLIN

Humble. Inclusive. Transparent. These are just a few of the characteristics listed in letters of nomination for **Christopher J. Coughlin**, NACD's 2015 Director of the Year. Honorees are nominated by director community peers and selected for their exemplary display of knowledge, leadership, and excellence in board service and corporate governance.

Coughlin's career as a financial and operating executive led him to his current role as independent chair of the Dun & Bradstreet Corp., and as a senior advisor to McKinsey & Co. Coughlin was instrumental in updating Dun & Bradstreet's business approach to meet the demands of a modern, digital economy, an objective he achieved in part by hiring CEO Robert P. Carrigan and recruiting boardroom subject-matter experts. His peers at Dun & Bradstreet and other companies commended Coughlin for his propensity to create a boardroom filled with diverse backgrounds and opinions—then encouraging independent thought to thrive for the good of the business and shareholders.

Coughlin is a familiar face in the industrial and healthcare industries. He is currently independent director of Alexion Pharmaceuticals and Allergan, and served at different times between 2005 and 2012 as executive vice president, CFO, CEO, and chair of Tyco International. Coughlin was instrumental in Pharmacia's acquisition of Monsanto and the eventual spinoff of its agricultural business, and also managed the breakup of Tyco as it spun off into six new companies.

"In my view, he exemplifies the ideals espoused by NACD in how he conducts himself and how he represents shareholders," said Thomas J. Manning, independent non-executive director of Dun & Bradstreet and lecturer at the Chicago School of Law. "He leads the board with a firm but sensitive hand. He is very thoughtful and deliberate. His contributions are always valuable and his counsel is sought out by managers and board members alike."

—Katie Grills

GARY E. ANDERSON

Chemical Financial Corp., Eastman Chemical Co.

Anderson joined Dow Corning, a diversified company specializing in the development, manufacture, and marketing of silicone and silicone-related products, in 1967. He served in various engineering and management assignments, including 25 years in executive capacities as president, CEO, and chair, before retiring at the end of 2005. He was a member of the Conference Board, the World Business Council for Sustainable Development, and the World Economic Forum Chemical Council, and a director of the American Chemistry Council and the Chemical Industry Institute of Toxicology. He has also served as a director or chair of several nonprofit community and university organizations. He has been a director of Chemical Financial Corp. since 2001, serving as the board's first lead independent director from 2006 to 2011. Anderson joined the Eastman Chemical board in 2007 and served as its first lead independent director from 2011 to 2014.

Anderson earned bachelor and honorary doctorate degrees in chemical engineering from Michigan Technological University, and an MBA in finance from Central Michigan University. He and his wife, Judy, have two children and three grandchildren.

Best advice? ***"Be yourself."***

GARY E. ANDERSON

BETSY J. BERNARD

Principal Financial Group, SITO Mobile, Zimmer Biomet Holdings

The past president of AT&T, **Bernard** chairs the nominating and governance committees of the Principal Financial Group and Zimmer Biomet Holdings, and serves on each of their compensation committees. She is lead director of SITO Mobile, a mobile engagement platform provider. Bernard serves on the advisory boards of GroTech Ventures, Innovate Partners, and the Silverfern Group. Bernard's significant board experience spans more than a decade and includes United Technologies, Serco Group, URS, and Telular, where during her tenure as chair the shareholders saw a total shareholder return of 350 percent before concluding a successful sale of the firm in June 2013. Bernard received a BA from St. Lawrence University, MBA from Fairleigh Dickinson University, and an MS in management from Stanford University's Sloan Fellowship Program.

Best advice? ***"Make sure you have the right leader, the right controls, and are following the right strategy."***

[attributed to attorney Martin Lipton]

BETSY J. BERNARD

VERONICA BIGGINS

Avnet, Southwest Airlines

Biggins has served on the boards of publicly traded Avnet since 1997 and Southwest Airlines since 2010. At Avnet she chairs the corporate governance committee and serves on the compensation committee. She serves on the compensation and nominating and corporate governance committees for Southwest Airlines. Biggins is a managing partner of Diversified Search and leads its board of directors' practice. Earlier, Biggins served as director of presidential personnel under President William J. Clinton, leading the selection and hiring of all political appointees within the federal government including the placement of agency heads, ambassadors, and members of presidential boards and commissions. She and her team built a talent pipeline, developing structure, organization and process to successfully fill each of 4,000 open positions in just one year.

Best advice? ***"Be curious about everything."***

VERONICA BIGGINS

ANGELA BROCK-KYLE

Infinity Property and Casualty Corp.

Brock-Kyle currently serves on the audit and nominating and compensation committees of Infinity Property and Casualty Corp., an auto insurance firm. She is on the board of United Way, where she currently chairs the nominating committee and is a member of the finance committee (audit function), and led the CEO search and strategic review. She previously served on the administration committee (investment function) and the tri-state U.S. Hurricane Sandy Funds Oversight Committee. She is the vice chair of the advisory board of Women in the Boardroom and serves on the board of the Executive Women's Golf Association Foundation.

Best advice? ***"Build relationships."***

ANGELA BROCK-KYLE

DIRECTORS

RAYMOND BROMARK

CA Technologies, Tesoro Logistics, YRC Worldwide

Bromark sits on the board and chairs the audit committees of CA Technologies, Tesoro Logistics, and YRC Worldwide. He is also a member of the mergers and acquisitions and risk and compliance committees of CA and the conflicts committee of Tesoro Logistics. Bromark is currently a member of NACD's Audit Committee Chair Advisory Council. Bromark retired after 26 years as partner in 2006 from PwC.

Best advice? ***"Don't lose sight of the board's role and responsibilities, and be yourself."***

RAYMOND BROMARK

JOYCE F. BROWN

JOYCE F. BROWN

Ralph Lauren Corp.

Brown is president of the Fashion Institute of Technology (FIT), a specialized college of art and design, business, and technology of the State University of New York. Appointed in 1998, she is the college's sixth president. She also serves as president of the FIT Foundation, an advisory and support body to FIT. She is a director of the Ralph Lauren Corp., and a member of the Economic Club of New York. She is also an ambassador for The Climate Group and has served on statewide commissions and task forces on the black family, childcare, and domestic violence.

Best advice? ***"Always be prepared...Bring your best listening skills to board meetings. Do not attempt to micromanage company personnel...always remember that your real job as a board member is to represent the best interests of the shareholders."***

LESLIE A. BRUN

Automatic Data Processing, Broadridge Financial Solutions, CDK Global, Merck & Co., NXT Capital

The chair and CEO of Sarr Group, an investment holding group, **Brun** recently announced he would step down as non-executive chair of Automatic Data Processing. He serves on the boards of Broadridge Financial Solutions, CDK Global, Merck & Co., and NXT Capital.

Methodology How Honorees Are Selected

The selection of the D100 begins with an online poll that all NACD members are invited and encouraged to participate in when e-mailed a link to a write-in ballot at NACDonline.org. Once this nominations process is closed, an editorial advisory committee composed of *NACD Directorship* editors, researchers, and the senior leadership team led by Editor-in-Chief Judy Warner determine the 50 directors and 50 or so corporate governance institutions or professionals who comprise the corporate governance ecosystem. NACD's board of directors then reviews the list of finalists.

Directors, once named to the list, are not considered for future lists. Once a D100 director, always a D100 director. The rationale for this decision is to each year create a wholly new and unique class of directors.

In addition to the 50 D100 directors, we recognize the recipients of the annual Director of the Year and the B. Kenneth West Lifetime Achievement Awards and inductees into the Corporate Governance Hall of Fame who, through their actions, deeds, and words advance the cause of exemplary board performance. These attributes include:

- Board leadership (i.e., these directors are appointed lead or committee chairs)
- A sound ethical compass
- Involvement in board-related issues and activities outside of the boards on which they serve (i.e., they train others on good governance practices)
- Press and media citations (i.e., these directors are "spokes-models" for their peers)

The D100 also recognizes governance professionals and institutions that represent the various corporate governance spheres of influence. Honorees donate time and expertise to support NACD's mission as members and active participants in the ongoing dialogue about what constitutes leading boardroom practices. Professional service providers play a vital, necessary, and integral part in the development and exercise of corporate governance. Without attorneys, compensation consultants, audit firms, and recruiters, boards would be unable to exercise their duty in the most professional manner possible. Investors, journalists, and policy advisors all play a critical role, too, whether they inform or influence judgments through proxies, newsgathering, or advocacy.

DONALD J. CARTY JR.

Canadian National Railway, EMC Corp., Virgin America

Carty was elected to the EMC board in January. He also is chair of Virgin America Airlines, where he chairs the nominating and corporate governance committee and is a member of the audit committee, and is a director of Canadian National Railway Co., where he chairs the audit committee and is a member of the corporate governance and nominating committee; the environment, safety, and security committee; the human resources and compensation committee; and the strategic planning committee. He previously served as vice chair and CFO of Dell from January 2007 to June 2008, and as chair and CEO of AMR Corp. and American Airlines from 1998 to 2003. He holds a bachelor's degree in economics and mathematics and honorary doctor of laws from Queen's University in Kingston, Ontario, and an MBA from Harvard Business School.

E. MICHAEL CAULFIELD

UNUM Group

Caulfield, who chairs the audit committee at UNUM and also sits on the finance and risk committees, served as president of Mercer Human Resource Consulting from September 2005 until September 2006, prior to which he served as COO from July 2005. He retired from Prudential Insurance Co. as executive vice president in 2000, after having held a number of executive positions, including executive vice president of financial management, CEO of Prudential Investments, and president of both Prudential Preferred Financial Services and Prudential Property and Casualty Company.

Best advice? ***"Ensure the organization that you represent embraces your personal values and embeds them in its strategy and all aspects of its business system."***

PAULA H. J. CHOLMONDELEY

Dentsply Intl., Nationwide Mutual Funds, Terex Corp.

Cholmondeley sits on the audit and governance and strategy committees on the three publicly traded company boards she serves. She is a member of NACD's In-Boardroom and Board Advisory Services faculty, where she teaches governance and facilitates board evaluations. Cholmondeley also is former general manager of the specialty products division of Sappi Fine Paper and was the first female elected officer at Owens-Corning, where she was general manager of the residential insulation division.

Best advice? ***"Directorship is an earned privilege, not a right."***

E. MICHAEL CAULFIELD

PAULA H. J. CHOLMONDELEY

TERRELL K. CREWS

JANET F. CLARK

EOG Resources, Goldman Sachs BDC, Texas Instruments

The retired executive vice president and CFO of Marathon Oil, Clark was this year named to the Texas Instruments board, where she sits on the audit committee. **Clark** also sits on the board of EOG Resources, where she serves on the compensation and nominating and governance committees. In addition, she chairs the audit committee at Goldman Sachs BDC, a specialty finance company focused on the middle market.

TERRELL K. CREWS

Archer Daniels Midland Co., Hormel Foods Intl., Rock-Tenn, WestRock Co.

Crews retired in 2009 as EVP and CFO of Monsanto Co., where he served in various leadership positions for 32 years including as CFO of its seed business and director of internal audit. He currently serves on the board of Hormel Foods International, where he chairs the audit committee and is a member of the compensation committee. He also chairs the audit committee of Archer Daniels Midland Co., and in 2015 was elected to the board of WestRock Co., where he sits on the audit committee. In addition to these company boards, he is a member of the board of trustees for Freed-Hardeman University and Junior Achievement of Greater St. Louis, where he served as board chair.

Best advice? ***"After I retired from my job, an experienced board director advised me to 'stay relevant.'"***

DIRECTORS

JEFFREY E. CURTISS

KBR Inc.

Curtiss chairs the audit committee and sits on the nominating and corporate governance committee of KBR Inc., a NYSE-listed $6 billion engineering and construction company, with 25,000 employees and a market cap of $3 billion. He also served as a member of KBR's independent committee, which evaluated aspects of the KBR split-off from Halliburton. Curtiss received a BSBA degree from the University of Nebraska's College of Business Administration with high distinction, a JD degree from the University of Nebraska's College of Law, and an LLM degree in taxation from the School of Law at Washington University in St. Louis. He became a CPA in 1971, a practicing lawyer in 1972, and a CFA charter holder in 2006.

Best advice? ***"Understand your role and responsibilities."***
[attributed to fellow director Richard Slater]

W. ROY DUNBAR

Humana, Lexmark

In 2015, **Dunbar** served on the board of iGate, where he chaired the compensation committee until the completion of its acquisition by Capgemini. He chairs the board finance committee at Humana, which in July announced it would be acquired by Aetna. He also serves on the board of Lexmark, where he sits on the compensation committee. Dunbar is a founder of private companies focused on renewable energy and property development. He served in roles as CEO and chair of Network Solutions between 2008 and 2010. Network Solutions, subsequently acquired by Web.com, was the original domain name registrar and provides a suite of Web services for small and medium enterprises. He was formerly president of global technology and operations at MasterCard from 2004, and also served as a member of MasterCard's executive committee. Dunbar joined MasterCard from Eli Lilly where he worked for 14 years, serving as president intercontinental region, and earlier as chief information officer.

Best advice? ***"Listen carefully… ask open questions."***


JEFFREY E. CURTISS


W. ROY DUNBAR


GARY W. EDWARDS


JOHN V. FARACI


MARGARET M. FORAN

GARY W. EDWARDS

Entergy Corp.

The lead director of Entergy Corp., **Edwards** has also served on the boards of Sunoco and Sunoco Logistics. In addition to his public company directorship, Edwards is a trustee of The Methodist Hospital and Theater Under the Stars in Houston, where he and his wife, Peggy, live, and the Game Creek Club and BRAVO Vail, both in Colorado. He is a director emeritus of the Yellowstone Park Foundation.

JOHN V. FARACI

ConocoPhillips Co., PPG Industries, United Technologies Corp.

Faraci spent his career of more than 40 years at International Paper, the world's largest pulp and paper company, where he held a variety of financial, planning, and management roles including chief financial officer. He ultimately served as chair and CEO of International Paper from 2003 to 2014. Faraci has been a director of United Technologies Corp. since 2005. He currently chairs the finance committee and is a member of the audit, executive, and nominating and governance committees.

MARGARET M. FORAN

Occidental Petroleum Corp.

Foran is chief governance officer, vice president, and corporate secretary of Prudential Financial. A director of Occidental Petroleum Corp. since 2010, she currently chairs the board's corporate governance, nominating, and social responsibility committee. In addition to her inclusion on the 2015 D100, her commitment to board leadership has been recognized on other occasions.

Best advice? ***"Listen and learn the business and the industry as fast as you can. I read multiple 10-Ks and analyst reports not only on the company, but the industry. I read various experts on what they thought were the key issues in the industry. I interviewed former energy executives and analysts to get their perspectives on the business. And then I did it again, and again, and again."***

JONATHAN F. FOSTER


JONATHAN F. FOSTER

Berry Plastics Group, Chemtura Corp., Lear Corp., Masonite International Corp.

An experienced investment banker, private equity investor and corporate director, **Foster** has particular expertise in industrial and services companies. The founder and managing director of Current Capital, he leads the firm's private equity investing and management services efforts focused primarily on middle market and smaller industrial and services companies.

Best advice? ***"A director may have particularly thoughtful ideas; however, he or she has to convince colleagues of his or her position or these thoughtful ideas will not be implemented. First impressions are very important. To be effective as a new director, you must quickly become respected and accepted by management and your colleagues. Good preparation, voicing thoughtful input, and being personable will position you well to be an effective director in your new board seat."***

HELENE D. GAYLE


HELENE D. GAYLE

Coca-Cola Co., Colgate-Palmolive Co.

Gayle is CEO of McKinsey Social Initiative, a nonprofit organization that implements programs that bring together varied stakeholders to address complex global social challenges. An expert on global development, humanitarian, and health issues, she spent 20 years with the Centers for Disease Control, working primarily on HIV/AIDS.

Best advice? ***"A board that is thoughtful about its composition is a bit like an orchestra—nobody hires all piano players or bass guitars, but everyone should be familiar with the song that is being played. So start with your instrument and understand how it contributes to the tune. In the process, you will get better at your own instrument and you will learn more about the tune and the other members that make up the orchestra. Understand as much as you can about the business and what you bring to it from your own areas of strength and build from there."***

PATRICK W. GROSS


PATRICK W. GROSS

Capital One Financial Corp., Career Education Corp., Liquidity Services, Rosetta Stone, Waste Management

Gross co-founded American Management Systems, a billion-dollar consulting, enterprise, and information technology services firm in 1970 and served as principal executive officer from 1970 to 1974 and then as a director of the company from 1974 until 2002. He has chaired Rosetta Stone's board since 2013 and serves on the audit, compensation, and corporate governance and nominating committees. In addition to his public company board service, Gross currently serves as chair of the World Affairs Council of Washington, D.C., and the Hitachi Foundation. He is an elected member of the Council on Foreign Relations, Washington Institute for International Affairs, International Institute for Strategic Studies, Federal City Council, Economic Club of Washington, and the Chief Executives Organization.

Best advice? ***"[A mentor] advised to take extra time to learn the business and to engage with the company management as early as possible and ask whatever questions came to mind without hesitation. He suggested that I ask how the company wished to be positioned in five years. He suggested that working back from that destination would help raise questions today that might be valuable contributions."***

H. EDWARD HANWAY


H. EDWARD HANWAY

Marsh & McLennan Cos.

Hanway is the former chair and CEO of CIGNA Corp., a role he held from 2000 until his retirement in 2009. He currently chairs Marsh & McLennan's compensation committee. Through the years, Hanway has been active in a wide range of issues and initiatives associated with children's health, education, and international business, and serves on the board of the March of Dimes Foundation.

Best advice? ***"Always respect the role of a director" and "always facilitate an open and honest dialogue with management."***

DIRECTORS

RICHARD J. HARRINGTON

Aetna, Xerox Corp.

Harrington is the retired CEO of the Thomson Reuters Foundation, the information firm's charitable arm that runs programs to promote positive societal change. He has been a director of Xerox since 2004, where he chairs the audit committee. He joined the Aetna board in 2008, where he serves as chair. In 2002, he was presented an Honorary Doctorate of Laws from the University of Rhode Island. In 2007, he received the Legend in Leadership award from the Yale University Chief Executive Leadership Institute, the CEO of the Year award from the Executive Council, and the Man of the Year award from the National Executive Council for his philanthropic activities.


RICHARD J. HARRINGTON

LESLIE STONE HEISZ

Ingram Micro, Towers Watson & Co.

Prior to her retirement in 2010, **Heisz** was a managing director of Lazard Frères, a managing director of Wasserstein Perella, and a vice president and associate at Solomon Brothers. She currently serves as an independent director for two public companies and one nonprofit. At Ingram Micro, she chairs the audit committee and serves on the executive and governance committees. At Towers Watson, she serves on both the audit and the risk committees. Heisz also serves as a director of the Kaiser Foundation Hospitals and Health Plans, a leading provider and nonprofit health plan, where she serves on the audit, governance, and community benefit committees.

Best advice? ***"We've all heard the philosophical question: if a tree falls in the forest, and no one is around, does it make a sound? Well, for a director to add value, he or she must find a communication style that is respectful, yet persuasive enough to engage the interest of colleagues and management so that robust deliberation and decision making can ensue."***


LESLIE STONE HEISZ

ROBERT H. HERZ

Morgan Stanley, Workiva

Herz is the president of Robert H. Herz LLC, a consulting services company that specializes in financial reporting matters. He has been a director of Morgan Stanley since 2012 and he currently chairs the audit committee. He is also an executive-in-residence and member of the faculty of the Columbia Business School and serves on the Standing Advisory Group of the U.S. Public Company Accounting Oversight Board, the Financial Reporting Faculty Advisory Group of the Institute of Chartered Accountants in England and Wales, and the Accounting Standards Oversight Council of Canada.

Best advice? ***"Invest the time needed to get to know your fellow directors and members of the company's management team, read as much as you can about the company and the industry, both from company materials and analysts' reports and other third-party sources, and be collegial and constructive in board meetings, but don't be bashful or hesitate to ask questions and probe issues."***


ROBERT H. HERZ

BETSY D. HOLDEN

Diageo PLC, Time Inc., Western Union Co.

Holden is a senior advisor to McKinsey & Co., with expertise in strategy, marketing, innovation, and board effectiveness. She is the former co-CEO of Kraft Foods and CEO of Kraft Foods North America. Betsy has extensive board experience and currently chairs Time Inc.'s compensation committee.

Best advice? ***"Choose wisely. Select an industry and company that you are really interested in, a management team that you believe in, and a board where your skills and experiences are relevant and will add real value."***


BETSY D. HOLDEN

RICHARD J. HOWELL

Red Robin Gourmet Burgers

Howell was an audit partner with Arthur Andersen LLP for 28 years of his 37-year career at that firm before retiring in 2002. Currently he is an independent director of Red Robin Gourmet Burgers, where he serves on the compensation committee and chairs the audit committee. He earned his BBA and MBA from the University of Wisconsin.


SHERRILL W. HUDSON


KATHLEEN HYLE


NANCY J. KARCH


CATHERINE P. LEGO

SHERRILL W. HUDSON

CBIZ Inc., Lennar Corp., TECO Energy, United Insurance Holdings Corp.

Hudson chairs TECO Energy's board, where he was executive chair from 2010 to 2012, after having served as chair and CEO since 2004. He joined the board in January 2003 and previously was chair of the audit committee. Hudson is a member of the finance committee, and as CEO was intimately involved in overseeing TECO Energy's operations and the implementation of new corporate strategies. He also serves on the boards of Lennar Corp., United Insurance Holdings Corp., and CBIZ, Inc. He is an investor and board member of Itopia, Inc., a small, privately held information technology, cloud hosting company. In April, he retired from the Publix Supermarkets Board after 12 years of service. He retired from Deloitte & Touche in 2002 after 37 years of service, 19 of which he was managing partner of its South Florida offices.

