Insights
Asset Stewardship

April 2023

Guidance on Board Oversight of Director Time Commitments

Key Takeaways

- The global COVID-19 pandemic and an elevated culture of shareholder engagement have heightened the time commitment required to serve as a director on a public company board.
- Investors would benefit from increased transparency over how Nominating Committees assess their directors' time commitments and what factors are included in this discussion.
- This guidance sets forth our expectations for Nominating Committees to evaluate their directors' time commitments, regularly assess director effectiveness, and provide public disclosure on their policies and efforts to investors.

A Historic Transition

The global COVID-19 pandemic and an elevated culture of shareholder engagement have heightened the time commitment required to serve as a director on a public company board. State Street Global Advisors' Asset Stewardship team values the critical role that effective boards play in keeping management focused on their companies' long-term goals. Through our engagements with portfolio companies, we learned how their strategies and operations are continuously reinvented to meet a confluence of challenges, including the global health crisis and the systemic risks of climate change and gender, racial and ethnic inequity. These forces continue to shape board agendas, with directors citing corporate resiliency[1] as the emerging topic most central to their conversations in 2021.

The Evolving Role and Expectations of Directors

To effectively manage the risks and opportunities facing their companies, directors are meeting more often. In 2021, S&P 500 boards formally met an average of 9.4 times,[2] a 25% year-over-year increase. FTSE 150 boards held an average of 11.6 meetings in 2021, a 50% increase compared to 2020,[3] reflecting the global nature of this development.

Additionally, a more robust engagement culture with both internal and external stakeholders has placed more demands on directors' time.

SPAC Directorship

The rise of Special Purpose Acquisition Companies ("SPACs") continues to shape our governance discussions with boards. The rapid pace of SPAC activity has continued to challenge traditional models of corporate governance, and has driven strong demand for qualified SPAC directors, many of whom also serve as public company directors.

Through our continued dialogue with directors serving on both SPAC and public company boards, we have learned the following:

- While SPAC director time commitment requirements vary depending on the individual and SPAC board, they are generally less than the average time associated with public company directorship.
- SPACs are typically subject to a two-year time horizon to find an acquisition target, and directors are generally called on to spend their most significant service time in the final months before the acquisition closes with the target company.
- Typically, no more than one SPAC director rolls onto the new entity's board in an official capacity.
- In many cases, multiple members of the SPAC sponsor management team remain on the board once the target company goes public.
- SPAC sponsors play a much more time-consuming role relative to directors, and their responsibilities include raising capital, deal sourcing, and conducting deep due diligence on potential targets.
- SPAC director responsibilities include evaluating target candidates, facilitating industry introductions, and providing general oversight over the process.

Given these findings, we do not consider service on a SPAC board when evaluating directors for excessive commitments. However, we do expect these roles to be considered by Nominating Committees when evaluating director time commitments.

Our Guidance on Director Time Commitments

Insights gleaned from our director engagements, coupled with a growing body of research,[4] reflect the ever-increasing time commitment associated with serving as a director on a public company board. Directors have a challenging role, and the topics they are expected to oversee have increased in scope and complexity.

Despite the elevated oversight expectations on directors and the company boards on which they serve, 112 boards among the S&P 500 do not report specific limits on additional board service.[5] Investors would benefit from increased transparency over how Nominating Committees assess their directors' time commitments and what factors are included in these decisions. We believe well-governed boards are responsible for establishing, enforcing and disclosing their director commitment policies.

We expect Nominating Committees to evaluate their directors' time commitments, regularly assess director effectiveness, and provide public disclosure on their policies and efforts to investors.

