



The New Paradigm for Corporate Governance

Posted by Martin Lipton, Wachtell, Lipton, Rosen & Katz, on Wednesday, March 9, 2016

Editor's note: [Martin Lipton](#) is a founding partner of Wachtell, Lipton, Rosen & Katz, specializing in mergers and acquisitions and matters affecting corporate policy and strategy. This post is based on a Wachtell Lipton memorandum. Related research from the Program on Corporate Governance includes [The Long-Term Effects of Hedge Fund Activism](#) by Lucian Bebchuk, Alon Brav, and Wei Jiang (discussed on the Forum [here](#)), and [The Myth that Insulating Boards Serves Long-Term Value](#) by Lucian Bebchuk (discussed on the Forum [here](#)). Critiques of the Bebchuk-Brav-Jiang study by Wachtell Lipton, and responses to these critiques by the authors, are available on the Forum [here](#).

In my February 1, 2016 note, [The New Paradigm for Corporate Governance](#), I called attention to the growing evidence that the leading institutional investors were developing a new paradigm for corporate governance. In the new paradigm, these institutions would engage with a company and its independent directors to understand its long-term strategy and ascertain that the directors participated in the development of the strategy, were actively monitoring its progress and were overseeing its execution.

In a [February 26, 2016 letter to board members](#), State Street Global advisors said:

Unless we make independent long-term thinking and leadership the driving force behind a board's mission, no amount of change to management incentives, investor behavior or the like will be sufficient to ensure a focus on the long term. Boards need to look beyond the traditional measures of corporate success such as the quarterly earnings report and accomplishments since the last board meeting. Short-term performance matters, but it should be assessed in the context of a company's long-term goals. Given a company's stated objectives for the next 5, 10 or 20 years, did management execute as well as possible? Did the company meet its milestones and exceed its benchmarks?

We recognize that the role of a board has become more complex and demanding as the challenges companies face in a competitive global economy marked by technological disruption have intensified. Many boards lack the experience and expertise to engage effectively and critically with management with regard to a company's long-term planning. Board recruitment becomes an even more critical function when viewed through the lens of long-term focus. That is all the more reason that boards should continually self-assess the skills and experience of their board members and seek to continually enhance their capabilities by addressing any skill, experience or other gaps.