KATHLEEN HYLE

ADT Corp., AmerisourceBergen Corp., Bunge Ltd.

From 2008 until its 2012 merger with Exelon, **Hyle** was senior vice president and chief operating officer of Constellation Energy, a Baltimore-based energy company. She has served on the AmerisourceBergen board since 2010, where she currently chairs the audit and corporate responsibility committees and is a member of the executive committee and finance committee. In addition to her corporate board service, Hyle also serves on the executive and finance committee of the board of trustees of Center Stage in Baltimore and on the board of sponsors for the Loyola University Sellinger School of Business and Management.

NANCY J. KARCH

Genworth Financial, Kate Spade & Co., Kimberly-Clark Corp., MasterCard

Karch is a former senior partner of the international consulting firm, McKinsey & Co. During her 26-year tenure with McKinsey, she was managing partner of the retail and consumer industries sector, and through most of her partnership years she was the most senior woman at the firm. Since retiring in 2000, Karch has pursued a career in board service. In addition to serving as chair of the Kate Spade board, she chairs the compensation committee of Genworth Financial, and the nominating and governance committees of MasterCard and Kimberly-Clark.

Best advice? ***"Accept that [directorship] is a role different from anything you have ever done...Do participate and speak up from day one, but also observe and learn."***

CATHERINE P. LEGO

Fairchild Semiconductor International, Lam Research Corp., SanDisk Corp.

Lego is currently the chair of the audit committee for SanDisk Corp. She was a member of its board from 1989 to 2002 and rejoined in 2004. She was elected to the Lam Research board in 2006 and has since served on the audit and nominating and governance committees. She joined the Fairchild Semiconductor board in 2013 where she serves on the nominating and governance and compensation committees.

Best advice? ***"Remember you were recruited because your experience is valued and [the board] believes that you can make a contribution. Relax and listen."***

SIMON M. LORNE

Teledyne Technologies

Lorne is the vice chair and chief legal officer of Millennium Management, a global asset management firm. He has been a director of Teledyne, a conglomerate whose subsidiary companies operate in the digital imaging, instrumentation, engineered systems, and aerospace and defense electronics sectors, since 2004, where he currently chairs the audit committee. He is the author of two books: *Acquisitions and Mergers: Negotiated and Contested Transactions*, and *A Director's Handbook of Cases*. From 1999 to 2004, he was a partner in the law firm now known as Munger Tolles & Olsen and was general counsel at the Securities and Exchange Commission from 1993 to 1996 under then chair Arthur Levitt Jr. In addition, Lorne has been a visiting or adjunct professor at the University of Southern California Law School, University of Pennsylvania Law School, and the New York University School of Law.

DIRECTORS

DOUGLAS MACLELLAN

ChinaNet Online Holdings

As a senior international business executive, economist, venture capitalist, and merchant banker, **MacLellan** has been working in China since 1983 and is a recognized authority on joint ventures and wholly foreign-owned enterprise structuring. He chairs ChinaNet's audit and compensation committees. He is also chair and CEO for the MacLellan Group, a financial advisory services company that specializes in mergers and acquisitions, joint ventures, business restructuring, private placements, line management, IPOs, and reverse merger transactions. MacLellan founded the company in 1992. He holds an MA and BA from the University of Southern California in economic and international relations.

TIMOTHY MANGANELLO

Bemis Co., Delphi Automotive

Manganello is the retired chair and chief executive of BorgWarner, a worldwide automotive industry components and parts supplier. He has served as a director of Bemis since 2004 and was elected non-executive chair in May. He is a director of the Michigan Science Center and was a member of the University of Michigan College of Engineering's National Advisory Council. He was awarded the French Legion of Honor Medal in 2012.

Best advice? ***"The best advice I received is, 'Tim, be yourself, remember that is what got you here.'"***

MICHAEL J. MARDY

Keurig Green Mountain, Tumi Holdings

Mardy is executive vice president, CFO, and director of Tumi Holdings, a retailer of prestige luggage and travel accessories. He joined Tumi in 2003 and led its initial public offering process in 2012. He also serves on the board of Green Mountain Coffee Roasters, where he is audit committee chair and a member of the compensation committee. In addition, he serves on the board and is finance committee chair for the Eden Institute for Autism in Princeton, N.J., where he lives with his wife, Karen.

TIMOTHY MANGANELLO

MICHAEL J. MARDY

LISBETH R. MCNABB

NEIL S. NOVICH

Best advice? ***"Do your homework. You have a duty to know as much about the company, its industry, your fellow directors, and management team as you can."***

LISBETH R. MCNABB

Nexstar Broadcasting Group

McNabb is founder and CEO of DigiWorks Corp., which creates software that helps companies track online discussions. She is a director of Nexstar Broadcasting, a Texas-based telecommunications company, where she chairs the audit committee. She is also a member of American Airlines Advisory Board on women's business segment strategy, the advisory board of the University of Nebraska-Lincoln, and is a company advisor to digital, technology, and consumer companies including Sittercity.com and GenGreen.

NEIL S. NOVICH

Analog Devices, Beacon Roofing Supply, Hillenbrand, W. W. Grainger

Novich retired in 2007 from Ryerson, a Fortune 500 company that specializes in the distribution and processing of metals, where he served as chair, president, and CEO. A private-equity firm purchased Ryerson, and Novich has since committed himself to board leadership at several manufacturing and distribution companies. He is director at W. W. Grainger, an international distributor of facilities maintenance supplies, where he serves on the audit and nominating and governance committees. His other directorships include Analog Devices, where he chairs the compensation committee; Hillenbrand, where he chairs the compensation committee and is a member of the mergers and acquisitions and nominating and governance committees; and Beacon Roofing Supplies, where he chairs the audit committee. His interests outside of the boardroom include advising startups of many kinds on strategic product and market goals, and mentorship. He also sits on the board of trustees of the Field Museum of Natural History and Children's Home and Aid.

Best advice? ***"You don't run the company but never forget that you sit in that room because all the shareholders can't."***

SARAH E. RAISS

Canadian Oil Sands, Commercial Metals Co., Loblaw Cos., Vermillion Energy

During her tenure at TransCanada Corp., **Raiss** was responsible for an array of executive administrative functions from human resources to aviation and from organizational excellence to branding and marketing. She ascended to the role of executive vice president of corporate services before retiring in 2011. Raiss currently serves on several public company boards as independent director. Amongst them are Loblaw Companies Ltd. as member of the governance, employee development, and nominating and compensation committees. She also serves at Vermillion Energy as a member of the governance and human resources committees; Canadian Oil Sand on its corporate governance and compensation committees; and at Commercial Metals Co. as chair of the compensation committee and member of the nominating and corporate governance committee. Raiss is also chair of Alberta Electric Systems Operator, a nonprofit organization responsible for the planning and operation of the Alberta Interconnected Electric System.


SARAH E. RAISS

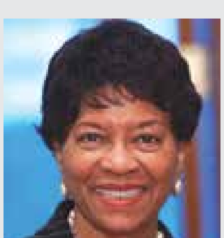
Best advice? ***"Find a person or two on the board and ask them to be your 'board buddy…'"***

A Nod to the NACD Board

NACD had one of its most successful years to date thanks to the leadership and oversight of its own board. While in service to NACD, board members are rescinded from consideration for the D100 and cast final approval on honorees.

Reatha Clark King, NACD chair since 2013, leads the board with passion and deep experience as a chemist, educator, and philanthropist. The **Hon. Cari M. Dominguez** was recently elected vice chair, and new members are **Nicholas M. Donofrio** and **Sue W. Cole.** Donofrio chairs the innovation and technology committees at Advanced Micro Devices and Delphi Automotive, chairs the technology committee at Bank of New York Mellon, and is a director of Liberty Mutual and The MITRE Co. Cole is a director of Martin Marietta Materials and chair of its compensation committee. She also serves on the boards of Biscuitville, High Point Bank, and Diversified Trust Co. She is founding director and past president of NACD's Carolinas Chapter.

They join distinguished NACD board members **Dennis Beresford, Raymond V. Gilmartin, Karen N. Horn, Richard Koppes, William E. McCracken, Charles H. Noski, William J. White,** and NACD CEO **Ken Daly**.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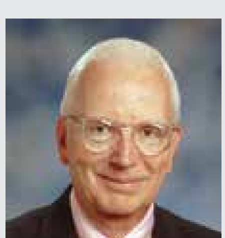
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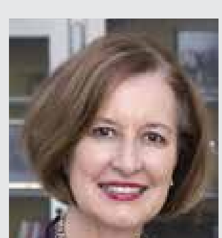
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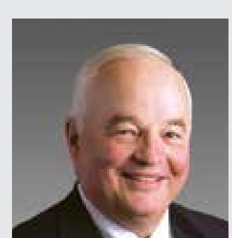
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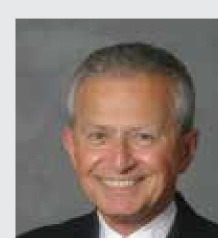
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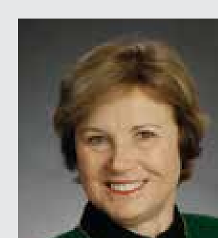
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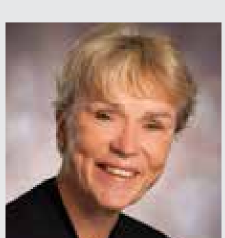
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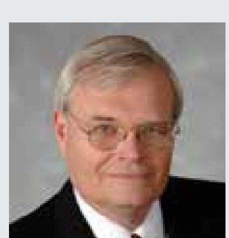
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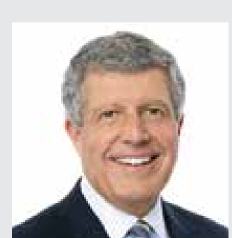
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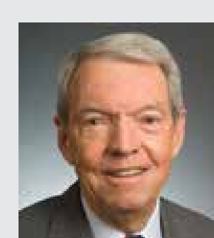
CHARLES H. NOSKI


WILLIAM J. WHITE

DIRECTORS

IRVIN E. RICHTER

Hill International

Richter is founder and chair of Hill International, a construction management and consulting company. Prior to becoming chair, Richter was chair and CEO of Hill's former subsidiary, Gibbs & Hill, an international power and transportation firm. Richter also serves on the boards of two private companies—he is CEO and chair of the Millennium Energy Corp. and chair of Proton Therapy.

RONNA ROMNEY

Molina Healthcare, Park Ohio Holdings Corp.


RONNA ROMNEY

Romney is a distinguished national and Michigan state public servant whose terms of service have included chair of the President's Commission on the White House Fellowship, as appointed by President George H. W. Bush, and Republican National Committeewoman for the State of Michigan. She is the lead independent director of Molina Healthcare, a managed care company headquartered in Long Beach, Calif., and an independent director of Park-Ohio Holdings Corp. At Molina, Romney chairs the transaction committee and serves on the compensation and corporate governance and nominating committees. She chairs the compensation committee at Park-Ohio. She is the proud mother of five children, including her namesake, the current Republican National Committee chair for Michigan, Ronna Romney McDaniel. *(Ronna Romney is featured in a* Repartee *in this issue. See story, page 22.)*

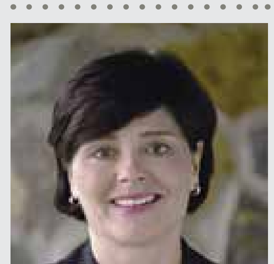
Best advice? "A board is most effective when there is a collegial atmosphere. You don't have to agree all the time but mutual respect and courtesy are essential...Kindness is powerful...even in the boardroom."

Exemplars of Chapter Leadership MICHELE J. HOOPER, LIANE J. PELLETIER

The heart of NACD's work is service to its members, and this mission could not be fulfilled without exemplary leaders at each of NACD's 22 chapters. As a rule, NACD board members and chapter leadership cannot be considered for the Directorship 100. Nevertheless, *NACD Directorship* each year singles out exemplary chapter leaders. This year, a salute is due to two high-performing chapter leaders: Former NACD national board member and Chicago chapter President **Michele J. Hooper** and Northwest chapter President and Director **Liane J. Pelletier**.

Hooper has been a committed supporter of NACD and its members since her first encounter with the organization in 2000, and especially since assuming Chicago chapter leadership in 2002. The Chicago chapter has flourished under Hooper's leadership, as she has committed the same depth of wisdom and energy to developing chapter membership and programming as she did while serving the national board. She led the Chicago chapter to adopt policies to promote candid engagement between directors, a move made in response to requests for more frequent contact with peers.


MICHELE J. HOOPER


LIANE J. PELLETIER

The Chicago chapter pioneered a policy of allowing membership only after attending two chapter events, a policy that has deepened engagement among NACD members in the Chicago area and was was consequently rolled out to all chapters this year.

When asked about Hooper's leadership, Kathy Hendrickson, Chicago's chapter administrator, noted an important value of any chapter leader: "She mentors everyone."

Hooper is independent director of PPG Industries, where she chairs the audit committee and is a member of the nominating and governance committee.

Pelletier is a rising star among chapter leaders. A member of the Northwest chapter board since 2011, Pelletier was last year elected president. Pelletier began her directorship service in Alaska, serving as CEO and chair of Alaska Communications. She is currently independent director and chair of the nominating committee of Atlantic Tele-Network.

Hooper and Pelletier's dedication to promoting NACD's mission is evidenced by the innovation they both show in advancing the skills of directors in their regions. —*Katie Grills*

WILLIAM A. ROSKIN

Martha Stewart Living Omnimedia

Roskin is an independent director of Martha Stewart Living Omnimedia, and founder and president of Roskin Consulting Co., a human resources consultancy focusing on the media relations industry. Roskin's career in mass communications extends to 1971 when he served as a senior attorney for RCA Global Communications. He spent 21 years at Viacom, where he held various leadership roles, including executive vice president of human resources. At Martha Stewart Living Omnimedia, Roskin serves as an alternate member of the finance committee, member of the audit committee, and chair of the compensation and nominating and corporate governance committees. Roskin also devotes his time to the Legal Aid Society, where he serves as a director.

Best advice? ***"Pay strict attention to what was being said and how it was being said, and to agree or disagree in a style somewhat consistent with the culture of the board as you perceive it. Always do your homework and be prepared to participate, but do not be shy to ask questions when some explanation is not clear."***

FRANCESCA RUIZ DE LUZURIAGA

Office Depot, Supervalu

Ruiz de Luzuriaga served for 11 years at Mattel, where she was a member of senior management, and currently has her own business consulting practice. Prior to her tenure at Mattel, she served in various positions at Xerox Corp. Ruiz de Luzuriaga is independent director of Supervalu and Office Depot. She is chair and financial expert of Office Depot's audit committee and a member of the finance and integration committee. Ruiz de Luzuriaga also serves on the board of Sansio, a private company that provides software as a service to emergency care and response operations. Ruiz de Luzuriaga formerly devoted her time to directorship of Children Affected by AIDS Foundation, which has since merged with Keep a Child Alive to help more children internationally.

WILLIAM A. ROSKIN

KATHI P. SEIFERT

OLYMPIA J. SNOWE

KATHI P. SEIFERT

Eli Lilly & Co., Lexmark International

Seifert has forged a path for women in leadership. She is senior managing director at Brock Capital Group, owner and president of Katapult, and an independent director of Lexmark International and Eli Lilly & Co. She also serves on the board of several private companies, including Fox Cities Chamber of Commerce & Industry and Revlon Consumer Products. She retired from Kimberly-Clark as an executive vice president after 26 years, and she contributes knowledge of the international sales and marketing of personal products to the organizations that she leads and has led. Seifert chairs the compensation and pension committee and is a member of the executive committee at Lexmark, and is a member of the audit and compensation committees at Eli Lilly. Seifert is also an advisor for InterOrganization Network, a national consortium dedicated to increasing the presence of women in the boardroom.

OLYMPIA J. SNOWE

Aetna, T. Rowe Price Group

Snowe, the former Republican senator from Maine and member of the House, is chair and CEO of Olympia Snowe, LLC, a self-started consultancy providing communications and policy advisory services. She is also director of T. Rowe Price Group, where she sits on the executive compensation committee and is chair of the nominating and corporate governance committee and at Aetna, where she is a member of the audit and medical affairs committee. In addition, Snowe serves as non-voting observer of Synchrony Financial, a former subsidiary of GE, and as a committee member of the Harvard University Institute of Politics. A storied and respected public servant, Snowe frequently served as mentor for other women in politics until her high-profile retirement from Congress in 2013, and now commits her attention to corporate directorship.

Best advice? ***"A good independent director combines a collaborative approach with exercising independence and being prepared to ask the tough and probing questions."***

DIRECTORS

RONALD D. SUGAR

Air Lease Corp., Amgen, Apple, Chevron Corp.

Sugar has kept busy since his retirement from Northrop Grumman Corp. in 2010—he currently serves as director at Chevron Corp., Air Lease Corp., Apple, and Amgen, and serves as senior advisor to several private investment firms, including Areas Management. He is lead independent director at Chevron, where he serves as chair and financial expert of the audit committee, chairs the board nominating and governance committee, and is a member of the management compensation committee. At Air Lease Corp., Sugar serves as independent director, chairs the compensation committee, and is a member of the nominating and corporate governance committee. Sugar is independent director of Apple, where he serves as chair and financial expert of the audit and finance committee. Sugar is also an independent director of Amgen, where he is chair of the corporate responsibility and compliance committee, and a member of the executive and governance and nominating committees. Sugar serves on the board of trustees of several high-profile nonprofit institutions, including the Los Angeles Philharmonic Association and the Boys and Girls Club of America. He has also served as chair of the Aerospace Industries Association and was a fellow of both the American Institute of Aeronautics and Astronautics and the Royal Aeronautical Society.

Best advice? ***"In well-run companies, much of the time, board meetings enter a predictable rhythm, and are fairly routine. It has been said that in routine times, the quality of a board doesn't really matter—until suddenly those moments when it matters enormously…In those moments, the board's collective wisdom, perspective, and mature judgment can make—or break—a company."***

RONALD D. SUGAR

JOHN W. THOMPSON

SUSAN TOMASKY

JOHN W. THOMPSON

Microsoft Corp.

Thompson is independent chair, Microsoft Corp., and currently serves as CEO of Virtual Instruments, a privately held company focused on the efficient performance of applications on virtual and private cloud computing solutions. A member of the Microsoft board since February 2012, Thompson was elected independent chair two years later. In addition to his independent chair service, Thompson is also chair of the governance and nominating committee, and member of the regulatory and public policy committee at Microsoft. He serves as a director on the boards of a number of privately held companies, including Liquid Robotics, Jovian Data, and Illumio.

Thompson is an avid investor and advisor in early-stage technology startups in Silicon Valley, and also acts as trustee of Wetlands America Trust. He is also a former board member of Teach for America and of several governmental agencies, including the Financial Crisis Inquiry Commission and the National Infrastructure Advisory Committee.

SUSAN TOMASKY

Public Service Enterprise Group, Summit Midstream Partners, Tesoro Corp.

Tomasky's energy industry experience spans private industry and government and she works to support the Ohio business community. It's no wonder she was awarded the Glass Ceiling Award in 2011 by Diversity America—she has commendably broadened the reach of women in the energy sector over the course of her career, in the boardroom and beyond. Tomasky is currently a non-board director of the Federal Reserve Bank of Cleveland. She is lead independent director at Tesoro Corp., and serves as an independent director at Summit Midstream and at Public Service Enterprise Group. Tomasky's committee memberships include financial expert of the audit committee and chair of the governance committee at Tesoro; chair of the conflicts committee and member of the audit committee at Summit Midstream; and member of the audit and corporate governance committees at Public Service Enterprise Group. Outside of her directorship commitments, Tomasky is also an avid supporter of the arts in her community and other civic matters. She is currently a trustee of the Columbus Association for the Performing Arts and previously served on the board of the Royal Shakespeare Company America.

JACQUELYN M. WARD

Sanmina Corp., Sysco Corp.

Ward is independent chair of Sysco Corp., a food and beverage supply company, and is independent director and consultant of Sanmina Corp. She retired as president, CEO, and chair of Computer Generation in 2000 and has focused on directorship since. Ward currently serves as chair of the nominating and corporate governance committee and is a member of the compensation committee at Sanmina Corp. She is also chair of the executive committee and a member of the compensation committee at Sysco. Ward is a committed member of the Atlanta community, where she is a member of the Atlanta Action Forum and the Atlanta Round Table.

JACQUELYN M. WARD

MIKE D. WHITE

DIRECTV, Kimberly-Clark Corp., Whirlpool Corp.

White led DIRECTV through a high-profile merger with AT&T, which was met with a 99 percent approval rating from the company's shareholders—numbers that are commendable and enviable. White is president, CEO, and chair of the board at DIRECTV and serves on the boards of Kimberly-Clark Corp. and Whirlpool Corp. As an independent director, White serves on the audit committee at Kimberly-Clark and is chair of the human resources committee and member of the corporate governance committee at Whirlpool. Before joining DIRECTV, White dedicated over a decade to PepsiCo International and its affiliates, where he served in a variety of leadership positions, including as CEO and chair of the board from 2003 to 2009. White has also held senior leadership positions at Frito-Lay North America and Avon Products. He was inducted into the GAMCO Management Hall of Fame in May 2015 and was previously awarded the Corporate Responsibility Award from the International Rescue Committee, a human rights and relief organization.

Best advice? ***"Master the art of asking good questions."***

MIKE D. WHITE

DAVID A. WILSON

DONA D. YOUNG

DAVID A. WILSON

Barnes & Noble Education, CoreSite Realty Corp.

