



Best Practices- Can the Conduct of your Board Meetings Stand Scrutiny?

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It is the business of the Board of Directors (the “Board”) to make strategic and timely decisions. These decisions are expected to be financially prudent, risk-aware and adherent to corporate best practices. Where best practices are observed, the fiduciary obligations of the Board are generally more easily fulfilled, creating a higher level of accountability, transparency and good standing, which serve to boost the confidence of stakeholders. Additionally, this enhances the overall marketability and image of the company as well as the business environment in which it operates.

Having assumed responsibility for the stewardship of the company, a key function of the Board is to ensure that the company is prosperous, highly effective, operationally efficient and responsiveness to change, while following the principles of effective corporate governance. This article serves to reinforce the critical supervisory function of the Board and to highlight certain best practices, particularly in relation to the conduct of Board meetings.

The Board

Experience has taught that it is not enough to ensure that the size of the Board is adequate and that the skills level, talent, expertise and independence required are met in the selection of the Board. Where acceptable practices are not adhered to by the Board, all this talent and skill can easily go to waste. The Board is required to demonstrate teamwork and cohesion, a guided vision, integrity, informed judgment, accountability. Each member is required to demonstrate acceptable written and oral communication skills, financial literacy and independence of thought and mind. But even this is not enough. It is of paramount importance that acceptable practices are adopted in order to ensure the effective performance of the Board in fulfilling its functions.

Board Meetings - Frequency, Attendance and Commitment

A Board should meet as often as circumstances affecting its business dictate and more frequently in times of great opportunity or crisis. It must be responsive to the economic climate and the demands of the industry in which it operates. The organized Board tends to have a cyclical annual agenda, which details, among other things, strategic planning, and financial reporting obligations as well as scheduled general meetings of the company, the Board or the Board committees. It is customary for the Board to meet at least four (4) times in each year and it is generally unacceptable for a director to be absent (without reasonable explanation) from three (3) consecutive meetings.

Although the nature of the agenda and the frequency of meetings will vary from company to company, having an organized annual calendar outlining matters to be addressed at the Board level, is a good practice, as this allows each director to understand the degree of commitment necessary in fulfilling his or her obligations, and have an appreciation of the

time required to prepare adequately for and attend meetings of the Board as well as to serve on Board committees.

Preparing for Board Meetings

Notification and Information

With an organized schedule of meeting, the date of meetings would generally be considered diary events well in advance of the day of the meeting. Nonetheless, it is important that written notice of the meeting be communicated to directors in advance and in a timely manner and attendance be formally confirmed.

It is usual for the chairman and the corporate secretary to organize the agenda, with assistance and input from the company's chief executive officer. Directors are all responsible to ensure that the relevant items are tabled and as such, they are at liberty to suggest items to be included for discussion at the meeting. There may be matters requiring follow-up and/or new business or administrative matters for discussion. The aim is to ensure that the meeting is properly organized and 'contained' with the appropriate allocation of time to specific issues in order to ensure all issues are adequately addressed and the meeting is as balanced, engaging full participation as and productive as possible.

The **agenda**, **minutes** from the last meeting, **briefing papers** which relate to agenda items (where necessary) and **management accounts** are crucial in preparing for Board meetings. It is recommended that these be circulated within a minimum number of days (usually five (5) days) before the meeting, to allow each director sufficient time to ruminate on the issues in preparation for the meeting. Of course, where the secretary is aware that a director has a conflict of interest in relation to any agenda item, the papers relevant to that item should not be circulated to that director.

Papers

Board papers will vary in length. However, it is recommended that these should not exceed twenty (20) pages, even for the most complex matters.¹ It is also recommended that they be carefully structured, concise and material. Appropriate headings and indications as to whether the papers are merely 'information' papers or 'decision' papers as well as instructions concerning what is required of the director should also be included. If a director believes that the information received is not adequate for making an informed decision, the chairman should be advised of this so that the necessary steps can be taken to address the issue. It is good practice to allow directors an opportunity to indicate whether there are any additional issues they wish to have placed on the agenda (even if the issue gets deferred to a subsequent meeting). Also, an opportunity should be provided for directors to indicate in advance whether any agenda item gives rise to a conflict of interest. As required from time to time, senior managers, a legal adviser or other professional may be invited by the chairman to participate in Board meetings by making presentations or otherwise clarify issues.

¹ Global Corporate Governance Forum and International Finance Corporation

Meeting and Minutes

Before calling the meeting to order, the chairman must ensure that the meeting is duly constituted by the presence of the requisite quorum. The quorum is the minimum number of members required in order to legally transact the business of the Board.

Typically, the minutes of the last meeting should be voted on by members who were at that meeting. It is considered inappropriate for a director to vote to approve minutes of a meeting he/she did not attend or to approve minutes he/she did not read. Reports on the company's activities as well as its financial position are usually presented at the meeting. It is also usual for an assessment of the company's performance in relation to set targets to take place as well as a discussion of matters arising from the minutes, including relevant reports on action items.

Decisions

For the efficient conduct of the meeting, where a topic is fully discussed, the chairman is required to summarise the discussion and solicit an agreement or a vote. Typically, a majority vote signifies the approval of Board. It is the view of certain corporate governance experts that Boards "*should be collegial; consensus must be attained on every agenda item without the need to take a vote.*"² Admittedly, in this case, the chairman is required to be highly skilled and ensure that all meeting rules and procedures are adhered to. The chairman is expected to facilitate discussion, ensuring that everyone gets an opportunity to speak and that conflicts are cleared before decisions are made.

At the end of the day, the chairman would have repeated the principal points discussed and the decisions taken in order to ensure that the Board agrees with the relevant wording and that these are properly recorded in the minutes. The minutes should also reflect the date, time and meeting location, names of directors present and absent as well as the agreed scheduling of the next meeting of the Board.

Best Practices

Combined with the technical knowledge, skill and expertise, the implementation of the following best practices will assist the properly constituted Board in striving to achieve its full potential in the effective stewardship of the company:

- Ensuring that Board meetings are timely and held according to schedule, starting and ending within a reasonable time;
- Ensuring that there is full disclosure and transparency and that conflicts are voluntarily and openly noted and addressed;
- Ensuring that directors are rarely absent and boardroom confidentiality is maintained;
- Ensuring that required information and board papers are provided in a timely manner, allowing for adequate meeting preparation, and
- Ensuring that adequate reports are presented to the Board and proper records maintained.

² Global Corporate Governance Forum and International Finance Corporation

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