Voting

Incorporating Our Guidance into Our Voting Policies

When voting on the election or re-election of a director, we consider the number of outside board directorships that a non-executive and an executive may undertake. Thus, State Street Global Advisors may take voting action against a director who exceeds the number of board mandates listed below:

- Named Executive Officers (NEOs) of a public company who sit on more than two public company boards
- Non-executive board chairs or lead independent directors who sit on more than three public company boards
- Director nominees who sit on more than four public company boards

For non-executive board chairs/lead independent directors and director nominees who hold excessive commitments, as defined above, we may consider waiving our policy and vote in support of a director if a company discloses its director commitment policy in a publicly available manner (e.g., corporate governance guidelines, proxy statement, company website). This policy or associated disclosure must include:

- A numerical limit on public company board seats a director can serve on
  — This limit cannot exceed our policy by more than one seat
- Consideration of public company board leadership positions (e.g., Committee Chair)
- Affirmation that all directors are currently compliant with the company policy
- Description of an annual policy review process undertaken by the Nominating Committee to evaluate outside director time commitments

A Sample Disclosure Might Look Like:

"Directors can sit on no more than five public company boards (including our own), with consideration given to public company leadership roles and outside commitments. The Nominating Committee conducts an annual review of director commitment levels, and affirms that all directors are compliant at this time."

If a director is imminently leaving a board and this departure is disclosed in a written, time-bound and publicly-available manner, we may consider waiving our withhold vote when evaluating directors for excessive commitments.

Service on a mutual fund board, the board of a UK investment trust or a Special Purpose Acquisition Company (SPAC) board is not considered when evaluating directors for excessive commitments. However, we do expect these roles to be considered by Nominating Committees when evaluating director time commitments.

Conclusion

We remain focused on our fiduciary duty to improve long-term value of our clients' investments. It is our conviction that well-governed boards are best placed to evaluate their directors' time commitments, and that Nominating Committees are responsible for establishing, enforcing and disclosing their director commitment policies to investors.

Endnotes

1 Celia Huber, Frithjof Lund and Nina Speilmann, "How boards have risen to the COVID-19 challenge, and what's next," *McKinsey & Company*, (April 2021), https://mckinsey.com/business-functions/strategy-and-corporate-finance/our-insights/how-boards-have-risen-to-the-covid-19-challenge-and-whats-next.

2 2Julie Hembrock Daum, Kathleen M. Tamayo, Ann Yerger, "2021 U.S. Spencer Stuart Board Index," *Spencer Stuart,* (November 2021), https://spencerstuart.com/-/media/2021/october/ssbi2021/us-spencer-stuart-board-index-2021.pdf.

3 3Tessa Bamford, Monisha Banerjee, Livia Enomoto, Keith Fryer, Leoni Fruhwirth, Celia Jackson, Nadia Kangmasto, Alastair Rolfe, Alice Wyatt. "2021 UK Spencer Stuart Board Index" *Spencer Stuart,* (November 2021), https://spencerstuart.com/research-and-insight/uk- board-index.

4 Celia Huber, Frithjof Lund and Nina Speilmann, "How boards have risen to the COVID-19 challenge, and what's next," Julie Hembrock Daum, Kathleen M. Tamayo, Ann Yerger, "2021 U.S. Spencer Stuart Board Index,"

5 Julie Hembrock Daum, Kathleen M. Tamayo, Ann Yerger, "2021 U.S. Spencer Stuart Board Index,"

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- Start with rigor
- Build from breadth
- Invest as stewards
- Invent the future

For four decades, these principles have helped us be the quiet power in a tumultuous investing world. Helping millions of people secure their financial futures. This takes each of our employees in 29 offices around the world, and a firm-wide conviction that we can always do it better. As a result, we are the world's fourth-largest asset manager* with US $3.62 trillion† under our care.

* Pensions & Investments Research Center, as of December 31, 2021.
† This figure is presented as of March 31, 2023 and includes approximately $65.03 billion USD of assets with respect to SPDR products for which State Street Global Advisors Funds Distributors, LLC (SSGA FD) acts solely as the marketing agent. SSGA FD and State Street Global Advisors are affiliated. Please note all AUM is unaudited.

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