A retired audit authority and academic who has served as CEO of the Graduate Management Admissions Council and as managing partner of EY, **Wilson** is a pioneer in the firm's National Professional Development Education program and of the concept of professional development at large. Wilson is a director and chair of the audit committee at both CoreSite Realty Corp. and Barnes & Noble Education. He also serves as director of two nonprofit organizations: the Atlantic Council of the United States and The Glitter Foundation, which is committed to the funding of and access to arts-based education and therapies. He has also taught at Queen's University, the University of Illinois, the University of Texas, and Harvard Business School.

Best advice? ***"What our attorney never told me was how challenging it may be to hold fast when you are in the minority, but how critical it is to our governance system that you do."***

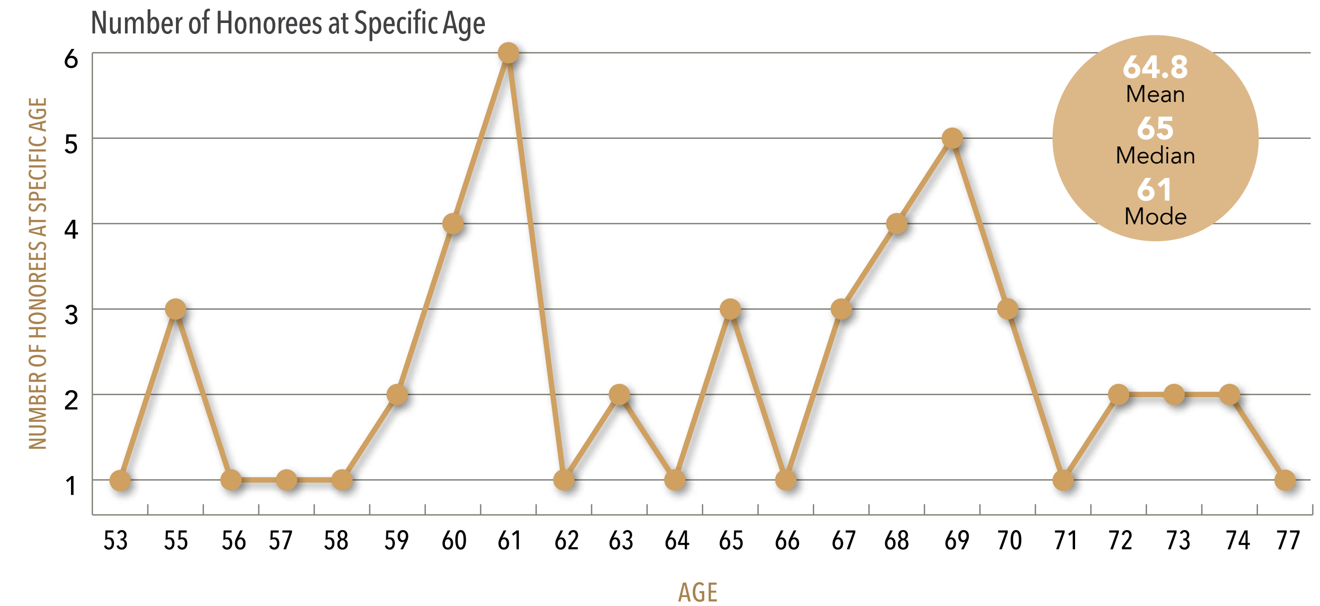
DONA D. YOUNG

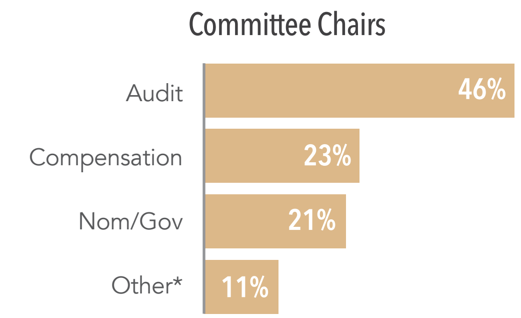
Aegon N.V., Foot Locker

Young retired in 2008 after a 30-year career in insurance and asset management at Phoenix Cos., and one of only 24 female CEOs listed among the Fortune 1000 at the time of her retirement. She currently serves as an independent director and chair of the nominating and governance committee at Foot Locker. Young is also independent director at Aegon N.V., where she is a member of the audit and risk committees. She has served on the Save the Children board, where she is a member of the charitable organization's audit, development, executive, and U.S. programs committees.

Best advice? ***"Be yourself and be prepared to contribute. It sounds trite, but it's true."***

BY THE NUMBERS



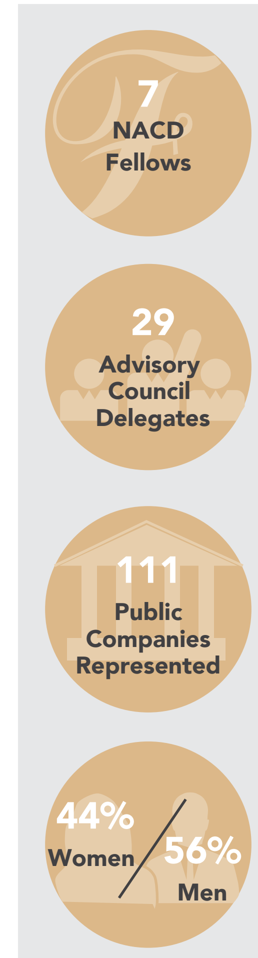


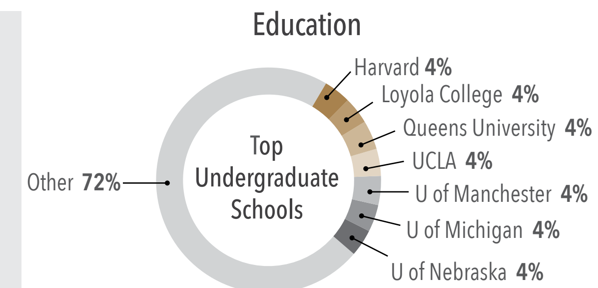
*Committee categories include Responsibility, Human Resources, Conflicts, and Finance

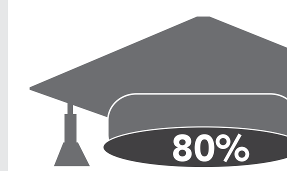
66
Held Committee Chair Positions

22%
Chaired Two Committees

11%
Chaired Three or more Committees



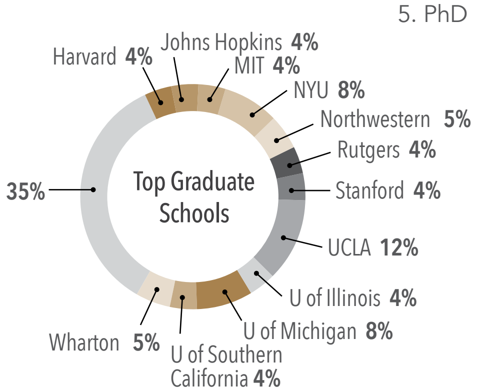




Hold Advanced Degrees

Top Five Post-Graduate Qualifications

1. MBA
2. JD
3. MS
4. MA
5. PhD



Source: BoardEx
Data Represented by D100 Directors

ALPHABETICAL LISTING

DIRECTORS

Gary E. Anderson
Betsy J. Bernard
John H. Biggs✦
Veronica Biggins
Angela Brock-Kyle
Raymond Bromark
Joyce F. Brown
Leslie A. Brun
Donald J. Carty Jr.
E. Michael Caulfield
Paula H. J. Cholmondeley
Janet F. Clark
Christopher J. Coughlin✪
Terrell K. Crews
Jeffrey E. Curtiss
W. Roy Dunbar
Gary W. Edwards
John V. Faraci
Margaret M. Foran
Jonathan F. Foster
Helene D. Gayle
Patrick W. Gross
H. Edward Hanway
Richard J. Harrington
Leslie Stone Heisz
Robert H. Herz
Bonnie G. Hill★
Betsy D. Holden
Richard J. Howell
Sherrill W. Hudson
Kathleen Hyle
Nancy J. Karch
Catherine P. Lego
Simon M. Lorne
Douglas MacLellan
Timothy Manganello
Michael J. Mardy
Andrew J. McKenna Sr.✦
Lisbeth R. McNabb
Neil S. Novich
Sarah E. Raiss
Irvin E. Richter
Ronna Romney
William A. Roskin
Francesca Ruiz de Luzuriaga
Kathi P. Seifert
Olympia J. Snowe
Ronald D. Sugar
John W. Thompson
Susan Tomasky
E. Norman Veasey✦
Jacquelyn M. Ward
Mike D. White
Ralph V. Whitworth✦
David A. Wilson
Dona D. Young

★ NACD B. Kenneth West Lifetime Achievement Award Recipient

✪ Director of the Year

✦ Hall of Fame

GOVERNANCE PROFESSIONALS AND INSTITUTIONS

Joseph Adams
Luis A. Aguilar
Charles M. Allen
Donna F. Anderson
George M. Anderson
Irving S. Becker
Wayne Berson
Glenn Booraem
Amy Borrus
Andre G. Bouchard
Brian V. Breheny
Catherine L. Bromilow
Richard F. Chambers
David Chun
Larry Clinton
James M. Cudahy
Richard J. Daly
Julie H. Daum
Deborah L. DeHaas
Phyllis Deiso
James W. DeLoach
Lynne Doughtie
John Drzik
Theodore L. Dysart
Michelle Edkins
John M. Engler
Steven Epstein
Thomas Farley
Robin A. Ferracone
Cynthia M. Fornelli
Abe Friedman
Dennis J. Friedman
Daniel M. Gallagher
Deborah Gillis
Sam Glasscock III
Robert Greifeld
Holly J. Gregory
Bonnie W. Gwin
Steven E. Hall
Robert E. Hallagan
Dayna L. Harris
Randy J. Holland
Stephen R. Howe Jr.
Blair R. Jones
Bess Joffe
David A. Katz
Mark Kelly
Thomas J. Kim
David H. Kistenbroker
Jannice L. Koors
J. Travis Laster
Gregory E. Lau
James Liddy
Paula Loop
Joann S. Lublin
Mark Lundvall
Stephen P. Mader
Stephan J. Mallenbaum
Robert McCormick
J. Michael McGuire
Patrick S. McGurn
Joan E. Meyer
Robert E. Moritz
Alan Murray
John W. Noble
Rose Marie Orens
Donald F. Parsons Jr.
Gregg H. Passin
Michael S. Piwowar
Jeffry Powell
Michael Powers
Becky Quick
Stephen A. Radin
Veta T. Richardson
Daniel J. Ryterband
Anne Sheehan
Anne Simpson
Michael W. Smith
Andrew Ross Sorkin
Collins J. Seitz Jr.
Kara M. Stein
Leo E. Strine Jr.
Darla C. Stuckey
David N. Swinford
Shawn Tully
Karen L. Valihura
James T. Vaughn Jr.
William H. Voge
Charles Weinstein
Dennis T. Whalen
John W. White
Mary Jo White
Alex Wittenberg
James K. Wolf

AIG COMMERCIAL INSURANCE

MICHAEL W. SMITH

Michael W. Smith

Smith is COO for Global Commercial Insurance at AIG Property Casualty, responsible for advancing the global strategies of distribution, marketing, and strategy. He also oversees operations and systems initiatives for commercial insurance worldwide. Smith is an attorney who practiced law in the private sector in Atlanta and served on the in-house legal staff of a Fortune 500 firm.

Best advice? ***"As you prioritize your duties, put the company at the top of the list, but don't lose sight of the risks to both the company and to you personally. Understand your role, listen, and above all, ask questions."***

BAKER & MCKENZIE

JOAN E. MEYER

Joan E. Meyer

The chair of Baker & McKenzie's compliance, investigations and government enforcement practice in Washington, D.C., **Meyer** also is the office practice chair of litigation and member of the firm's Washington Office Management Committee. She joined Baker & McKenzie in 2008, with more than 20 years' experience in criminal and civil litigation.

BDO USA

WAYNE BERSON

Wayne Berson

The CEO of BDO USA, **Berson** also chairs the global board of BDO International. Before this appointment, Berson was Atlantic Assurance regional managing partner and presiding member of the BDO board. He supports the directorship and audit community as a member of the nominations committee of the American Institute of Certified Public Accountants, and as governing board member and chair of the oversight committee at the Center for Audit Quality. Berson has also provided services to a range of BDO initiatives, including the Alliance program, the Women's Initiative, and the International Recruiting Initiative.

Best advice?***"I believe good leaders must also be good followers…No one creates a successful organization alone."***

BLACKROCK

MICHELLE EDKINS

Michelle Edkins

Edkins is a managing director at BlackRock and global head of its Investment Stewardship team of 22 specialists. In this role, she oversees her team's engagement on corporate governance, including environmental and social impacts, with the companies in which BlackRock invests on behalf of clients. She also serves on the firm's human capital and government relations steering committees. An economist by training, Edkins has also worked in a number of governance-related roles in the United Kingdom and in government roles in her native New Zealand.

Best advice? ***"Commit to be engaged, to have the courage of your convictions, and to continually evaluate the effectiveness of the board and your contribution to it. High-performing boards require more time and focus, but are altogether a most rewarding experience."***

BROADRIDGE FINANCIAL SOLUTIONS

RICHARD J. DALY

Richard J. Daly

The president and CEO of Broadridge Financial Solutions, **Daly** also is a member of the Broadridge board. He is a graduate of the New York Institute of Technology with a BS in Accounting. He is a founding member and honorary director of the Make-A-Wish Foundation of Suffolk County. Daly serves on the board of ADT Corp. and is a director of the SIFMA Foundation and Fountain House.

CALPERS

ANNE SIMPSON

Anne Simpson

Simpson is senior portfolio manager of investments and director of global governance at CalPERS. She leads the organization's sustainability project to integrate environmental, social, and governance factors across the total fund. Simpson is an advisory board member at the Center for Global Markets and Corporate Ownership at Columbia Law School and a director of the Council of Institutional Investors. She also is a member of the Investor Advisory Group of the Public Company Accounting Oversight Board.

GOVERNANCE PROFESSIONALS AND INSTITUTIONS


ANNE SHEEHAN


ABE FRIEDMAN


CYNTHIA M. FORNELLI


BECKY QUICK


ROSE MARIE ORENS


JOHN W. WHITE


CHARLES M. ALLEN

CALSTRS

Anne Sheehan

Sheehan is the director of corporate governance for the California State Teachers' Retirement System (CalSTRS), the largest public pension fund for teachers in the United States. In this role, she is responsible for overseeing all corporate governance activities for the $4 billion fund including proxy voting and company engagements. Sheehan also serves as vice chair of the Investor Advisory Committee of the Securities and Exchange Commission (SEC).

Best advice? ***"Know your shareholder base and make sure your company has a robust shareholder outreach program that enables unfettered feedback."***

CAMBERVIEW PARTNERS

Abe Friedman

Friedman is the founder and managing partner of CamberView Partners, which advises public company boards and management on their investors in the context of shareholder activism and engagement. He is the co-director of the Stanford Institutional Investor Forum, and was appointed by then-SEC Chair Mary Schapiro in 2009 to serve on the agency's inaugural Investor Advisory Committee.

CENTER FOR AUDIT QUALITY

Cynthia M. Fornelli

Fornelli is executive director of the Center for Audit Quality (CAQ), a position she has held since the organization's establishment in 2007. Fornelli supports the community of audit professionals in many other ways, including as director of the Financial Accounting Standards Advisory Council, and has served on the NACD Blue Ribbon Commissions on the Audit Committee and Risk Governance.

CNBC

Becky Quick

Quick is a broadcast journalist who serves as co-anchor of CNBC's weekday morning business affairs show *Squawk Box* and anchor of the nationally syndicated program *On the Money*. She has profiled some of the world's richest and most influential investors, including Warren Buffett, Bill Gates, and Charlie Munger. She is a regular contributor to *Fortune* magazine and CNBC.com. She is a seven-year veteran of *The Wall Street Journal*, where she covered various beats including retail, e-commerce, and the Internet.

COMPENSATION ADVISORY PARTNERS

Rose Marie Orens

Orens is a founding partner of Compensation Advisory Partners (CAP) located in New York. She has consulted on executive and director compensation issues for more than 20 years, focusing on tying executive compensation to business strategy and strengthening the link between performance measurement and rewards. Prior to founding CAP in 2009, Orens was a worldwide partner in Mercer's human capital business and the market business leader in New York.

CRAVATH, SWAINE & MOORE

John W. White

White is a partner in Cravath, Swaine & Moore's corporate department and chair of its corporate governance and board advisory practice. From 2006 through 2008, he served as director of the Division of Corporation Finance at the SEC that oversees disclosure and reporting by U.S. public companies. He is a member of the Standing Advisory Group, which advises the Public Company Accounting Oversight Board. He is also a member of the board of trustees and the audit committee of both the Practising Law Institute and the SEC Historical Society.

CROWE HORWATH

Charles M. Allen

Allen was recently named vice chair of Crowe Horwath and co-chair of Crowe Horwath International in addition to his role as CEO. Allen's professional practice has focused on strategic assistance to private investors as they acquire and finance target companies. A respected member of the CPA community, Allen previously served on the governing board of the Center for Audit Quality and the Council of the American Institute of Certified Public Accountants.

THE DELAWARE COURTS

Most major corporations are domiciled in Delaware because of the Delaware courts' steadfast judicial approach to corporate litigation.

The Court of Chancery is led by **Chancellor Andre G. Bouchard**, the twenty-second chancellor since the court was established in 1792. He is supported by vice chancellors **Sam Glasscock III, J. Travis Laster, John W. Noble,** and **Donald F. Parsons Jr.** Among the Chancery Court's most important decisions in 2015 was *Gorman v. Salmone*, which upheld the concept of "director-primacy" in a dispute over stockholders' ability to appoint corporate officers.

THE COURT OF CHANCERY From left: J. Travis Laster, John W. Noble, Chancellor Andre G. Bouchard, Donald F. Parsons Jr., Sam Glasscock III.

THE DELAWARE SUPREME COURT Below from left: James T. Vaughn Jr.,Randy J. Holland, Chief Justice Leo E. Strine Jr., Karen L. Valihura, Collins J. Seitz Jr.

Chancery decisions can be tested in a higher court, namely the Delaware Supreme Court, which continued to serve as the arbiter of important decisions that affect boardroom practice. The court in May clarified a case (*In re Cornerstone Therapeutics Inc.*) regarding situations where independent directors are able to seek dismissal of claims against them in courts when challenged by shareholders. The ruling stated that directors could seek dismissal from a case if the board's bylaws include exculpatory clauses protecting them from ordinary breach-of-duty charges. However, if sufficient allegations can be collected that a director acted in bad faith, gross negligence, or in breach of fiduciary duty of loyalty, the director can face trial.

A set of cases clarifying director independence was also decided this fall on the same day. *In re Sanchez Energy Derivative Litigation,* written by the **Hon. Leo E. Strine Jr.**, was a rare reversal of a Chancery court opinion. The chief justice reasoned that a friendship of the defendant director had undue influence over his independent decision-making responsibilities to the company. A decision on the appeal of *Corwin et al. v. KKR Fin. Holdings et al.* affirmed the dismissal of shareholders' argument that while the parent company was not a majority holder, it still had undue influence over directors and their capability to form independent decisions.

Justices of the Delaware Supreme Court are appointed for 12-year terms. Strine is currently in his second year of service, and leads four associate justices: **Randy J. Holland; Collins J. Seitz Jr.,** who was sworn in in April; **Karen L. Valihura**; and **James T. Vaughn Jr.**

GOVERNANCE PROFESSIONALS AND INSTITUTIONS

DECHERT

David H. Kistenbroker

The co-leader of the white collar and securities litigation practice of Dechert, **Kistenbroker** is managing partner of the firm's Chicago office. He represents publicly traded companies and their directors and officers in securities class actions, SEC investigations, internal investigations, and corporate governance disputes.

Best advice? ***"Be mindful of your moral compass. There may be times when a new board member disagrees with the majority, but they should not be afraid to voice their opinion."***

DELOITTE

Deborah L. DeHaas

DeHaas wears many hats within Deloitte's Center for Corporate Governance, including chief inclusion officer, vice chair, and national managing partner. DeHaas guides Deloitte's strategy to recruit, develop, and promote a diverse workforce across her roles at the firm. Prior to her work in the Center for Corporate Governance, she was the Central Region Managing Partner. DeHaas is a committed citizen of Chicago, where she is a trustee of Northwestern University's Kellogg Global Advisory Board and vice chair of United Way of Metropolitan Chicago.

DENTONS

Stephan J. Mallenbaum

The New York-based practice leader for Dentons' U.S. corporate practice, **Mallenbaum** is experienced in advising C-level management and boards on strategic matters, transactions, and policy issues, particularly for global financial services, private equity, and technology-driven companies.

DILIGENT CORP.

Jeffry Powell

As executive vice president and director of sales at Diligent, **Powell** is responsible for the development and execution of client acquisition strategies throughout the Americas. During his eight years with Diligent, he has advised thousands of companies across industries and institutions such as banking, energy, higher education, and healthcare on how secure, electronic access to board materials can improve effectiveness and governance.

Best advice? ***"To understand the path forward, you have to understand the history of the company, and the players who will get the company where you want it to go. Take the time to understand the company for what it is: a living, breathing, growing organism, which needs your attention and guidance."***


DAVID H. KISTENBROKER


DEBORAH L. DEHAAS


STEPHAN J. MALLENBAUM


JEFFRY POWELL


CHARLES WEINSTEIN


DAVID CHUN

EISNERAMPER

Charles Weinstein

Weinstein, who is CEO and a member of the executive committee, leads EisnerAmper. He has more than 25 years of experience in audit, mergers and acquisitions, public and private financing, and industry consolidation with the company. Weinstein was managing partner of Eisner as it merged with Amper, Politziner & Mattia, a deal recognized in 2010 as "Deal of the Year" by the Association for Corporate Growth, and helped found EisnerAmper Global, an international network of independent financial firms. He also is director and a member of the American Institute of Certified Public Accountants.

