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The Spotlight on Boards

The focus on the performance of corporate boards prompts a revisiting of what is expected from the board of directors of a major public company – not just the legal rules, but also the aspirational "best practices" that have come to have almost as much influence on board and company behavior.

Boards are expected to:

- Establish the appropriate "Tone at the Top" to actively cultivate a corporate culture that gives high priority to ethical standards, principles of fair dealing, professionalism, integrity, full compliance with legal requirements and ethically sound strategic goals.
- Choose the CEO, monitor his or her performance and have a detailed succession plan in case the CEO becomes unavailable or fails to meet performance expectations.
- Work with management to navigate the dramatic changes in economic, social and political conditions, in order to remain competitive and successful.
- Plan for and deal with crises, especially crises where the tenure of the CEO is in question, where there has been a major disaster or risk management crisis, or where hard-earned reputation is threatened by product failure or a socio-political issue.
- Determine executive compensation to achieve the delicate balance of enabling the company to recruit, retain and incentivize the most talented executives, while avoiding media and populist criticism for "excessive" compensation.
- Interview and nominate director candidates, monitor and evaluate the board's own performance and seek continuous improvement in board performance.
- Approve the company's annual operating plan and long-term strategy, monitor performance and provide advice to management as a strategic partner.
- Determine the company's reasonable risk appetite (financial, safety, reputation, etc.), set state-of-the-art standards for managing risk and monitor the management of those risks within the parameters of the company's risk appetite.
- Set state-of-the-art standards for compliance with legal and regulatory requirements, monitor compliance and respond appropriately to "red flags."

- Take center stage whenever there is a proposed transaction that creates a seeming conflict between the best interests of stockholders and those of management, including takeovers.

- Set the standards of social responsibility of the company, including human rights, and monitor performance and compliance with those standards.

- Oversee government and community relations.

- Pay close attention to investor relations to develop an understanding of shareholder perspectives on the company, and interface with shareholders in appropriate situations.

- Work with management to encourage entrepreneurship, appropriate risk-taking, and investment to promote the company's long-term success, despite pressures for short-term performance.

- Review corporate governance guidelines and committee charters and tailor them to promote effective board functioning.

To meet these expectations, it will be necessary for major companies (1) to have a sufficient number of directors to staff the requisite standing and special committees and to meet expectations for diversity; (2) to have directors who have knowledge of, and experience with, the company's businesses, even though meeting this requirement may result in boards with a greater percentage of directors who are not "independent"; (3) to have directors who are able to devote sufficient time to preparing for and attending board and committee meetings; (4) to provide the directors with regular tutorials by internal and external experts as part of expanded director education; and (5) to maintain a truly collegial relationship among and between the company's senior executives and the members of the board.

Martin Lipton