Best advice?***"It is important to realize that your presence on the board is a call to action—an obligation to become involved."***

EQUILAR

David Chun

The founder and CEO of Equilar, **Chun** has led the creation of a well-respected research company that specializes in executive compensation data. Prior to founding Equilar, Chun was a vice president in the investment banking division of Donaldson, Lufkin and Jenrette, a global investment bank that has since merged with Credit Suisse. Chun currently serves on the advisory board of the Wharton Center for Entrepreneurship, is a trustee of the Committee for Economic Development, and a director of the Asian Pacific Fund Community.

EY

Stephen R. Howe Jr.

Howe is managing partner of the Americas Area at EY, a practice area spanning 30 countries and more than 58,000 people. Howe has risen to the rank of managing partner of EY over his 30-year career in the United States, and chairs the U.S. and EY Americas operating executive boards. Additionally, Howe represents EY in its regulatory relationships and is the firm's executive sponsor for inclusiveness.

FARIENT ADVISORS

Robin A. Ferracone, Dayna L. Harris

Ferracone is the founder and CEO of Farient Advisors, an executive compensation consulting firm. She is the author of the book *Fair Pay, Fair Play: Aligning Executive Performance and Pay* and the Forbes.com blog *Executive Pay Watch*. She is a member of the board of pet insurance company Trupanion and the boards of trustees at both Duke University and Oaktree Capital mutual funds.

Harris is a vice president with Farient Advisors and has more than 20 years of experience providing advice on executive and board compensation. She focuses on designing incentive programs that align compensation with business strategy and value creation for shareholders. She advises boards and senior management of public and private companies across a variety of industries.

FIDELITY INVESTMENTS

Mark Lundvall

Lundvall is vice president of investment proxy research for Fidelity Investments, which provides investment management, retirement planning, portfolio guidance, brokerage, benefits outsourcing, and related products to more than 20 million individuals, institutions, and financial intermediaries. Lundvall leads a team of analysts responsible for proxy voting research, analysis, operations, and policy development for Fidelity and its affiliates. His team engages with hundreds of portfolio companies throughout the year on corporate governance and executive compensation matters.

STEPHEN R. HOWE JR.

ROBIN A. FERRACONE

DAYNA L. HARRIS

ALAN MURRAY

STEVEN EPSTEIN

FORTUNE MAGAZINE

Alan Murray, Shawn Tully

Murray is the editor of *Fortune* magazine, overseeing the magazine, its conferences, and its digital properties. Prior to assuming this post in August 2014, Murray was president of the Pew Research Center in Washington, D.C. He is the author of several books, including *The Wall Street Journal Essential Guide to Management*, *Revolt in the Boardroom*, and *Showdown at Gucci Gulch*, which he co-authored with Jeffrey Birnbaum. He is a member of the Gridiron Club, the New York Economic Club, and the Council on Foreign Relations.

Tully is an editor-at-large at *Fortune* magazine, where he covers Wall Street, banking, and healthcare. He joined *Fortune* as a reporter in 1979. In several cases his articles have predicted some of the most influential economic events in recent history, including the collapse of the tech bubble, the controversy surrounding file-sharing service Napster, and the stent wars between Johnson & Johnson and Boston Scientific. He's also developed a specialty in banking—chronicling, for instance, Jamie Dimon's comeback at Bank One and his tenure at JPMorgan Chase & Co.

FREDERIC W. COOK & CO.

Daniel J. Ryterband

Ryterband is CEO of Frederic W. Cook & Co and heads its New York office. He joined the firm in 1997, having previously spent five years with Towers Perrin as an executive compensation and benefits consultant and three years with A. Foster Higgins & Co. He is a certified employee benefit specialist and a certified executive compensation professional.

FRIED, FRANK, HARRIS, SHRIVER & JACOBSON

Steven Epstein

A partner and co-head of Fried Frank's mergers and acquisitions practice, **Epstein** has a diverse transactional practice, which includes strategic mergers and acquisitions and private-equity transactions. He currently serves on the board of Fordham University School of Law and the advisory board of the Practical Law Company.

GOVERNANCE PROFESSIONALS AND INSTITUTIONS


DENNIS J. FRIEDMAN


ROBERT MCCORMICK


J. MICHAEL MCGUIRE


IRVING S. BECKER


THEODORE L. DYSART


BONNIE W. GWIN


PATRICK S. MCGURN

GIBSON, DUNN & CRUTCHER

Dennis J. Friedman

Friedman is a partner in the New York office of Gibson, Dunn & Crutcher, where he leads the mergers and acquisitions (M&A) practice. He has also served on the firm's executive committee and its international management committee. Friedman represents both domestic and foreign entities, boards, special board committees and investment banks in many of the world's largest mergers, cross-border transactions, and unsolicited takeover offers. He also represents hedge funds and private investor funds in their M&A activity. In addition to a legal career that spans more than 35 years, Friedman was an investment banker at several major Wall Street firms.

GLASS LEWIS & CO.

Robert McCormick

McCormick oversees the policy development of Glass Lewis' proxy voting guidelines and the analysis of more than 20,000 Proxy Paper research reports on shareholder meetings of public companies in more than 100 countries. McCormick also serves on the advisory boards of the University of Delaware's Weinberg Center on Corporate Governance and Enlight Research.

GRANT THORNTON

J. Michael McGuire

Named CEO of Grant Thornton, the American member firm of Grant Thornton International, last year, **McGuire** has held leadership positions across the organization before his assignation, including operations, markets and industry, people and culture. He was managing partner of the firm's Carolinas office. McGuire is a board member of the Charlotte Chamber of Commerce and the Bechtler Museum of Modern Art, and is chair of Advantage Carolina.

HAY GROUP

Irving S. Becker

Becker is the U.S. leader of Hay Group's board solutions business. He partners with boards and senior executives to create sustainable organizations and enhance the effectiveness of the relationship between the board and CEO. As part of this effort he works with these groups in the design and development of reward programs to align executive efforts and results with the success of the company. His financial background provides him with a grounded perspective on performance measurement and management. *(As this issue was being prepared, Hay Group announced it had been acquired by Korn Ferry. See related story in NTK, page 10.)*

HEIDRICK & STRUGGLES

Theodore L. Dysart, Bonnie W. Gwin

The vice chair of Heidrick & Struggles, **Dysart** is also a leader in the Global Board of Directors Practice. He is an active member and functional expert of the firm's CEO search practice, with a focus on CEO and board member succession planning. Dysart has placed more than 600 executives on the boards of companies of all sizes.

Gwin is vice chair and managing partner, North America, of Heidrick's board practice. She focuses on both director and executive placement. Previously at the firm, Gwin was president, Americas, and corporate officer overseeing all operations in North and Latin America. She also serves on the Georgetown University board of regents and is a trustee of the Chautauqua Institution.

INSTITUTIONAL SHAREHOLDER SERVICES

Patrick S. McGurn

McGurn serves as special counsel and the head of Strategic Research and Analysis at Institutional Shareholder Services (ISS), the world's leading provider of proxy voting services and corporate governance research. Considered by industry constituents to be a leading governance expert, McGurn serves on the advisory board of the John L. Weinberg Center for Corporate Governance at the Lerner College of Business & Economics at the University of Delaware.

Best advice? ***"Check your preconceived notions—like your luggage—outside the boardroom door."***

KPMG

Lynne Doughtie, James Liddy, Dennis T. Whalen

Over the course of her 30-year career at KPMG, **Doughtie** has ascended the ranks to become CEO and U.S. chair of the board. She previously was vice chair of KPMG's advisory business, a position she held from 2011 to 2015. Her contributions made the advisory service the fastest-growing portion of the company. She is a governing board member of the Center for Audit Quality, and is chair of the Advisory Board of the Pamplin College of Business at Virginia Tech.

Best advice? ***"Complement the board's thinking without conforming to it."***

LYNN DOUGHTIE

JAMES LIDDY

DENNIS T. WHALEN

Liddy was recently appointed as Americas Leader, Global Financial Services at KPMG and was previously vice chair of audit. Liddy currently leads a research project within KPMG to examine the efficacy and quality of audit in the financial industry—particularly on domestic and global Systemically Important Financial Institutions. His career at KPMG spans 30 years.

Whalen, who is the partner in charge and executive director, leads KPMG's Audit Committee Institute. He is also a member of KPMG's National Audit Leadership team and sits on a group of senior partners that provide cross-functional advice on strategic investments and business development for the firm. Whalen has also served as the firm's U.S. and Americas board, where he chaired the audit, finance, and operations committee.

KORN FERRY

Robert E. Hallagan, Stephen P. Mader

ROBERT E. HALLAGAN

STEPHEN P. MADER

The vice chair of board leadership services at Korn Ferry, **Hallagan** is managing director based in the firm's Boston office. Hallagan's recent work includes board succession planning in general, and has focused on niche board concerns such as spin-offs, carve-outs, and the building of boards of post-bankruptcy companies. He has worked with companies including Lehman Brothers, Houghton Mifflin Harcourt, General Dynamics Corp., and ConocoPhillips. Hallagan has been a member of NACD for 14 years, was a board chair, and was a co-founder of NACD's Center for Board Leadership. He was also instrumental in the development of NACD's Blue Ribbon Commissions.

Mader is vice chair and managing director of board and CEO services at Korn Ferry. A seasoned and creative thought leader in the talent industry, Mader has recruited and placed more than 300 board members in the past 12 years since he entered the field of leadership talent after working in robotics early in his career. His interest in that field continues professionally as he aids ambitious, smaller technology and product companies launch their products.

LATHAM & WATKINS

William H. Voge

The chair and managing partner of the global law firm since Jan. 1, **Voge** had served in a variety of leadership positions at Latham spanning more than two decades, including eight years on the executive committee. Based in the firm's London office, he has led a number of initiatives focused on global strategy and practice integration for markets outside the United States. He is a strong advocate for pro bono service and sits on several non-profit boards including the Ubuntu Education Fund.

MARSH & MCLENNAN COS.

John Drzik, Alex Wittenberg

JOHN DRZIK

ALEX WITTENBERG

As president of Marsh Global Risk & Specialties, **Drzik** oversees the firm's global industry and practice specialties as well as Marsh's activities in consulting, captive solutions, risk analytics, and information businesses. He also chairs the global risk center for Marsh & McLennan Cos. He is the former CEO of Oliver Wyman Group, where he was responsible for all management and economic consulting businesses at Marsh & McLennan, which includes Guy Carpenter (strategic advisory services), Mercer (talent development and recruitment), Marsh (insurance brokerage and risk reduction), and Oliver Wyman (management consultant).

Wittenberg, executive director of Marsh & McLennan's Global Risk Center, oversees research in the field of risk management, partnering with leading organizations that in addition to NACD include the Association for Financial Professionals, Organization for Economic Cooperation and Development, World Economic Forum, and the World Energy Council.

GOVERNANCE PROFESSIONALS AND INSTITUTIONS

MERCER

Gregg H. Passin

The senior partner of Mercer's New York office, **Passin** is the North American leader for executive rewards consulting. He counsels public and private companies on global compensation and corporate governance issues relating to senior executives, boards, and professional services firm partner and professional populations. Prior to joining Mercer, Passin was a partner with Sibson Consulting, where he managed the New York and London offices. He has also worked for Merrill Lynch and Frederick Cook & Co.

MERIDIAN COMPENSATION PARTNERS

Michael Powers, James K. Wolf

A managing partner at Meridian, **Powers** has been consulting on executive compensation design issues for more than 25 years. He has substantial experience at the board level. Powers has testified before Congress, the SEC, and the Financial Accounting Standards Board on executive pay and governance issues. Prior to joining Meridian, Powers was at Hewitt Associates for 25 years, where he was global practice leader for executive compensation and corporate governance consulting.

Wolf is a managing partner for Meridian with 20 years' experience consulting to a variety of organizations in the areas of executive compensation, corporate governance, and performance-based pay. Wolf serves as a lead advisor to board compensation committees, specializing in energy, engineering and construction, and transportation industries.

NASDAQ

Robert Greifeld

Greifeld has served as CEO of Nasdaq since 2003, leading the exchange through a series of complex acquisitions that have extended the company's footprint across the world, spanning all asset classes. Nasdaq owns and operates 26 markets, one clearinghouse, and five central securities depositories in the United States and Europe. Its technology drives more than 70 marketplaces worldwide. Greifeld has been a strong advocate for modernizing the exchanges and financial regulation to keep America's capital markets competitive.

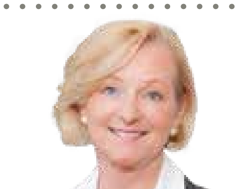

GREGG H. PASSIN


MICHAEL POWERS


JAMES K. WOLF


ROBERT GREIFELD


ANDREW ROSS SORKIN


JANNICE L. KOORS


DAVID N. SWINFORD

NEW YORK STOCK EXCHANGE

Thomas Farley

As president of the NYSE Group, **Farley** oversees the New York Stock Exchange (NYSE) and a diverse range of equity and equity-options exchanges, all wholly owned subsidiaries of Intercontinental Exchange (ICE). Farley joined the NYSE in 2013 when ICE acquired NYSE Euronext. He served as COO and was named president last year. Prior to that, he served as SVP of financial markets at ICE where he oversaw the development of several businesses and initiatives across ICE's markets.

THE NEW YORK TIMES

Andrew Ross Sorkin

Dealbook, the online daily financial report published by *The New York Times*, is a must read. **Sorkin** writes and edits with authority on the day-to-day issues confronting Wall Street and corporate America. Sorkin also co-anchors CNBC's *Squawk Box* and is the author of *Too Big to Fail*, widely regarded as the definitive account of the 2008 financial crisis.

PEARL MEYER

Jannice L. Koors, David N. Swinford

Koors joined Pearl Meyer in 2001 and currently serves as managing director and head of the firm's Chicago office. She has more than 20 years of experience in all areas of executive compensation, including value-based annual and long-term incentive plans, salary structure development, subsidiary pay programs and performance measure selection. She is the lead author each year of Pearl Meyer's director compensation report, produced in conjunction with NACD.

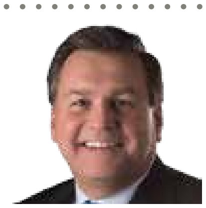
The president and CEO of Pearl Meyer, **Swinford** has considerable experience in contractual arrangements and incentive plan design. He provides a strong and seasoned focus on issues related to board independence and oversight, talent development, and succession planning. Prior to joining the firm in 1998, he was a principal and worldwide partner of William M. Mercer and national practice leader for executive compensation. Swinford also serves on WorldatWork's executive rewards advisory committee.

JAMES W. DELOACH

CATHERINE L. BROMILOW

PAULA LOOP

ROBERT E. MORITZ



JOSEPH ADAMS

GREGORY E. LAU

BLAIR R. JONES

PROTIVITI

James W. DeLoach

The managing director of Protiviti's Houston office, **DeLoach** is a member of the Protiviti Solutions leadership team. His work across 30 different countries and 35 years has focused on assisting companies and organizations in their response to governmental mandates, all with the goal of fusing risk and strategy to create value. DeLoach is a prolific writer on governance, risk management, and effective control processes. You can read his monthly blog posts on these subjects at NACDonline.org/Magazine.

PWC

Catherine L. Bromilow, Paula Loop, Robert E. Moritz

Bromilow is partner of PwC LLP and leader of the firm's Center for Board Governance. Bromilow works closely with audit committees to understand the growing and unique challenges they face, and helps increase the committee members' capabilities to weather changing requirements and regulations.

Loop assumed leadership of PwC's Center for Board Governance and Investor Resource Institute in July. Loop's 32-year career at PwC has focused almost exclusively on service to retail and consumer product clients to meet their operational, technical accounting, and regulatory reporting needs. She also serves on the board of PwC's charitable foundation.

Moritz is serving in his second four-year elected term as chair and senior partner of PwC. He currently manages the firm's U.S. leadership practice, which employs 37,000 professionals across the country. Outside of PwC, Moritz is an international advisory board member of the Atlantic Council and chairs the governing board of the Center for Audit Quality.

RSM *(formerly McGladrey)*

Joseph Adams, Phyllis Deiso

Adams is managing partner and CEO of RSM. Since assuming leadership, Adams has assisted in the purchase of RSM McGladrey, and led his team to increased profits and revenues. Adams was Great Lakes regional manager before becoming CEO in 2011, where he was responsible for one of the firm's largest mergers that expanded revenue from $30 million to $300 million over the course of 13 years. Adams' client experience covers a broad swath of auditing and advisory services, including mergers, acquisitions, divestitures, operations, and organizational and strategy matters.

Deiso is director and national SEC practice leader for RSM. Deiso joined the firm in 2006 from PwC, where she served as managing director. Deiso helps large, multinational leaders in broadcast, manufacturing, transportation, and other industries navigate transactions including carve-outs and spin-offs and their regulatory implications.

RSR PARTNERS

Gregory E. Lau

Lau joined RSR Partners as a senior member of its board practice in 2013. He has more than 30 years of experience working with corporate boards, and works closely with board chairs and nominating and governance committees to finesse compensation plans through targeted recruiting. Lau was executive director of global compensation and corporate governance at General Motors and is a former NACD board member.

Best advice? ***"First, listen, and listen well. We have one mouth and two ears for a reason."***

SEMLER BROSSY CONSULTING GROUP

Blair R. Jones

Jones has more than 25 years of experience as an executive compensation consultant. She has worked extensively across industries, including healthcare, retail, professional services, and consumer products. She has a particular interest and expertise working with companies in transition, linking executive compensation design to urgent business imperatives and cultural mandates. Jones currently serves as a member of the WorldatWork executive rewards advisory council. Prior to joining SBCG, she was practice leader in leadership performance and rewards at Sibson Consulting and an associate consultant at Bain & Co. She holds the designations of Certified Benefits Professional, Certified Compensation Professional, and Certified Executive Compensation Professional.

GOVERNANCE PROFESSIONALS AND INSTITUTIONS

SIDLEY AUSTIN

Holly J. Gregory, Thomas J. Kim

Gregory serves as the co-leader of Sidley's global corporate governance practice, and currently chairs the ABA Business Law Section's Corporate Governance Committee. She has been instrumental in the firm's retention as counsel in several important governance assignments. Gregory is currently advising on the future governance structure for the Internet through the ICANN IANA transition. She is a founding member of the board of the American College of Governance Counsel, and *The American Lawyer* named her one of the Elite Lateral hires of 2014. She authors the governance column for *Practical Law: The Journal*.

Kim joined Sidley in 2013 after six years at the SEC, where he was chief counsel and associate director of the division of corporation finance. He now focuses his practice on advising companies, underwriters, and boards on registered and exempt capital markets transactions, SEC regulatory and reporting issues, and corporate governance, as well as on general corporate and securities matters.

SKADDEN, ARPS, SLATE, MEAGHER & FLOM

Brian V. Breheny

Since joining Skadden in 2010, **Breheny** concentrates his practice in the areas of mergers and acquisitions, corporate governance, and general corporate and securities matters. He advises clients on a full range of SEC compliance and corporate governance matters, including the Dodd-Frank Act, the SEC's tender offer rules and regulations, and the federal proxy rules. Before returning to private practice, Breheny held a number of leadership positions in the Division of Corporation Finance at the SEC.

SPENCER STUART

George M. Anderson, Julie H. Daum

A frequent speaker and producer of thought leadership on board governance, **Anderson** leads Spencer Stuart's board effectiveness services in North America. Before joining Spencer Stuart, Anderson was managing partner of Tapestry Networks. He now advises clients with boards in transition on governance, composition, and leadership matters.


HOLLY J. GREGORY


THOMAS J. KIM


BRIAN V. BREHENY


GEORGE M. ANDERSON


JULIE H. DAUM


STEVEN E. HALL


DONNA F. ANDERSON

Best advice? ***"Travel to and from board meetings with a fellow director, if possible. The time spent together on the margins of the meeting may prove invaluable."***

Daum leads Spencer Stuart's board practice, where her work ranges from consulting to directors of pre-IPO to Fortune 10 corporations. Daum is the former executive director of the corporate board resource center at Catalyst, a worldwide organization focused on placing women in leadership positions. Daum has conducted more than 1,000 director assignments during her tenure at the firm, including the placement of independent directors at Amazon, General Electric, and Wal-Mart.

STEVEN HALL AND PARTNERS

Steven E. Hall

The founding partner and managing director of the eponymous Steven Hall & Partners, **Hall** has advised senior management and board compensation committees in the planning and implementation of senior executive compensation programs and incentives for corporations, subsidiaries, business units, spin-offs, and divestitures. He also serves as an expert witness and frequently consults with corporations and law firms on litigation matters. In addition to being an oft-quoted expert in national media outlets, Hall is co-author of *Executive Compensation Best Practices*.

T. ROWE PRICE ASSOCIATES

Donna F. Anderson

Anderson manages corporate governance for T. Rowe Price, an investment management firm with approximately $390 billion under management. In this role, she leads the policy-formation process for proxy voting in addition to the firm's engagement with portfolio companies. Anderson also serves as co-chair of the firm's proxy committee. Prior to joining T. Rowe Price, Anderson served as director of equity research for AIM Investments. Anderson earned her undergraduate degree in foreign languages from Trinity University and an MBA from the University of Texas. Between degrees, she worked as a newspaper reporter and then for the U.S. Department of State.

SECURITIES AND EXCHANGE COMMISSION

SEC Chair **Mary Jo White** and her supporting commissioners had a full docket in the 81st year of the agency's operation. In addition to implementing major Dodd-Frank provisions, the retirement of two commissioners opened the door to successors *(see related story, NTK, page 10)*. **Luis A. Aguilar** (D) announced he would retire after two terms as soon as a successor is confirmed. **Daniel M. Gallagher** (R) stepped down in October after four years of service. **Michael S. Piwowar** (R) and **Kara M. Stein** (D) complete the panel.

The SEC completed 17 Dodd-Frank provisions, including pay-versus-performance and CEO-to-median-employee-pay ratio disclosure, as well as clawback policies intended to retrieve erroneously awarded incentive-based pay. White also faced a series of new challenges in her second year of service. From federal district court investigations of the Commission's use of in-house administrative judges, to critical pressure from Sen. Elizabeth Warren (D-MA) to take a harder line on prosecuting those in violation of policies, the chair and her team faced few days without challenge.

In addition to rule making, the SEC issued a concept release on possible revisions to disclosures required by audit committees. The release cites concerns over whether audit committees are providing enough disclosure in proxy statements about their actions in meetings, especially with respect to the oversight of external auditors. (In a comment letter on the matter, NACD suggested that the proposal concentrated too heavily on external auditors, asserting that the suggested disclosures would not materially benefit investors.)

The theme of staffing changes continued into several other notable SEC functions. Pamela C. Dyson was officially appointed chief information officer (CIO) after serving as acting CIO since 2014. Dyson has been instrumental in modernizing the commission's information technology infrastructure. Andrew J. Donohue replaced Lona Nallengara as chief of staff, a senior advisory role to the chair on all policy, management, and regulatory issues. Donohue was joined by Michael Liftik, incoming deputy chief of staff. Wesley R. Bricker was named deputy chief accountant, in support of Paul A. Becker, chief accountant, in accounting and auditing policymaking functions.


MARY JO WHITE


LUIS A. AGUILAR


DANIEL M. GALLAGHER


MICHAEL S. PIWOWAR


KARA M. STEIN

GOVERNANCE PROFESSIONALS AND INSTITUTIONS

TIAA-CREF

Bess Joffe

Who leaves Goldman Sachs? **Joffe** did last year to become managing director of corporate governance at TIAA-CREF, where she helps lead, shape, and drive corporate governance program and policies. Joffe led Goldman Sachs' outreach to institutional shareholders on corporate governance policies and practices as a vice president in investor relations. In this role, she engaged with asset managers, public pension funds, proxy advisor firms, governance thought leaders, and academics.

THE VANGUARD GROUP

Glenn Booraem

Booraem is a principal of the Vanguard Group and the treasurer of each of the Vanguard funds. He has worked for Vanguard since 1989 and currently oversees the firm's corporate governance program, covering approximately $2 trillion in equity market value. He has served on the New York Stock Exchange's Proxy Working Group and Commission on Corporate Governance, and currently works with the Shareholder/Director Exchange Protocol working group, a collective of governance experts dedicated to advancing the discussion of shareholder engagement. Booream is instrumental to the development and deployment of Vanguard's "quiet diplomacy," which is "maximized by taking our message directly to those companies where we believe changes are needed."

VINSON & ELKINS

Mark Kelly

Chair of the global law firm Vinson & Elkins, **Kelly** maintains an active practice concentrated on M&A for public and private companies, capital markets, and corporate governance. Since 2008, he has represented clients in more than 150 domestic and cross-border debt and equity offerings. Kelly chairs the executive committee of the Houston Museum of Natural Science, and is a director of the Houston Livestock Show & Rodeo and the Greater Houston Partnership.

BESS JOFFE

GLENN BOORAEM

MARK KELLY

DAVID A. KATZ

JOANN S. LUBLIN

STEPHEN A. RADIN

WACHTELL, LIPTON, ROSEN & KATZ

David A. Katz

The partner at Wachtell, Lipton, Rosen & Katz in New York City is a long-time adjunct professor at New York University School of Law, a senior professional fellow at New York University Center for Law and Business, and an adjunct professor at Vanderbilt University Law School. In addition to many professional memberships, Katz sits on the board of The Partnership for Drug-Free Kids and is an advisory board member of the John L. Weinberg Center for Corporate Governance at the University of Delaware. He writes a bimonthly column on corporate governance for the *New York Law Journal*.

THE WALL STREET JOURNAL

Joann S. Lublin

In the last year, Lublin, the *WSJ*'s management news editor, has bylined hundreds of stories chronicling contentious succession, shareholder, and operational issues at numerous public companies. Her work alone is reason to read the Journal each business morning. Lublin also writes for the front page and "Marketplace" section of the *Journal*, which remains one of the most influential newspapers in the United States.

WEIL, GOTSHAL & MANGES

Stephen A. Radin

A partner in Weil's securities litigation practice group, Radin has litigated, counseled, written, and lectured for more than 30 years on corporate governance subjects, including the business judgment rule, fiduciary duties of corporate directors and officers, shareholder derivative and class action litigation, controlling shareholder and going private transactions, special committee investigations, federal securities laws, disclosure requirements, and indemnification and insurance of corporate directors and officers.

Best advice: ***"Understand how the corporation makes money. Don't be afraid to ask questions—even questions you think are stupid. One size does not fit all, so don't mechanically follow the latest corporate governance trend."***

SOCIETIES AND NONPROFITS

ASSOCIATION OF CORPORATE COUNSEL

Veta T. Richardson

Richardson is president and CEO of the Association of Corporate Counsel (ACC), which is one of the leading global bar associations serving in-house counsel. Under Richardson's leadership, the ACC serves members who work at more than 10,000 organizations—including 98 percent of the Fortune 100 and 51 percent of Global 1,000 companies. Richardson is an attorney and nonprofit association professional who started her legal career at Sunoco, where she counseled on corporate governance, securities disclosures, financing, and mergers and acquisitions transactions.

VETA T. RICHARDSON

BUSINESS ROUNDTABLE

John M. Engler

Engler is president of the Business Roundtable, the powerful association of CEOs who lead major U.S. corporations. Engler is a former three-term governor of Michigan, and former president and CEO of the National Association of Manufacturers. Engler's leadership across both organizations has focused on education and workforce issues—he has drawn attention to the growing need for a specialized, high-tech workforce to meet global competition, and also advocates for policies that drive economic growth and hiring.

JOHN M. ENGLER

CATALYST

Deborah Gillis

Gillis is the president and CEO of Catalyst, an international organization that provides leading research and advisory services around women in business leadership. Gillis was leader of the multinational organization's Canadian branch, where she introduced the concept of an international membership. Before devoting herself to the advancement of women in leadership roles, Gillis spent over 20 years consulting to leaders in the public and privates sectors, and served in management roles at multinational companies.

Best advice? ***"Listen carefully, and make sure you're informed about the broader context of the business."***

DEBORAH GILLIS

COUNCIL ON INSTITUTIONAL INVESTORS

Amy Borrus

Borrus is interim executive director and deputy director of the Council on Institutional Investors (CII), a nonprofit, nonpartisan association of employee benefit funds and foundations with more than $3 trillion in assets under management. As deputy director, Borrus assisted the previous executive director with the management and development of CII strategy, policy, and operations. Borrus was an award-winning business journalist for 25 years at *BusinessWeek* before joining CII. In that role, she covered international business, finance, and politics. She has also served as director of the National Institute on Retirement Security, a nonprofit research institute, and the Sinai Assisted Housing Foundation, a transitional housing program based in Washington, D.C.

AMY BORRUS

THE INSTITUTE OF INTERNAL AUDITORS

Richard F. Chambers

Chambers is president and CEO of The Institute of Internal Auditors (IIA). He has been leader of IIA for six years, during which he has led the association to record membership numbers internationally—180,000 members in 170 countries. Prior to his work with IIA, Chambers was Leader of U.S. Internal Audit Advisory Services at PwC, inspector general of the Tennessee Valley Authority, deputy inspector general of the U.S. Postal Service, and director of internal review at the U.S. Army Headquarters. An accomplished internal auditor and published author, Chambers sets industry best practices and is a noted leader in the field.

Best advice? ***"Not only must you ask questions, you must ask the right questions that enable you to tackle the real and timely challenges that the organization faces. Further, your questions may nudge the board to capitalize on previously unrecognized opportunities and to evaluate decisions that may have gone unchallenged in the past."***

RICHARD F. CHAMBERS

GOVERNANCE PROFESSIONALS AND INSTITUTIONS

INTERNET SECURITY ALLIANCE

Larry Clinton

The Internet Security Alliance (ISA) is a multi-sector, international trade association with a sole focus: protect organizations through cyber security best practices. **Clinton** joined ISA in 2003 as president and CEO from the U.S. Telephone Association, where he served as VP of large-company affairs for 12 years. Clinton authored ISA's "Cyber Security Social Contract," cited across the political aisle and by the President's Executive Order on Cyber Security. Clinton was also an author of *Cyber-Risk Oversight*, which is part of NACD's director handbook series.


LARRY CLINTON


JAMES M. CUDAHY

NATIONAL INVESTOR RELATIONS INSTITUTE

James M. Cudahy

The president and CEO of the National Investor Relations Institute, **Cudahy** is a veteran of the association world. Prior to his appointment to that role in March, Cudahy was executive director and CEO of the National Court Reporters Association. Cudahy also possesses nine years' experience working at the CFA Institute as vice president of marketing and communications.

SOCIETY OF CORPORATE SECRETARIES & GOVERNANCE PROFESSIONALS

Darla C. Stuckey

Stuckey has been senior vice president of policy and advocacy of the Society of Corporate Secretaries & Governance Professionals since 2009. She also serves as the staff liaison to the policy advisory committee of the Society's board. Stuckey joined the Society from American Express Co., where she served as senior assistant secretary, and on the company's nominating and governance and public responsibility board committees. She has also served as corporate secretary at the New York Stock Exchange.

Small-Cap Governance's 'Aha!' Moment?

By Adam J. Epstein

Few who have seen it can forget the iconic scene in the 1987 movie *Wall Street* when Michael Douglas' character Gordon Gekko stands up, microphone in hand, at Teldar Paper's shareholder meeting and says: "The point is, ladies and gentlemen, that greed, for lack of a better word, is good. Greed is right, greed works." Could this stuff of cinematic legend also be the key to better small-cap corporate governance?

Those ensconced in the mid- and large-cap governance ecosystems often proclaim that the days of boards being predominantly comprised of friends of the CEO are in the rearview mirror. However, those who spend time in the vast majority of public company boardrooms—those of micro- and small-cap companies—know differently. But has governance at smaller public companies improved in the wake of Sarbanes-Oxley and Dodd-Frank? The short answer is: a bit.

Institutional investors know that, more often than not, the boardroom efficacy of any given small-cap company is a reflection of the CEO's personal valuation of corporate governance.

Institutional investors lament that many micro- and small-cap CEOs view corporate governance as an expensive, form-over-substance, time-consuming, necessary evil that adds little value.

Contrast that widespread perception with the fact that the largest institutional investors spend fortunes on analyzing corporate governance in their portfolio companies. Put differently, those who manage trillions of dollars believe that better governed companies will put more money in their clients' pockets, yet scores of micro- and small-cap CEOs appear to believe that corporate governance is a waste of time.

If this seems confounding, it is. How could this be the status quo?

Founder's syndrome. Many small public companies are inextricably linked to their founders. Those founders often feel that they themselves are uniquely suited to guide the company forward. (And sometimes they are right to feel that way.) In other words, visionaries require unimpeded views of the future, so all "non-visionaries" need to stay out of the line of sight.

Self-fulfilling prophecy. When CEOs intuitively feel like they benefit little from supervision, they install board members who will default to "oversight-lite." Corporate governance is thus reduced to a tautology.

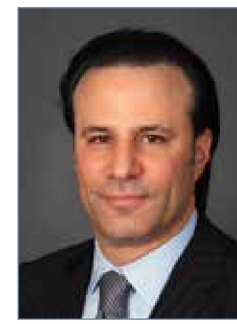
Regulations and activism. Entrepreneurs are oftentimes independently minded, and revel in upsetting the applecart. It's not surprising that they aren't keen on Congress, stock exchanges, or hedge funds trying to tell them how to run their businesses. The more that rigorous oversight is foisted upon small-cap CEOs, the more it is reviled.

Perhaps the path to more committed, fulsome small-cap corporate governance lies in the carrot, and not the stick. What if small-cap CEOs were to realize that public companies overseen by artfully composed, courageous, engaged, and truly objective boards tend to make more money? What if boards could be seen as a means of adding value instead of endangering the CEO's vision for the company?

I tested this "carrot" during a panel discussion where my audience was predominantly micro-cap CEOs and the advice went over with a resounding thud. Or so I thought.

Over the subsequent weeks, I received numerous phone calls from the CEOs who attended. One of them said he was chagrined to admit that he'd never once thought that more effective governance would put more money in his pocket. Another had a similar comment, and poignantly conceded that it's impossible to square his view with BlackRock's extensive analysis of portfolio company governance.

Maybe a little greed is what's required to change the paradigm once and for all; i.e., "If better governance is going to financially benefit me, the CEO, and my shareholders, then sign me up!" Probably not greed in the Gordon Gekko sense. Maybe more like Warren Buffett greed.



Adam J. Epstein is a former institutional investor. He advises pre–IPO and small-cap boards through his firm, Third Creek Advisors, and is the author of *The Perfect Corporate Board: A Handbook for Mastering the Unique Challenges of Small-Cap Companies* (McGraw-Hill, 2012).

Late Congressman and Forest City board member Louis Stokes

At Forest City, Board Engagement Fosters Diversity and Inclusion

A commitment to a diverse and inclusive culture began 15 years ago when the late Louis Stokes was recruited to the board. By Bob O'Brien

Forest City Enterprises, a real estate management and development company, is built on values instilled by its founders and embraced by its associates every day. These values include integrity, community involvement, and entrepreneurial spirit, to name a few, and they were extended to include diversity by late Congressman and Forest City board member Louis Stokes.

As an attorney, an early leader in the civil rights movement, and the first African American to represent Ohio in Congress, Stokes' legacy of advocacy and leadership was already well established in 1999 when he accepted an invitation to serve on the company's board. Forest City grew significantly during his 15-year stewardship, expanding into new cities across the country. His leadership helped the company to grow in part by recruiting, training, and retaining our now 2,900 employees.

Fifteen years ago when Forest City reviewed its long-term strategy and plans, Stokes advocated for diversity, encouraging the board to add it as a core value. He understood that maximizing success would require all associates' experiences, perspectives, and styles in the decision-making process. He advised us that an inclusive work environment engenders acceptance, respect, engagement, and productivity.

Stokes continued to champion diversity during his tenure, both at the board level and throughout the organization. This commitment to diversity and inclusion illustrates the impact board involvement and oversight can have on the management of environmental, social, and governance (ESG) topics.

The belief that workforce diversity has a positive impact on an organization's bottom line has been substantiated by multiple studies. An interesting example, particularly for those in real estate development, shows that in an analysis of more than 700 U.S. J.C. Penney stores, having store employees mirror the racial and ethnic makeup of the communities where stores were located positively affected productivity and customer satisfaction, resulting in an increase in profits of more than $69 million. This study demonstrated a clear measure of the positive results of embracing diversity and inclusion within the workforce to our board.

A 2013 *Harvard Business Review* study determined that a team with a member who shares a client's ethnicity is 152 percent more likely than another team to understand that client. In the past three years, Forest City has increased its ethnic diversity of consumer-facing associates. From 2012 to 2014, we've seen an increase in nearly every non-white ethnicity for sales workers, a number we hope to improve in the coming years. Understanding the needs of diverse, urban populations drives innovation and improves customer service and business value.

Diversity is directly linked to our core business in urban mixed-use development. Today, 81 percent of people in the United States live in urban areas; this figure is expected to increase to 87 percent by 2050. The trend in urban neighborhood rehabilitation shows no sign of declining, particularly in areas with the potential to provide housing solutions to choice-scarce populations such as low-income families, the elderly, multi-family households, and the disabled. Our commitment to diversity prepares us to be leaders in providing timely solutions to society's housing and property needs, and better positions us to undertake projects that qualify for rapidly expanding funding assistance opportunities.

Board Proposes Allocation of Resources

By 1999, strides had been made to recruit a more diverse workforce, but we were not progressing as quickly as we desired. To reinforce our commitment to diversity and inclusion initiatives, in 2004 the first manager of diversity and outreach was hired. An internal diversity framework was created with specific action steps to ensure that compliance with government reporting and regulations related to diversity were being met or exceeded. Diversity initiatives were integrated into the hiring process with the goal of building a workforce that mirrored the communities we serve.

Our commitment to diversity was strengthened in 2006 by broadening its title to "diversity and inclusion." This addition expanded our focus beyond recruitment to the development of a culture where all associates feel welcomed and valued. This culture has resulted in increased associate retention and encourages innovation. To codify and communicate the new, strengthened value to associates, Forest City developed a diversity statement. When hiring slowed during the economic crisis in 2008, Stokes and the board reminded us to remain steadfast in our commitment to diversity and inclusion. In response, management focused on building internal diversity awareness capacities that positioned the company to attract diverse recruits once the economy rebounded.

These efforts included developing and delivering business-case and education materials on ethnic, gender, and generational diversity, all of which we integrated into our new-associate orientation. Associates also participated in diversity dialogues to develop conversational skills that would engage diverse audiences. The company simultaneously cultivated external relationships with the Commission on Economic Inclusion, the Consortium of African American Organizations, and the National Black MBA Association to support our diversity outreach goals.

To collect enterprise-wide feedback from associates and measure our progress, we launched a survey called *Voices in 2012*. Administered by management and assessed by the board each year, the survey enables associates to express their opinions about workplace culture, personal and professional development, management relations, corporate communications, and personal satisfaction.

Engaging Executives and Associates

In 2011, David LaRue, the new CEO, led the company through a new strategic planning process. With diversity and inclusion a clearly articulated core value, the new plan provided us further opportunity to embed diversity and inclusion into the talent management process. The team engaged DiversityInc and the Urban League to provide benchmarking and integration strategies.

One recommendation—to create executive-sponsored Associate Resource Groups (ARGs)—was transformative. The purpose of the ARGs is to encourage an inclusive culture where diversity is celebrated and to demonstrate tangible benefit to the business by providing personal and professional development resources, education and engagement activities, and forums for collaboration and innovation between associates.

Another initiative—Women's Excellence in Leadership, Education, Advancement, and Development (WE LEAD)—was launched to develop a network of women to improve knowledge sharing, provide personal and professional development resources, and leverage experiences to achieve positive, impactful results. Since the inception of the first ARG in 2012, WE LEAD has grown to 357 members. It has provided education sessions on investor relations and retail leasing, networking events, and presentations from both internal and external female leaders on topics such as change management, life mapping, work-life balance, executive presence, and talent development.

The second ARG–African Americans Connecting & Creating

Ethnic Diversity of Consumer-Facing FC Associates

	2012	2013	2014
White	70%	62%	58%
African American	10%	16%	15%
Hispanic / Latin American	8%	6%	10%
Asian	0%	5%	5%
Hawaiian / Asian American	3%	3%	10%
American Indian	0%	2%	0%
2 or more	8%	6%	11%

From left to right: Members of Forest City's women's, African-American, and Hispanic Associate Resource Groups.

Excellence & Leadership (AACCEL)–was launched in 2013. AACCEL promotes an inclusive culture for African-American associates through cultural awareness and understanding to promote hiring, retention, and career advancement. Its programming focuses on three key concepts: professional development, corporate engagement, and community outreach.

Forest City continued to expand its ARGs in 2014 with the addition of Unidos and United Way Young Leaders, leveraging a skills-based volunteer format that encourages members across the company to serve and lead in their communities. In addition to participation in fundraising races, walks, and donation drives, members partner with organizations to provide targeted, skills-based services.

Membership in ARGs continues to grow, engage associates, develop talent, and identify opportunities to add business value across the organization. In the 2014 *Voices* survey, 78 percent of our associates reported that they felt the company creates an inclusive culture and values diversity in the workplace, a 7 percent increase since 2012. Today, we continue to work to build a culture in which all Forest City associates are accountable for diversity and inclusion.

Public Disclosure

Forest City released its first Corporate Social Responsibility report in 2013 using the Global Reporting Initiative framework, the most widely used and accepted framework for sustainability reporting. The report publicly disclosed associate gender and ethnicity demographics for the first time, and also detailed diversity metrics for its board, including age, independence, gender, and ethnicity. Reporting of this data helped generate meaningful internal awareness and dialogue, and led to the identification of opportunities to share additional information.

The report attracted attention from multiple investors, including Trillium Asset Management. Trillium commended the company for its commitment to diversity disclosure, commenting that it allows investors to track diversity efforts and assess the extent to which a company can anticipate and respond effectively to consumer demand.

Supporting a Diverse Value Chain

Our vision is to be the partner-of-choice in creating distinctive places to live, work, and shop in our core markets, and we recognize that supporting community diversity initiatives makes us a stronger partner. To this end, we have integrated diversity initiatives into both our philanthropy and procurement strategies. In 2013, we began measuring and allocating charitable donations that support diversity initiatives in our core markets. We also launched a supplier diversity program to promote, increase, and improve the participation of diverse-owned businesses in our supply chain. In 2014, Forest City spent $41.7 million with diverse-owned suppliers, exceeding our goal by $11.2 million. We also formed partnerships with various minority suppliers and business associations to identify additional diverse suppliers.

Outcomes and Next Steps

Though WE LEAD and other ARGs are in early development, the results of a 2014 annual membership survey are promising. Within the WE LEAD membership, 74 percent of associates felt the group helped their skills development, 81 percent said it expanded their network within the company, and 88 percent learned more about the business. The metric that stands out to management is that 44 percent of female associates who received promotions in 2014 were WE LEAD members. The group is fulfilling its mission to provide personal and professional development resources to women, enabling them to contribute more meaningfully to the business, and we are confident that all ARGs will impact long-term employee satisfaction and retention.

Executive reports on diversity and inclusion were provided to the board starting in 2014. We also welcomed Christine Detrick to our board, increasing female representation to 23 percent. The executive report encouraged leadership to re-evaluate our equal employment opportunity, anti-discrimination, and anti-harassment policies, a process that led to the protection of gender identity and expression, the addition of language on the prohibition of retaliation, and expanded reporting mechanisms. The diversity and inclusion initiative is overseen by the cross-functional Corporate Social Responsibility Advisory Council, which oversees the management of environmental, social, and governance topics including diversity and inclusion.

Our continued focus on diversity and inclusion began with Stokes' passion and interest in making diversity a core value. Through board oversight and endorsement, it has become a successful program distinguished from its industry peers.

Bob O'Brien is CFO of Forest City Enterprises. Forest City Enterprises would like to thank BrownFlynn for its ongoing support with our sustainability efforts.

Establishing a Climate-Competent Board

By Richard C. Ferlauto

Investors' expectations for boards have grown as the impact of climate change on business risks and opportunities becomes more apparent. Large institutional investors, concerned with their own portfolio risks, are increasingly calling for climate-competent boards and directors.

The California Public Employees' Retirement System (CalPERS) is one very long-term investor. Anne Simpson, the fund's director of global governance, says: "We need to be able to pay pensions for the best part of the next century, and when we're thinking about the sustainability of the fund, we're not just thinking about the financial dimension, but we're thinking about the environmental dimension, because that's important to risk and return, and we're thinking about people."

The emissions software scandal at VW is the most recent and extreme example of what appears to be a corporate governance failure related to environmental malfeasance that has cheated stockholders and stakeholders. Arguably, even the manipulation of emission tests by VW engineers has been more damaging to the environment than the BP *Deepwater Horizon* oil spill, spewing 60,000 illegal tons of nitrogen oxide into the atmosphere over the course of six years. These were sins of commission, and not just mistakes or oversights that will haunt the automaker for the foreseeable future. Charles Elson, director of the corporate governance program at the University of Delaware, describes insular and family-dominated boards like that of VW's as "a breeding ground for scandal."

Proxy season 2015 saw unprecedented collective action by institutional investors to press for expanded proxy-access rights to nominate directors as part of the effort to push for boards' climate competency. New York City Comptroller Scott Stringer launched the Boardroom Accountability Project, filing 75 proxy-access resolutions. The 34 resolutions targeted at energy companies should command director attention: 26 of the resolutions received majority votes, with most others failing by only a few percent.

The consensus proxyaccess formula—a group of three percent owners, holding the stock for three years, can nominate up to 25 percent of the board—reflects the 2009 proxy-access rule by the Securities and Exchange Commission (SEC). In the coming months, investors expect that proxy access will be implemented in good faith where it received majority approval. Institutional shareholders including the New York City Public Pension Funds, CalPERS, BlackRock, TIAA-CREF, and others that push these proposals view board accountability–rather than prescriptive, precatory climate resolutions–as the preferred approach to corporate transformation.

While robust engagement remains important to investors, the question is whether boards are competent to respond to climate and sustainability challenges. As such, investors want to be able to effectively intervene with dysfunctional boards or replace dead-wood members with more capable directors.

A usable proxy-access process emerged in 2015 as a basic building block of board competency. Large investors view the existence of proxy access as a fundamental characteristic of board competency because it makes boards more accountable to long-term shareholders. According to Stringer, "We are seeking to change the market by having more meaningful director elections through proxy access, which will make boards more responsive to shareowners. With this right in place, we expect to see better long-term performance across our portfolio."

Boards and directors, especially those facing constraints due to climate risks, need to improve their climate-related competencies. That boards need the capacity to understand and manage risk, such as those posed by climate change, is an obligation under business law as outlined in the American Bar Association's Model Business Corporation Act. Boards are protected by the business judgment rule under Delaware law, the typical rationale for not responding to shareholders' entreaties for action. Since operational and strategic judgment resides with the board, major shareholders are now increasingly focused on director accountability and board refreshment as a response to poor judgment or a lack of competency to navigate the business challenges of global warming.

The National Association of Corporate Directors' *Oversight of Sustainability Activities Handbook* asserts that: "Value creation, long-term business resiliency, strategic risk management and stewardship represent the essence of the board's role in overseeing corporate sustainability activities." Increasingly, boards are recognizing the need to hone their climate competency.

With the involvement and under the direction of the board, BHP Billiton released its *Climate Change Portfolio Analysis* report, which explains how it could continue to create shareholder value in a carbon-constrained world. "We are providing more information than ever before about how we are responding to climate change and how climate risk might affect the portfolio," said BHP Billiton's Chief Commercial Officer Dean Dalla Valle. "The opportunities and risks associated with climate change will not be spread evenly between businesses or sectors. More disclosure will allow investors, policymakers, and regulators to make more informed decisions. By sharing our analysis of BHP Billiton's portfolio in a 2° C-world, we believe investors will be able to decide how well BHP Billiton is equipped to manage climate risk."

For many companies a robust refreshment process will be necessary to aid transitioning to a climate-competent board. Enhanced strategies for identifying board candidates will have to be employed as most nominating committees will be charting new areas of skills and experience. Nomination searches need to move into new territory beyond the traditional sources. As an emerging practice, nominating committees create and disclose a matrix of current board skills, experience, and gender/ethnic composition to help highlight gaps and necessary skill sets for new candidates. Climate competency skill sets will vary by industry. Candidate selection criteria would encompass specific industry know-how, understanding risk mitigation, a background in science, new technology or regulation, and boardroom experience.

A bench of potential board candidates—highly independent directors, who understand the science of climate change—would aid boards in this process. Such a director's bench of qualified climate-competent candidates ideally would be searchable by skill set, experience, and industry sector. Boards should look at race, gender, age, and also include industry skill sets related to emerging regulatory and environmental constraints when recruiting.

Sophie L'Helias, director of global initiatives and governance at The Conference Board, believes that "director identification and selection channels use models that do not adjust to the pace of change as new risks emerge. For instance, it took major security failures before boards began asking for skill sets that include [cybersecurity]. If companies heed the market's warning as climate-related risks are priced in their shares, they will have to identify new channels to recruit directors with the requisite climate expertise."

Institutional shareholders view board accountability—rather than prescriptive, precatory climate resolutions—as the preferred approach to corporate transformation.

Nominating committees could consider giving search firms specific mandates to develop pools of director candidates with climate competency, and should support the bench concept developed in conjunction with leading experts in the field. The development of a director-support network for continuing climate education also would contribute to expanding competency.

Audit, risk, and compensation committee charters ought to require directors with climate-competency skills. Director self-assessments and third-party board evaluations might review climate competency metrics to allow for analysis of missing skill sets. Enhancing board climate competency can be achieved through director education, committee restructuring, or board refreshment. The relevant board committees might also require ongoing climate-risk education to keep up-to-date on the latest data and trends.

A standalone sustainability committee may not be necessary in all cases, but could help focus the board. On the other hand, sustainability should avoid being siloed and climate-related decisions should not be relegated to an organizational "sustainability ghetto." An effective chief sustainability officer reports to the CEO, while the board maintains oversight on risks and strategic opportunities. Board-level oversight consistent with the potential impact of climate risk on strategic, legal, reputational, and operational decisions is a best practice. A newly released report by Ceres, *View from the Top: How Corporate Boards Can Engage on Sustainability Performance*, based on case studies and interviews with dozens of directors, recommends integrating sustainability into board governance systems.

Climate-competent boards assess information regarding carbon asset risk in their company business models and incorporate risk analysis into strategic planning. The relevant committee—whether it is risk, audit, or sustainability—owns risk assessment and provides board leadership; committee charters explicitly describe the skill requirements of members as well as their scope of authority.

Climate-competent directors have the capacity to interpret scenario analysis of reduced demand, efficiency, and substitutes based on the constraints of 2° Celsius agreed upon by experts to avoid the most serious consequences of global warming. Directors need the skills to incorporate alternatives in their long-term plans regarding the nature of their products and services, particularly in the energy industry, where physical and operational risks of climate impact offshore rigs, refineries, pipelines, and the like.

Climate-competent boards provide shareholders with clear and relevant disclosures on potential company risks and vulnerabilities to regulatory and market conditions. Disclosures should reflect the spirit as well as the letter of SEC guidance on the description of material risks. Regulation S-K and staff interpretations guide boards on effective disclosure. The Sustainability Accounting Standards Board (SASB) potentially offers a framework for offering standardized material disclosures by industry. Boards can streamline comprehensive disclosures through the integration of financial and nonfinancial information.

Climate-competent directors understand how incentives motivate executives. For example, top executives in the energy sectors are among the most highly compensated of all publicly traded companies. High pay levels can maintain the status quo, even in the face of long-term threats to business stability. As financial metrics come under review, and operational metrics are adjusted, metrics that incentivize long-term sustainable growth will be needed. Operational metrics that reward increased production of carbon intensive products (including those on reserve replacement) may exacerbate the issue of stranded assets. Preferable metrics reward more-sustainable products that reduce carbon risk. Likewise, risk mitigation should include environmental and worker safety-metrics.

To mitigate a short-term focus, compensation committees should design pay plans that include rigorous holding and retention requirements for performance-based stock awards. As another best practice, long-term incentives should be decoupled from total shareholder return with a focus on no disproportionate upside due to the price of carbon. Bonuses should pay out over long-time horizons benchmarked to the Return on Invested Capital and other metrics of efficient capital. Directors should think twice before agreeing to share buybacks that may further enrich senior management with no improvement in operational performance, especially when long-term investments in research and development are needed

Effective board oversight should include metrics for risk and asset valuation compatible with standardized financial benchmarks. For example, energy companies could emphasize carbon asset risk metrics associated with capital expenditures related to exploration and production and track greenhouse gas emissions, water use, oil reserves, energy efficiency, and the like. As a best practice, climate-competent boards might consider standardized metrics on industry-level sustainability topics now being created by SASB. These standards are relevant to the industry, comparable to similar companies, and auditable by independent third parties.

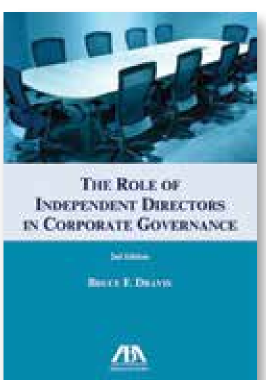
Climate-competent boards enhance lobbying disclosure and philanthropic information so shareholders can evaluate business risks associated with efforts to influence the policy. Directors should be fully apprised of lobbying and nonprofit contribution policies. Governance committee charters as a best practice should have contribution guidelines that align lobbying and philanthropic policies with publicly disclosed sustainability plans. Lobbying inconsistent with company-stated sustainability policies can damage corporate branding, affect good will, and erode trust in company disclosures. Business strategies based on funding bad science will fail in the long run as faulty information is no substitute for value creation.

Directors are responsible for oversight, strategic planning, and risk management—all competencies central to the challenges of global warming and business sustainability. Shareholder calls for board accountability and increased climate competency will continue to mount as the business case for climate action becomes ever more real. D

Richard C. Ferlauto is a member of the governing board of the 50/50 Climate Project, an investor project that encourages boards of energy companies to respond more aggressively to climate change challenges. He is former deputy director, Office of Investor Education and Advocacy, at the Securities and Exchange Commission. Contact him at rferlauto@gmail.com.

An Updated Classic Provides the 'How' And 'Why' for Independent Directors

By Howard Brod Brownstein



American Bar Association, 2015

Escalating public focus on the need for strong corporate governance practices has placed the role of the independent director under similarly heightened scrutiny. Anyone considering joining or is currently on a board—or any attorney who provides counsel to directors—would be well served byr reading the updated and expanded edition of *The Role of Independent Directors in Corporate Governance* by Bruce F. Dravis. The author acts of counsel to the leading Sacramento law firm Downey Brand and is a leader of the American Bar Association's (ABA) Business Law Section–Corporate Governance. This is, however, no legal treatise or piece of law review writing. Instead, he offers an eminently readable volume that provides an in-depth look at the tenets of corporate governance.

Dravis covers all the major bases of directorship, from fiduciary duties, indemnification, and the business judgment rule to director and officer insurance and shareholder rights, just to name a few. Since much of a board's activities occur through its committees, he thoroughly discusses committee charters, duties, and composition. Although some content might make some readers think that this book is strictly for public companies—such as Dravis' exhaustive coverage of securities regulation—all of the principles have clear applications to directors of all companies.

"Corporate governance," Dravis writes, "emerged as a practice area at the unforeseen intersection of state corporate law, federal securities law, and Delaware tort law, as lawyers and their clients realized that no single body of law covered the complex and inter-connected issues that modern publicly traded companies face." Directing a company is thus indelibly linked to the soundness of our nation's capital markets—and in my work as a turnaround and restructuring professional and a frequent independent board director, I can attest that strong oversight always adds value and reduces the risks facing an organization.

Dravis provides illustrative legal and economic situations in which governance issues can arise. For anyone who may have ever felt that the fulfillment of directors' fiduciary duties sometimes seemed like "form over substance" or "regulatory overkill," the author provides valuable context for understanding and appreciating the "why" of corporate governance, as well as the "how." The role of Sarbanes-Oxley and Dodd-Frank legislation is made clearer as the author traces the historical developments that produced those governance requirements.

The author then places the concept of director independence in a larger context, quoting fellow ABA corporate governance leader Philip Khinda: "'[I]ndependence' is a proxy for the real policy objective: the selection of decision makers with integrity, who evaluate facts without bias and make judgments without favoritism." The legal definition of "independence," however, is less straightforward than might be expected, with state law, Sarbanes-Oxley, securities regulation, and stock exchange rules all offering their own guidelines. While these guidelines can resolve most questions about independence, Dravis explores how to handle situations that may require case-by-case examination.

New to the second edition are PowerPoint presentations that boards can readily utilize to train new directors or provide a conceptual framework for approaching the board's work in general. These are excellent resources for a corporation's general counsel—or a board or board committee's special counsel—to provide a context for a specific issue or decision facing the board. *The Role of Independent Directors in Corporate Governance* is indeed a complete information package that every director should have on a shelf.

Howard Brod Brownstein is president and founder of The Brownstein Corp., a nationally known turnaround management firm. Brownstein currently chairs two committees of P&F Industries: nominating and governance, and strategic planning and risk assessment. He is an NACD Board Leadership Fellow.

In Practice

How Data Analytics in Audit Mitigates Risk, Unlocks Value

By Christopher J. Mazzei, Roshan Ramlukan, and Ruby Sharma

In the past few years, the terms "big data" and "analytics" have become hot topics in company boardrooms around the world.

For many directors, embracing big data and analytics is critical to keeping their organizations nimble, competitive, and profitable. Board members need to understand the complexities and have a grasp of the issues surrounding these technology trends. Equally important, they should be prepared to ask the right questions of the executives in charge of big data and analytics initiatives.

The sheer volume, variety, and velocity at which data becomes available presents technological challenges in how data are secured, stored, and analyzed. But companies that can do so in an efficient manner stand to uncover a treasure trove of valuable insights that help drive growth while enhancing risk management.

Management and boards can leverage these insights to better inform decisions and actions and help prioritize resources to create strategic value.

In today's business environment—characterized by constant disruption, slow growth, and uncertainty—boards face more challenges than ever in creating a risk-aware corporate culture and establishing sound risk governance and controls.

How Audit Can Leverage Data Analytics

To keep pace in today's increasingly complicated governance and risk management landscape, progressive external audit firms and internal audit functions are beginning to use technology to revolutionize the way that audits are conducted.

Both internal and external auditors are combining big data and analytics, and greater access to detailed industry information, to help them better understand the business, identify risks and issues, expand the scope of audit testing, and deliver valuable insights. Information and insights that may be relevant to board members now extend far beyond traditional financial transactional data in a company's general ledgers and extends into data from e-mail, social media, video, voice, and text—mountains of unstructured data. Insights gleaned from such data can and should extend beyond risk assessment.

> **Properly utilizing big data and analytics** will be a differentiator for forward-leaning companies.

Integrating analytics into audits is not without its challenges. Access to audit-relevant data can be limited, the availability of qualified and experienced resources to process and analyze the data is scarce, and integrating analytics into audit on a real-time basis continues to be a challenge for auditors. However, progress is being made on each front to enhance the process.

When properly developed, analytics can help internal auditors act as strategic advisors while holding the line on costs or even reducing them. Analyzing data to produce actionable information is a key challenge and opportunity for companies. Properly utilizing big data and analytics will be a differentiator for forward-leaning companies.

The Board's Role

Boards cannot be involved in the day-to-day activities of managing big data and analytics and the associated costs. But in discussions with the CEO and other C-level executives, board members should insist on clarity of vision and collaboration across all disciplines to maximize the return on any investment in big data and analytics.

First and foremost, board members should gain a better understanding of how the company is using big data and analytics and how that can drive the business.

Boards also need to ask management about the resources being deployed to capitalize on big data and analytics, and whether the company has the right talent to effectively develop a quality big data and analytics management program.

Action Items for the Board

So how can big data and analytics improve a company's audit capabilities? There are specific topics you should consider as a board or discuss in more detail with management:

- Decisions on what you want to achieve with your big data and analytics practice—determination of what is relevant
- Direction on what will drive value

Embracing the Future

In today's increasingly complex information environment, data-driven risk governance and controls are critical. Meaningful operational change comes from the top. C-suite executives need to embrace this change, identify the best talent to manage it, and empower other senior executives and the rest of the organization to adopt the best systems, technologies, and analytics for their businesses.

To drive better decision making, boards must first ask the right business questions and then be presented the answers from the data.

Not only can the integration of big data and analytics into the audit function help mitigate compliance and reputational risks, but it can lead, ultimately, to better financial reporting and better insights that in turn can ultimately lead to strategic actions that can create value.

At EY, Christopher J. Mazzei is global chief analytics officer; Roshan Ramlukan is audit transformation analytics leader, global assurance; and Ruby Sharma is principal, EY Center for Board Matters.



Ensuring Your Board Reaps the Rewards of Big Data

In discussions with fellow directors, the CEO, CFO, and other C-level executives, there are key questions that board members, especially audit committee members, should be asking to ensure that investments in big data and analytics are successfully leveraged.

Internal Audit

Strategy: What are management's plans for using big data and analytics for auditing, compliance, and risk management over both the near term and long term? Does the company have an enterprise risk strategy around big data and analytics?

Functional Areas: How are the company's internal audit, compliance, and risk management functions leveraging big data and analytics to achieve business objectives and maximize return on investment? How is the company addressing talent implications and needs for data analytics tools?

Technology: Deeper data mining increases the complexity and volume of big data and analytics. What steps is the business taking to identify and capture the most-relevant data? How is the quality of the data assured? How is data governance managed to ensure the data can be used efficiently? How is the data secured?

People: What new data and analytics talent needs to be brought into the organization? How can the board create an analytics-focused mindset in the company's finance, risk, and compliance functions to ensure that data is consumed and analyzed in an optimal manner? How can the board balance audit judgment with the findings and results from analytics?

External Audit

Resources: What resources and technologies does the external auditor have in place to capitalize on big data and analytics? Does the external auditor have the right talent and technical competencies to develop a quality big data management program? How is the external auditor coordinating with management on how data analytics tools are being used?

Strategy: How is the external auditor leveraging analytics in the audit today, and what are the plans for doing so in the future?

Data Capture: Data capture is often a key barrier in the big data and analytics process. Can the company's external auditor determine the scope of data currently being captured? How can the company's internal IT function and systems integrate with the external auditor's to streamline the data capture process?

Cybersecurity: Effective use of big data and analytics for audit usually requires external auditors to access internal corporate data. But many companies have invested heavily in protecting their data with multilayered approval processes and technology safeguards. How can the company give external auditors access to data while still maintaining the security of that data?

The Four Vs

Big data refers to the volumes of information being created by people and machines. It requires new, innovative, and scalable technology to collect, host, and analytically process the gathered data in order to derive real-time business insights that relate to consumers, risk, profit, performance, productivity management, and enhanced shareholder value.

Big data includes information garnered from social media, Internet-enabled devices, and video and voice recordings. It is typically characterized by the four "Vs":

Volume: The amount of data being created is vast compared to traditional data sources.

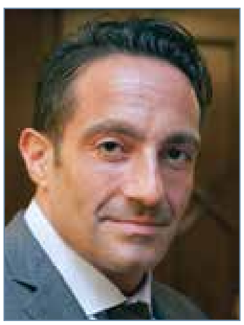
Variety: Data comes from different sources and is being created by machines as well as people.

Velocity: Data is being generated extremely quickly—a process that never stops, even while we sleep.

Veracity: Big data is sourced from many different places; as a result, you need to test the veracity/quality of the data.

The Argument for Yearly Board Evaluations

By Salvatore Melilli



Salvatore Melilli is the national audit industry leader, Private Markets, for KPMG LLP in New York.

At the NACD Global Board Leaders' Summit (GBLS) in September, our lunch discussion at the private company board forum focused on board refreshment. Why do it? How should boards go about it?

While many of the more than 100 private company directors in attendance talked openly about the need for refreshing the board to bring in diversity of thought and opinion; to add young (and young-at-heart) directors; and to introduce new skill sets to the board, in practice private company board evaluations do not happen as frequently as in public companies.

According to recent NACD governance surveys, 87 percent of public company directors said that their companies conduct full board evaluations, 73 percent conduct them at the committee level, and 38 percent assess directors individually. Meanwhile, private companies are playing catch-up. Only 62 percent of private company directors said that they conduct a full-board evaluation, 30 percent do so at the committee level, and 32 percent do so for individual directors.

Of course, private companies can conduct evaluations at their discretion or as specified in charters, bylaws, or shareholder agreements, but those attending the GBLS highlighted several reasons why evaluations can be critical to enhancing oversight and improving board effectiveness.

First, evaluations can help the board to vet company—and boardroom—culture. What is the culture? How is it reflected in the board, its composition, and its demeanor? Is the board adjusting to mirror culture shifts in the company and its management? Evaluations also help the board, as individual members and collectively, to build an "understanding of shared accountability, mission, objectives, and execution."

Second, determining how to structure and carry out an internal or third-party evaluation, helps to spark a process for assessing the board.

"It motivates current board members," said one attendee.

A 360-degree evaluation including peer evaluations will provide the widest perspective, but it is also the most difficult to execute from time and cost standpoints. Several forum attendees said that deep relationships on private company boards make such intense evaluations challenging.

One attendee noted that this same process also "helps [directors] to understand the gaps or holes at the board level and the appropriate use of board talent. Who is being underutilized?" Here, management's feedback and analysis on what it deems to be necessary board skills can play a role: How engaged is the board generally? What about diversity and expertise?

Third, institutionalizing board evaluation processes encourages management and the board to engage in difficult discussions. Evaluations can force the term-limit or tenure discussion, or at least introduce the notion of board and director life cycles.

For private company boards with independent and outside directors, evaluations "keep directors honest about their paid positions," as one attendee put it. The evaluation process and results can also ferret out factions within the board and allow for an assessment of how voting blocks help or hinder company progress.

Lastly, the evaluation process initiates the discussion on "who should continue to lead and why," starting with the board itself and then on to management and senior executives.

Of course, an evaluation for its own sake does little good. Writing for the International Finance Corp., Simon Osborne stresses that "evaluations must be supportive of the board and the directors, whilst being rigorous and even-handed in order to give the best results."

Postings

Honors for Women of Tech

Dr. Cheemin Bo-Linn was inducted into the Hall of Fame for Women in Science and Technology, an outreach initiative launched in 1996 by Women in Technology International (WITI) with support from the Clinton administration to recognize the careers of extraordinary women in technology.

In addition to Bo-Linn, 2015 WITI Hall of Fame honorees are **Nichelle Nichols,** the African-American actor cast in 1966 to play communications officer Lt. Nyota Uhura on *Star Trek* (the first role for a black actress that was not in servitude); **Pam Parisian**, chief information officer, AT&T; **Sheryl Root**, president and CEO of RootAnalysis, associate professor at Carnegie Mellon Silicon Valley, and a visiting lecturer at Stanford University; and **Marie Wieck**, general manager, middleware, at IBM.

Bo-Linn cultivated her technology and business skills during a 25-year career at IBM, where she served as vice president. She has since started Peritus Partners, a consulting firm dedicated to increasing the valuation of companies, and is a director of Violin Memory.

Bo-Linn, who recently became an NACD Board Leadership Fellow, has an infectious enthusiasm for distilling the complexities of technology. "If we look at these new technologies, we have to discuss and understand their different opportunities and risks," Bo-Linn said during a recent interview. "What are the different strategies we need to think about? What are the resources and tools that we may need as a board member to guide companies to the future?" A skilled communicator, Bo-Linn is excited by the challenge of asking the targeted questions in the boardroom that lead to early action in a sector rife with disruptive innovators.

Bo-Linn has devoted a decade of volunteer and philanthropic service to TechGYRLS, a YWCA Silicon Valley program that fosters curiosity about STEM disciplines in young women from marginalized communities. When asked about the importance of technology for young people, Bo-Linn said, "For youth, technology is going to be one of the keys because it democratizes opportunities." *—Katie Grills*

Oshkosh Corp. named president and COO **Wilson R. Jones** to succeed CEO Charles Szews, who will step down on Jan. 1. Jones also sits on the board of Thor Industries and the Association of Equipment Manufacturers. Jones joined Oshkosh with 25 years of knowledge about specialty vehicle manufacturing at a critical point in its operation—the company was recently awarded with a $6.7 billion Army contract to replace the Humvee with Oshkosh's Joint Light Tactical Vehicle.

Nancy Killefer joined **Cardinal Health**'s board in September. Killefer is also a director of The Advisory Board Co., Avon Products, and Computer Sciences Corp. She retired in 2013 from McKinsey and Co., where she was senior partner, public sector practice from 1992 to 2013. Additionally, Killefer served at the United States Department of the Treasury in several capacities.

Nancy Killefer

Lorrie Norrington was elected to the board of **Colgate-Palmolive Co.** She is the operating partner at Lead Edge Capital Management and previously was an executive at eBay, Intuit, and General Electric.

Lorrie Norrington

Daniel G. Kaye and **Kristi A. Matus** were elected to the **AXA Financial** board. Kaye enters his directorship after a career in auditing. Former positions include interim CFO and treasurer of HealthEast Care System and auditor at Ernst & Young. He is also a member of the board of Ferrellgas Partners. Matus is currently EVP and chief financial and administrative officer at athenahealth, where she is responsible for the oversight of technological and financial operations. Matus is also a director of Concordia Plan Services.

Global investment management firm **T. Rowe Price** added **H. Lawrence Culp Jr.** and **Alan D. Wilson** to its board. Culp is senior advisor to Danaher Corp., where he was CEO and president from 2001 to 2014.

H. Lawrence Culp Jr.

Alan D. Wilson

Wilson was previously CEO and chair at McCormick & Co., and is currently director of WestRock Co., the Grocery Manufacturers Association, the National Association of Manufacturers, and the Greater Baltimore Committee.

Tatsumi Kimishima, former CEO of Nintendo of America, was named the successor of **Nintendo Co. Ltd.** CEO Satoru Iwata after Iwata's sudden passing in July. Kimishima has served as director of Nintendo since 2002, and chair of Nintendo of America since 2006. Kimishima assumes executive leadership after one of the company's longest periods of success in the industry, which is frequently attributed to the family-friendly Wii gaming console.

Steel manufacturer **Nucor Corp.** added **Laurette Koellner** to its board. Koellner was most recently executive chair of International Lease Finance Corp., formerly a subsidiary of American International Group. Laurette has nearly 30 years of military and aerospace engineering industry experience from executive positions at The Boeing Co. and McDonnell Douglas Corp.

AstraZeneca PLC appointed **Sean Bohen** as the company's incoming chief medical officer and executive VP of global medicines development. Bohen joins AstraZeneca after 12 years of work in research and development at Genentech, a boon to the company's forthcoming work in cancer treatment innovation and diagnostics.

Former Deloitte & Touche chair and CEO **Gregory G. Weaver**

Gregory G. Weaver

was elected to the **Verizon Communications** board. His addition brings the company's board to 12 members. Weaver joins the Verizon board with more than 40 years of expertise in audit, finance, operations, and talent management at Deloitte.

Two new directors were elected to the **Kellogg Co.** board: **Carolyn M. Tastad**, group president of Procter & Gamble North

Noel R. Wallace

America, and **Noel R. Wallace**, president of Colgate-Palmolive Latin America. Tastad currently serves as a director of the Grocery Manufacturers Association. She begins her term Dec. 1. Wallace previously served on the board of the American Cleaning Institute, as well as several other nonprofit boards. His term began Oct. 1.

Erin Selleck has been named the seventh member of the Broadway Financial Corp. and Broadway Federal Bank board. An independent director, Selleck sits on the audit,

Erin Selleck

compliance, and loan committees of Broadway. She previously was senior executive VP and treasurer of Union Bank from 2002 to 2014. Selleck also serves on the boards of a number of nonprofit organizations.

Meg Whitman was appointed to the board of **SurveyMonkey**, one of the largest providers of survey services to organizations of all shapes and sizes, in early September. Whitman

Meg Whitman

was recently named chair, president, and CEO of the forthcoming HP Inc. Whitman also serves on the boards of ArcSight and Zaarly.

Compensation

Tailoring Your Executive Compensation Plans to Your Company's Unique Characteristics

By Ed Steinhoff

The initial interview process is one of the most important phases of an engagement between the management team and the compensation committee, particularly at the beginning of a new working relationship. This process involves individual conversations with senior executives and board members, and these discussions are critically important to enable the tailoring of the executive compensation program recommendations to each specific organization.

There is no one-size-fits-all design, which is why the best results are achieved through tailored recommendations based on the factors below.

Business Strategy

Understanding the business strategy and value drivers for each organization helps ensure that the executive pay programs align with these key objectives. Although a company may operate in an industry with many competitors, each organization will have a unique business strategy, as well as specific business goals that are tracked annually and over the longer term. The executive compensation programs should support this strategy and these goals—not the business strategy and goals of their competitors.

Executive Talent Requirements

Consider the competitiveness of the labor market for talent. Is there high demand for executive talent in the industry? How should pay be positioned relative to industry peers in order to attract and retain the talent needed for the company to achieve its goals? Should the focus of pay be on performance, tenure, or a balance of the two?

Industry

Understanding the competitive positioning of the company within its industry—be it a market leader, a niche player, or losing market share—helps to define what kinds of pay programs are appropriate. This information also factors into the relative ease or difficulty of attracting and retaining executives.

Industry context also helps identify which incentive plan performance measures are appropriate. For example, if there is a fair degree of certainty in the business planning process, there may be a tighter range of performance goals from minimum to outstanding performance, while a high degree of uncertainty might lead to a broader range of performance goals and/or the use of relative performance measures.

Ownership Structure

Ownership structure plays a key role in shaping executive compensation programs. Public, private, and family ownership structures all present unique opportunities to design pay programs that support the owners' outlook on business results in terms of time horizon, performance measures, and the types of compensation vehicles that are available, such as cash or equity. Company ownership can also define the level of transparency of business goals, results, and compensation plan detail, which may play into the program design.

Business Life Cycle

Where a company is in its life cycle helps to further define an appropriate pay mix for the organization (i.e., the emphasis on base salary versus incentives and compensation vehicles such as cash or equity). The business life cycle also helps to identify which performance measures are appropriate as well as how "stretch" the performance goals for the incentive plans should be.

For-Profit or Not-for-Profit Status

Whether an organization is for-profit or not-for-profit governs the design of executive compensation programs, both in terms of pay levels and types of pay programs, and in how performance is defined. Both for-profit and not-for-profit businesses will typically have financial and operational performance measures in their incentive plans, but not-for-profits may also include initiatives that support the mission of the organization.

The Unifying Factor

One area where all organizations are generally aligned is their desire to create value. The best opportunity for maximizing returns on executive compensation costs, and potentially transforming those costs into a source of competitive advantage, lies in the depth of customization according to your unique, dynamic business requirements.

Ed Steinhoff is a managing director in the Chicago office of Pearl Meyer with more than 25 years' experience in executive compensation. He works with directors and senior management teams of public and private companies ranging from small- and

middle-market firms to multi-billion-dollar corporations. His focus is on designing pay programs that drive business performance and value creation.

Risk Management

Guarding the Corporate Castle

By Phyllis Deiso

Like the sentry of old, part of the board's job is to protect the castle, defending against all manner of bad things. That's no longer as simple as pulling up the drawbridge or pouring hot oil on the enemy from atop a tower. Guarding the corporate castle is a complex task today because threats to the company are a much more diffuse, many-headed monster. Many of the most serious threats are only apparent when a great deal of damage, perhaps irreparable, is already done—to the business, company value, and even reputation.

To get a handle on this challenge, boards must identify major threats and establish a systematic way of managing them. Some new threats that should be on every company's radar include:

■ Lack of board diversity. It's not just politically incorrect, it's a major business risk. It stands to reason that a diverse board where directors possess a range of skills and experience will likely recognize a wider array of challenges and generate more varied and valuable perspectives on how to tackle them. Depending on the industry and the strategy, the board should not only have the expert guidance it needs now, but the guidance it will need to successfully pursue its strategy into the future.

■ Cybersecurity unpreparedness. Cyber threats are proliferating across industries and should be a primary concern to boards everywhere. Boards must ensure that their companies are prepared for the inevitable breach with the best inside team to manage it, following proven best practices and backed with the budget required to implement them. It's often helpful to have at least one director who possesses cybersecurity-related expertise. Having directors who are smart, experienced businesspeople asking the right questions, whether on cybersecurity or any other critical topic, is of paramount importance. If the company's cybersecurity protocol isn't being translated into language that the board understands, it cannot properly oversee this crucial function.

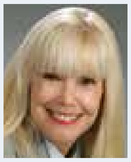
> Boards serve as a primary line of defense against threats to the company's well-being, and they must maintain processes that enable them to remain ever vigilant.

■ Shareholder activism. This is an area where it is critically important for the board to be informed and aligned. As companies increasingly become targets of activists, directors should be aware of red flags that make them vulnerable, as well as how to ensure that they are well positioned should they be caught in the crosshairs. The best boards fortify their defenses by meeting regularly with key shareholder groups—with one designated spokesperson out front—so they can address any concerns that can otherwise fester. Moreover, shareholders can be sources of useful suggestions, such as surfacing good director nominees, so every effort should be made to engage with major shareholders on a regular basis.

■ Inadequate director education. With global business changing at such a fast pace, directors have to regularly update their knowledge base on key issues by engaging with a range of experts. That expertise may come from internal or external resources, both senior managers and outside consultants who can brief the board on the latest developments they need to be aware of, from compensation to cybersecurity to governance requirements.

■ Loss of opportunity. This is a tough one because it's hard to gauge what you can't see. It's a sad irony that threats to boards result not only from being insufficiently prudent, but also from being overly prudent. The new market not explored; the new product not developed; the opportunity lost because it was never pursued. While risk tolerance is something each individual company determines regardless of the level set, it should not stifle innovation and investment. After all, companies are in business to deliver value to shareholders.

These and other threats, depending on the company and industry, should be on boards' dashboards and monitored on an ongoing basis. Boards serve as a primary line of defense against threats to the company's well-being, and they must maintain processes that enable them to remain ever vigilant, guarding against threats new and old, and continually updating intelligence so they can recognize those that continue to emerge.



Phyllis Deiso is a partner and the National Public Company Practice Leader for RSM US LLP and a member of the RSM US LLP board.

Internal Audit

Communication Has Never Been More Important For Internal Audit

By Richard F. Chambers

The relationship between internal audit and its stakeholders is one of the most important partnerships within any organization—and good relationships are built on mutual understanding and respect. This is why The Institute of Internal Auditors (IIA) encourages practitioners to nurture strong communications with stakeholders. Indeed, the value of internal audit to the organization lies in its ability to provide timely information, insights, and assurance on the effectiveness of the organization's internal control and risk management efforts. Internal audit also adds value through its keen understanding of priorities set by management, the board and audit committee on managing risk.

Communication, therefore, is key, as both internal audit and stakeholders have become more nimble in identifying emerging risks and preparing to mitigate them. It begins with developing an annual audit plan, which should reflect not just the organization's financial reporting, governance, and compliance risks, but also operational and business risks that are integral to strategic planning. Management and the board should invite the chief audit executive into strategic planning discussions to allow internal audit to build a more accurate risk-based audit plan for the organization.

Some may consider internal audit's participation in such discussions as blurring the second and third lines of defense: functions that own and manage risk, and functions that provide independent assurance. On the contrary, internal audit's ability to provide unbiased assurance on a myriad of business functions lies in its ability to know all aspects of the organization. Having a strong understanding of the strategic plan helps build internal audit's knowledge of the organization's risk appetite, priorities, and culture. Once the plan is in place, communication must continue throughout the year through formal and informal meetings between internal audit and the audit committee. This advice is not new, but the speed of change in the modern business environment makes it all the more urgent.

There is also a new dynamic on the horizon that makes it important for internal audit to remain plugged in to company stakeholders. Regulators are demanding more detail and more testing on financial reporting. As a result, they are relying more on internal audit to provide assurance on the accuracy of internal control over financial reporting (ICFR). This is not necessarily a bad thing, unless regulators begin treating internal audit as their "boots on the ground."

We are already seeing fallout from this, as pointed out in a recent report by the IIA's Research Foundation (IIARF), *A Global View of Financial Services Auditing*. Authors Jennifer F. Burke and Steven E. Jameson note that assistance provided by internal audit to external auditors is growing, especially within the financial and insurance sectors. Based on responses to the IIARF's Common Body of Knowledge Practitioners Survey, 34 percent of financial services auditors reported spending more than four weeks annually supporting external auditors.

Increased regulatory reliance on internal audit's work already is changing the dynamic with external auditors, whose work has traditionally been relied on by regulators. Management and the board will need to nurture a cooperative working relationship between internal audit and external audit.

Beyond the increased regulatory workload, internal audit must tread carefully when doing work that could be viewed more as serving regulators than serving the organization. The U.S. Department of Justice's (DOJ) recently announced changes on individual accountability for corporate wrongdoing offer one scenario where internal audit could be placed in such a position.

The new DOJ standard for corporations seeking leniency in exchange for cooperation demands that corporations not only provide all relevant evidence relating to those responsible for misconduct, it also requires the corporation to make all efforts to uncover such relevant facts. Because privilege issues would limit general counsel's ability to conduct such investigations, internal audit would likely be tasked with carrying them out.

This could place internal audit in the awkward position of working as de facto DOJ investigators. Internal audit at times struggles with its dual reporting relationship with the audit committee (functional) and management (administrative). Adding a third master in the form of the regulator would further complicate an already challenging balancing act.

Richard F. Chambers is president and CEO of The Institute of Internal Auditors (IIA). For more information about the IIA, please visit www.theiia.org.

Compensation

Incentive Plans: Goal Setting and Responsible Payout Patterns

By Melissa Burek

A key priority of all compensation committees is maintaining an appropriate relationship between executive pay and performance through a company's short- and long-term incentive plans. A company's pay philosophy, pay program framework, and incentive plan goal setting all serve as foundations for an appropriate relationship. Of those elements, committees spend a significant amount of time and effort each year on the goal-setting process. As the emphasis on longer-term—typically three-year—performance plans has increased in recent years, the importance of getting longer-term goals correct has been magnified. Committees often look for best practices and parameters to help guide their decision making around incentive plan goals.

Research on incentive plan payouts. Our firm conducted research on historical annual incentive (AI) and long-term incentive (LTI) plan payouts over a five- or six-year period among a sample of Fortune 100 companies that used plans based on pre-established performance goals.

Over a six-year look-back period, AI plan payouts showed

- a 90 percent likelihood of achieving threshold performance goals,
- a 70 percent chance of achieving target performance, and
- a 15 percent chance of achieving maximum performance.
- Companies paid between target and maximum approximately 50 percent of the time (one in every two years), and paid no bonus approximately 10 percent of the time.

Over a five-year look-back period, LTI plan payouts showed

- a 95 percent likelihood of achieving threshold performance goals,
- a 65 percent chance of achieving target performance, and
- a 15 percent chance of achieving maximum performance.
- Companies paid between target and maximum approximately 40 percent of the time (one in every two-and-a-half years), and paid no bonus 7 percent of the time.

Results show similar AI and LTI payout patterns. These very similar payout patterns indicate that committees and companies are doing an equally good job of setting both AI and LTI plan goals, building in an appropriate degree of stretch, and applying proper leverage to the awards above and below target. Conventional thinking is that plans should pay at maximum and below threshold roughly one in every five years, and these results show just slightly more conservative practices at max, and less conservative practices at threshold.

Slight differences in LTI payout patterns make sense. With LTI payouts, the distribution shows, however, that it is somewhat less likely to get a payout above target and somewhat more likely to get a payout below target, compared with AI plans. In part, there is often greater spread between threshold and maximum LTI performance goals, making it slightly more attainable to "get in the game," yet not quite as attainable to receive a higher payout. This dynamic was consistent in all but one industry group. Given the longer performance period associated with forecasting performance, this also makes sense from a design standpoint.

Multiple factors inform the goal-setting process. For both types of plans, the annual business planning process or long-term company strategic plan is most often the basis for incentive plan target performance goals. Most companies further consider historical peer company performance, industry standards and expectations, analysts' estimates, and broader economic forces. It is also extremely informative for companies to conduct look-back analyses in relation to performance goals and actual company performance compared with market norms, as a way to pressure test the goals. By doing so, not only is the pay relationship validated, but the degree of stretch in the performance goals can be evaluated as well.

Setting credible goals and appropriately aligning performance and pay is viewed as very challenging for committees and companies, particularly with respect to LTI plans. Our research findings, however, indicate that goal setting over the last five to six years has in fact resulted in very credible and responsible incentive program payout patterns. As such, we suggest that these payout rules of thumb can serve as a meaningful guideline for companies on a prospective basis.

Melissa Burek is a founding partner at Compensation Advisory Partners, located in New York.

Geographic Diversity

The Challenges of the Global Board

By Alex Wittenberg

The World Economic Forum's *Global Risks Report 2015*, prepared with the support of Marsh & McLennan Cos., noted: "Faster communication systems, closer trade and investment links, increasing physical mobility, and enhanced access to information have combined to bind countries, economies and businesses more tightly together." Companies of all sizes have been taking advantage of these opportunities. International revenue represents 35 percent of the revenues of the S&P500. Small and medium enterprises make up 26 percent of all U.S. multinationals.

Global risks and opportunities are present in the boardroom of every company, regardless of whether they operate internationally or not, and emerging risks accelerate at a greater pace. However, geographic diversity found on boards remains quite low and most companies, both within the United States and elsewhere, have boards that are primarily populated with individuals from the company's country of origin. As boards increasingly consider all aspects of diversity, geographic diversity in the boardroom will need to increase.

The potential for growing geographic diversity in boardrooms raises a number of key questions. For example, does a global company need a globally diverse board? Further, how do board practices and the skill sets of directors adjust to meet rising global demands and a geographically diverse boardroom? And how does a board prioritize and accommodate geographic, cognitive, and gender diversity without significantly increasing the number of directors?

Through the summer of 2015, Marsh & McLennan Cos., in collaboration with the National Association of Corporate Directors, undertook research on the unique governance challenges and boardroom practices for boards of global companies. Through interviews, we captured the peer insights of experienced U.S. and non-U.S. domiciled directors of both U.S. and non-U.S. domiciled companies.

Our research found that the global board and its directors share many of the same responsibilities, skill sets, and requirements expected of all high-performing boards. However, our interviews highlighted the need for these boards to respond to specific global governance demands in three ways: composition, processes, and director skill sets.

Board composition. Boards, especially those of global companies, should increase their geographic diversity to enable the board to function outside the company's home country. Geographic diversity adjusts the lens used to examine risks and strategy, and provides insights into factors that can be quite nuanced, such as the role of the government, regulators, or other stakeholders in the marketplace. For many companies, an increasingly geographically diverse board of directors and the insights provided will be a vital mechanism to help companies identify and assess risks as they emerge from around the world.

Boards should, however, be cautious. Diversity can increase the challenges in managing group dynamics and coming to a consensus. An effective chair is essential to capturing the value of board diversity, capitalizing on different perspectives while creating an environment of collaborative decision making.

Board processes. The processes to support a board with broad geographic diversity are expansive. Global board meetings, agendas, and locations are often set two to three years in advance, and meetings can last up to one week when factoring in extensive site visits and meetings. In addition, efficient board support is critical to managing a diverse, international flow of information on current trends and developments.

Director skill sets. Serving on the board of a global company requires two core capabilities: the commitment of time and a true sensitivity to cultural differences. As one director noted: "If you join a global board, don't expect to be able to put guardrails on your time or level of involvement." Time zones, travel, and a wider span of activities result in a greater time commitment to effectively participate on a global board.

Global directors must have the ability to transcend their regional views. Further, they must be open to dialogue and willing to listen to contrasting views and perspectives. Although these qualities are important for all directors, they are especially critical for those who serve on global company boards.

Does a global company need a global board? The answer, based on the feedback and insights of directors around the world, is an unequivocal "yes." As boards increase their geographic diversity and the composition of the boardroom evolves, boards and directors must ensure that processes and skill sets evolve to optimize the benefits of this diversity.

Alex Wittenberg is the executive director of Marsh & McLennan Cos.' Global Risk Center.

Audit Committee Roundup

Refining Risk Oversight for a New Level of Volatility

By Dennis T. Whalen

Disruptions in the oil market and swings in other commodity prices. A strengthening U.S. dollar, a decelerating China, and struggling Brazil. Geopolitical unrest in Russia, Iran, and the Middle East. Ongoing challenges in the Eurozone from economic stagnation to unprecedented human migration. Technology driving business model disruption and escalating cyber risks. In this unprecedented mix of volatility and uncertainty, boards will need to closely monitor changes in the business landscape on an ongoing basis to understand the impact on the company's strategy and risk profile, and help the company calibrate as needed.

Indeed, more than 80 percent of the directors and executives responding to our recent global survey, "Calibrating Strategy and Risk," said their board has deepened its engagement in strategy—e.g., considering strategic alternatives, monitoring execution, or recalibrating strategy. Connecting strategy and risk, and testing the continuing validity of critical risk assumptions continue to be key areas of focus—and significant challenges—for many boards.

Given the role that many audit committees play in risk oversight, our survey findings offer insights into the challenges audit committees and boards face in their efforts to refine their risk oversight processes to help their companies meet the challenges posed by the new level of volatility. Our survey shows that many boards have recently taken steps or discussed ways to strengthen their oversight of risk. This is mainly accomplished by improving risk-related information flowing to the board, but also by hearing more independent views and refreshing the board and/or recruiting expertise, coordinating (and reallocating) risk oversight responsibilities among the board's committees, and/or changing the board's committee structure.

Boards are also wrestling with other risk-related challenges, including effectively linking risk and strategy in boardroom discussion, devoting sufficient agenda time to cybersecurity, and communicating and coordinating among the full board and its committees on oversight of the company's key strategic and operational risks.

To dig deeper, we interviewed seasoned audit committee chairs and risk professionals for their perspectives on how audit committees and boards are refining their oversight of risk in an increasingly volatile environment. Key takeaways include:

■ **Good risk management is an ongoing business discussion that is dynamic and enterprise wide.** Managing and overseeing risk should be a dynamic process, starting with front-line management. Is the board getting a consolidated, enterprise-wide view of the company's risks from various C-level perspectives—and outside sources—that helps connect the dots?

■ **Risk and strategy go hand in hand.** While boards are clearly spending more time debating risk, make sure it's being done in the context of making good decisions, not making no decisions. Understand the risks around key input costs and growth assumptions, and how much risk the company is willing to take.

■ **Getting the risk culture right starts at the top, but succeeds (or fails) on the front line.** The right tone at the top is a must; but a good risk culture—marked by an openness and transparency where employees are comfortable providing feedback in open and honest discussions, and different views are heard—hinges on the rank and file. Is it clear that risk management starts with the front line?

■ **Cybersecurity is a critical business risk, requiring the full board's attention.** Because cyber risk cuts across so many aspects of the business, make sure all the key players (chief information officer, chief information security officer, chief risk officer, chief compliance officer, and chief audit executive, for starters) are in sync, and that cybersecurity has sufficient time on the full board's agenda.

■ **Are risk oversight roles and responsibilities clear and still appropriate?** Challenging management on how the company is responding to a dynamic risk environment requires more and more time and focus. Give a lot of thought to what gets discussed where, particularly when it comes to the agenda-heavy audit committee, which needs to remain focused on financial reporting and internal controls.

The full interviews in the latest edition of KPMG's *Global Boardroom Insights*, along with our global survey findings, offer a timely look at how boardroom discussions are evolving to keep pace with the new global volatility. Read it online at kpmg.com/BLC.

Dennis T. Whalen is partner in charge and executive director, KPMG's Audit Committee Institute.

Board Composition

The Challenge of Adding Critical New Expertise to Boards

By Dennis Carey and Robert Hallagan

We recently spoke with Martin Lipton, senior partner, Wachtell, Lipton, Rosen & Katz and noted advisor to major corporations on corporate governance, and counsel to the NYSE committee that created its corporate governance rules adopted in 2003. We discussed the challenge of adding critical new expertise to boards.

Korn Ferry is witnessing stepped-up demand for directors in a wide range of areas where boards are currently lacking expertise, including cybersecurity, online retail, and a range of other functional, industrial, and geographic areas.

Lipton's view is that boards require additional expertise to properly execute their duties on behalf of shareholders. "It's a mantra of ours," he says. "Each board should have the experience and expertise appropriate for the business."

But this begs the question: As a practical matter, how do boards make room for these new directors? This is a significant issue for many boards, particularly given the steady trend in recent years for boards to pare down in size, combined with relatively low turnover on boards. The latest Korn Ferry Market Cap 100 (KFMC^{100}) report finds that 35 percent of directors on the boards of the largest U.S. companies by market capitalization have served for nine years or more, and 20 percent have served for 12 years or more. That doesn't create a lot of wiggle room to add new directors, especially when veteran directors, such as CEOs, still add tremendous value.

There are several ways to circumvent this barrier and gain additional director expertise, says Lipton, who suggests the following:

1. Consider expanding the size of the board. After years of consciously paring down, 57 percent of KFMC^{100} boards have 10 to 12 directors, and only 36 percent have more than 13. But if new seats are not likely to open up any time soon, and specific expertise is urgently needed, boards may find this concrete need takes precedence over the general requirement to maintain a certain size. If deemed important, boards can "right-size" later on, perhaps after a director steps down.

Each board should have the experience and expertise appropriate for the business.

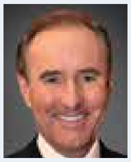
2. Ramp up the director assessment process. It may be time to address the sensitive issues of director assessments and the adoption of more rigorous director qualifications. It's one way of creating room for needed expertise and, as Lipton says, "boards have to focus on evaluations. ISS and major investors are paying attention."

3. Think about establishing term limits or adhering to a mandatory retirement age. While 42 percent of KFMC^{100} boards have a mandatory retirement age, 35 percent provide exceptions. Some flexibility should be built in so boards can retain particularly valuable directors. Lipton cautions that a crucial balance needs to be maintained between refreshing boards and allowing an effective team dynamic to flourish.

4. Find viable substitutes. Boards might consider building access to advising directors, who would attend board meetings and give advice, but would have no formal standing. "These people," Lipton says, "would most likely have a great deal of experience."

5. Maintain access to a wide range of experts. Most large boards have sessions where experts explain new trends to keep directors current. This practice, Lipton observes, "represents a fundamental change in the way boards operate."

Always candid, thoughtful, and practical, Lipton cares less about what is politically correct and more about what he believes really works. His suggestions are worth considering as boards struggle simultaneously with three challenges: smaller boards with less room to add crucial new competencies; "a clear need for expertise to be added to advise management on strategy and performing their duties to pursue more appropriate risk management practices and new technologies"; and the need to maintain a collegial, effective board team. While these requirements are not necessarily mutually exclusive, they are somewhat in conflict, and fulfilling all of them may require some ingenuity.




Dennis Carey and Robert Hallagan are vice chairs of Korn Ferry.

Cybersecurity

When Building a Cyber Defense, Companies Should Assume the Worst

By Austin Berglas

Chances are, cyber attackers are inside your firewalls, biding their time, planning the what, when, and where of their next move. They already know the how.

Even so, it's never too late to set up viable defenses. As cybercrime continues to proliferate at alarming rates, advanced preparation is crucial. The level of a company's preparedness is the best predictor of how quickly and effectively it will recover from these inevitable attacks—and assuming the worst results in the best outcomes.

An expensive hardening of your networks may be necessary, but this tactic is ultimately insufficient. Even the most secure networks can be compromised by a well-meaning employee accidentally clicking on a seemingly innocuous—but ultimately malicious—link. A truly effective cybersecurity program involves the entire company, top to bottom.

With this in mind, directors must challenge their management teams to put the right strategies and procedures in place to prepare for, respond to, and recover from attacks on their networks.

Where Are the Crown Jewels?

In building a strong defense, one must first identify the company's crown jewels—its most valuable digital assets. Then ask: How are they stored? Where are they located? How accessible are they? Just as important is understanding who might value these assets and who would pay large sums to acquire them.

Defense strategies should be formed around a realistic view of an attacker's likely motivations. To this end, any available intelligence sources should be engaged and heeded. Attacks in your sector need to be carefully monitored. Where possible, industry-wide information sharing should be strongly encouraged. Independent intelligence sources can help set up an early warning system—for a company, industry, or both—identifying patterns that can suggest imminent threats.

Threat Exercises

While intelligence is undeniably important, there is no substitute for the conscientious development of processes and procedures—both proactive and reactive—to deal with actual incidents. Moderated tabletop exercises based on realistic scenarios from your industry can focus management on both the specific vulnerabilities of your business and the means of addressing them.

Ideally, these exercises should cover the entire incident life cycle—from pre-incident preparedness to initial response, to investigation and containment, to post-incident remediation—and the learning from them should form the basis of policies and procedures going forward.

Educating Employees

Most successful cyberattacks are the result of human fallibility. No investment in network hardening can guard against the kinds of "social engineering" ploys—spear-phishing and the like—now being used to trick employees into compromising cybersecurity. It is estimated that employee behavior accounts for up to 80 percent of data breaches often—but not always—unwittingly.

Education therefore plays a key role in any cyber defense strategy. The basics of cybersecurity such as proper password management, e-mail awareness, social media policies, and two-factor authentication, must be taught and retaught. One report suggests that with two years of employee training, the click rate for malicious phishing e-mails dramatically drops down from 25 percent and can be held to below 5 percent.

Taking a Holistic View

Given the inevitability of cyberattacks on your assets, it is important to look at data security from every possible angle. A truly holistic solution involves a continuously updated combination of intelligence gathering, employee training, technical assessments, and the constant testing of processes and procedures.

Weakness in any of these areas needs to be addressed, if not in-house, then through outside resources. By assuming the threats are inside your walls right now, the company can take the steps necessary to make a real difference in defending against them.

Austin Berglas heads the U.S. Cyber Investigations and Incident Response practice at K2 Intelligence. His investigative experience spans counterintelligence, national security, criminal cyber investigations and incident response. He can be reached at aberglas@k2intelligence.com

Litigation and Liability

Focusing on Individual Accountability for Corporate Wrongdoing

By Joan E. Meyer, Trevor N. McFadden, and Geoff Martin

In recent years, U.S. prosecutors have continued apace in resolving substantial, high-profile criminal and civil cases against companies for fraud and other misconduct. Convicting individuals who perpetrated the wrongdoing, however, has proven more difficult. Historically, few corporate resolutions have been accompanied by criminal indictments or civil suits brought against individuals. Because of a perception that individuals on Wall Street have yet to be held accountable for their role in the 2008 financial crisis, politicians and commentators have been focused on this issue.

In this context, balancing corporate resolution of these matters with the prosecution of individuals has become a top policy priority for the U.S. Department of Justice (DOJ). On September 9, 2015, Deputy U.S. Attorney General Sally Yates issued a memo to all DOJ attorneys to provide guidance to prosecutors handling cases involving both companies and individuals. There are several significant developments directors should be aware of.

Corporate Cooperation Credit

Traditionally, the DOJ considers a company's cooperation with the government when resolving corporate criminal cases. The department takes into account a number of factors, including the extent of the company's internal investigations and voluntary disclosures in addition to whether the company produced documentation and made individual witnesses available to the government for interview.

In a significant change from prior policy, the memo indicates that the government will go as far as to deny all cooperation credit for companies that fail to "learn of such facts [related to individual misconduct] or to provide the Department with complete factual information about individual wrongdoers," notwithstanding any other cooperation that they may provide. This is effectively now a threshold requirement for receiving any cooperation credit.

> The memo pressures prosecutors to bring individual cases much more quickly.

Timely Resolution of Cases

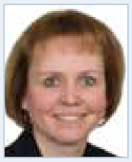
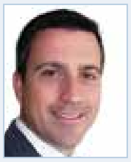
The memo also states that "every effort should be made to resolve a corporate matter within the statutorily allotted time, and tolling agreements should be the rare exception." The government has historically made extensive use of tolling agreements in complex corporate enforcement cases to extend the time it has to investigate and resolve these matters. The multiyear time line for resolving these cases is frequently a source of frustration for cooperating companies looking to remediate a historic compliance issue and move forward with their business.

Tolling agreements entered into with companies to resolve their own liability also have sometimes given an advantage to individuals who are able to avoid prosecution because the statutory time period lapsed during a lengthy corporate investigation. The government clearly wishes to avoid this situation going forward. In doing so, the memo pressures prosecutors to bring individual cases much more quickly. This is easier said than done.

Inability to Pay

In the past, the government has not tended to bring civil suits against those who could not afford to pay a significant financial judgment levied against them. The memo instructs civil U.S. attorneys to look beyond the government's financial recovery and consider bringing civil cases against individuals based on other considerations, such as the severity of the alleged conduct. The objective of this significant policy shift appears to be to increase the number of cases brought, regardless of likely financial recovery, for the purpose of holding individuals accountable for their actions—and to deter others.

At Baker & McKenzie in Washington, D.C., Partner Joan Meyer chairs the Compliance, Investigations and Government Enforcement Practice Group. Trevor McFadden is a partner and Geoff Martin is an associate in the group.


Compensation

Why Relative TSR Will Not Align Pay and Performance Disclosure

By Daniel Rodda

Earlier this year, the Securities and Exchange Commission released a proposed rule that would implement the 2010 Dodd-Frank requirement to disclose the relationship between executive compensation actually paid and performance, with performance largely defined by the company's total shareholder return (TSR).

The proposed rule includes disclosure of how a company's TSR compares to peers. This has led some commentators to suggest that any company not using relative TSR as a performance measure should strongly consider adding it. However, companies should not rush to change their incentive plans, as using relative TSR will not ensure perceived alignment under the proposed rules.

The Proposed Disclosure Requirements

Under the proposed rule, companies would have to provide tabular disclosure in their annual proxy statements that compare executive compensation totals from the summary compensation table with compensation actually paid, as well as TSR and the TSR of a group of peer companies. Additionally, companies would need to provide a narrative disclosure describing the relationship between these elements. The disclosure would initially cover three years, but would later cover five years' of data.

Compensation actually paid, as defined in the proposed rule, would have two primary differences from the total shown in the summary compensation table: the grant-date value of equity awards would be replaced by the value of awards on the vesting or payout date; and the change in the present value of accumulated pension benefits would be replaced by the present value of pension benefits earned based on one additional year of service. Both changes may provide better insight into compensation delivered by shifting focus from long-term incentive opportunities to payouts, and removing "noise" created by changes in pension interest rate and mortality table assumptions.

The tabular disclosure of TSR under the proposed rule will be cumulative from the beginning date of the disclosure. For example, the first year covered by the table will show one-year TSR results, while the third year in the table will show three-year results.

Peer TSR must be based on either the peer group used in the stock performance graph, typically disclosed in a company's 10-K, or a compensation peer group disclosed in the compensation discussion and analysis. Peer group results must be weighted based on each company's market capitalization.

Pay and TSR Disclosure Disconnects

While it may seem that companies using relative TSR as a primary performance measure would show clearer alignment of pay and performance than others under the proposed disclosures, there are several reasons why that may not be the case, including:

■ **Misalignment of time periods.** Payouts from relative TSR performance plans will typically be shown next to TSR results from a different time period. Take, for example, an award based on relative TSR performance for 2016 through 2018 that vests in early 2019. The payout would be reflected in actual pay for 2019, but the TSR shown in the table for 2019 would in most years not reflect 2016 through 2018 results. Instead they would reflect one-year, two-year, three-year, four-year, or five-year results, depending on the year of disclosure.

■ **Differences in the calculation of TSR results.** Most relative TSR performance plans determine payouts based on the company's percentile ranking relative to the peer companies, not based on the market-cap-weighted results that would be shown under the proposed rule.

■ **Impact of other pay components:** Even if a company grants long-term incentives through a relative TSR performance plan, other components of pay—salaries, annual incentives, retirement benefits—will not depend on or match relative TSR performance results.

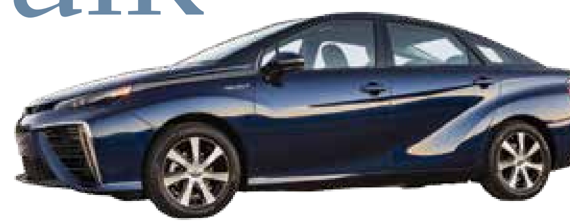
Evaluating the Use of Relative TSR Plans

All companies, whether or not they use relative TSR, will be challenged to disclose why the table required under the proposed rule does not fully reflect the relationship between pay and performance. While relative TSR can be an effective incentive, companies should not implement relative TSR plans solely in an attempt to improve their potential disclosure under the proposed rule. Companies should continue to evaluate which performance measures and plan designs will be most effective at their organâization to meet their compensation objectives and drive the creation of value.

Daniel Rodda is a lead consultant in the Atlanta office of the executive compensation consulting firm Meridian Compensation Partners.

Small Talk

By Jesse Rhodes



Out of Gas

Toyota Motor Corp. recently announced that its vehicles powered exclusively by gasoline are on the road to extinction. The transition comes as part of the company's efforts to reduce emissions by 90 percent by the year 2050, which includes focusing on hybrid and hydrogen fuel cell vehicles. Gasoline and diesel-fueled cars account for 85 percent of Toyota's global vehicle sales, but a transition to the new generation of vehicle will take time, due in large part to the widespread lack of infrastructure to support the new transport technology. The Toyota Mirai, a hydrogen-powered car, will be rolled out in California in late 2015. Early adopters need to ensure that they can get to one of the 20 refueling stations throughout the state to stay on the road. Owners of gas-powered cars have their pick of some 10,000 stations.

Glass Half Empty

The announcement of a possible Anheuser-Busch InBev merger with SABMiller has craft brewers all hopped up. According to NPR, the merger would mean that the combined company would control more than half of the U.S. beer market. Some craft brewers argue that the merger will make it more difficult for them to get their products on store shelves. *Business Insider*, however, noted the merger and acquisition activity in the microbrewery space: more than 12 craft breweries were snapped up by larger companies in the last 12 months, ostensibly expanding the availability of those products. The Busch/InBev merger is currently awaiting shareholder and regulator approval.

Long Live the Brand

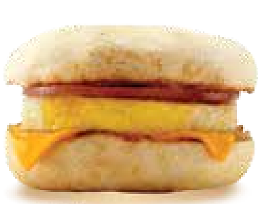
While there may be some question as to the relevancy and role of the British monarchy in an otherwise democratic nation, one thing is for certain: the royals do wonders for the economy. Brand Finance, a brand valuation and strategy consultancy, recently estimated the amount of money the monarchy contributes to the U.K. economy. Per their research, the grand total came to a princely £1.155 million ($1.7 million in U.S. dollars) in 2015. Its analysis looked at factors such as tourism revenue connected to the monarchy and businesses that advertise they serve the royal family. The "Kate Effect" alone, defined as the "uplift to fashion and other brands worn, used, or otherwise endorsed," reined in an estimated £152 million ($235-million plus).

Forecasting Risk Tolerance

Can risk appetite be influenced by early-life exposure to freak weather events? Researchers from Singapore Management University, University of Oregon, and University of Cambridge looked at 1,508 public company CEOs to see if they grew up in an area that was impacted by a natural disaster. They then looked at financial characteristics of each company when they were led by these executives, such as leverage, cash-to-assets ratios, and acquisition activity. Executives that experienced a disaster with extreme consequences (e.g., high mortality rates) had a lower risk tolerance, while those who experienced disasters with less devastating outcomes were less sensitive to the downsides of dicey situations and had heartier risk appetites.

Lovin' It

Although McDonald's still stands as the world's largest restaurant company, sales have flagged for seven quarters straight. Hoping to turn the tide, the fast-food giant pared down its unwieldy menu and on Oct. 6 began offering breakfast foods all day long. According to the *Wall Street Journal*, sales rose 0.9 percent by Oct. 22 and share prices rose by 8.1 percent, closing at $110.87—their highest ever. Although other factors could be credited for these immediate changes, analysts are predicting that breakfast could boost same-store sales by 1.5 percentage points in the fourth quarter and 1 percentage point over the next 12 months.



McDonald's Egg McMuffin

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