Insights
Asset Stewardship

January 2022

Managing Through a Historic Transition: The Board's Oversight of Director Time Commitments

Benjamin Colton
Global Head of Asset Stewardship, Voting and Engagement

Ryan Nowicki
Assistant Vice President, Asset Stewardship

Key Takeaways

- The global COVID-19 pandemic, an elevated culture of shareholder engagement and broadened expectations of material risk oversight 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.
- We are updating our voting policy and guidelines on directors' commitments to ensure Nominating Committees 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, an elevated culture of shareholder engagement and broadened expectations of material risk oversight 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. This is especially true as companies across industries set transformational climate-related targets and redefine their approach to human capital management. Through our engagements with investee 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.

To better understand the challenges posed to boards navigating the historic shift to a more sustainable global economy, State Street Global Advisors' Asset Stewardship team conducted an engagement campaign with directors standing at the helm. What follows is an overview of what we learned, our updated voting guidelines, and our expectations of Nominating Committees to oversee the material risks associated with director time commitments.

The Evolving Role and Expectations of Directors

To effectively manage both the tactical challenges posed by COVID-19 and strategic challenges ranging from a decarbonizing economy to an intensifying competition for talent, 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, which does not capture the many more informal meetings involving directors. 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. In addition to managing the increasing complexity of existing operational challenges, boards are now expected to be conversant in material, company-specific ESG issues and actively engaged in relevant oversight. These emerging risks must be managed alongside traditional strategic and financial issues, and add to the broadening scope of responsibilities placed on directors.

Risks Posed by Excessively Committed Boards and Directors

Against this challenging backdrop, boards need to appropriately manage their directors' increasing time commitments.

> Boards with over-committed directors have been slower to adopt leading corporate governance practices and to offer robust shareholder rights to their investors. In 2020, our team implemented a proactive screen leveraging our R-Factor™ corporate governance score to identify portfolio companies in our key markets that exhibit a low level of compliance with their country-specific governance codes. In 2021, 60%[4] of the S&P 500 governance laggards we identified have boards with directors who hold excessive external commitments per our current voting criteria.

Not proactively managing this risk can also contribute to "tokenism" among the director community, nominating already over-committed directors who are considered to be diverse based on their gender, race and/or ethnicity, or other dimensions of diversity. More rigorous director commitment policies can help ensure that broader candidate pools from these communities are considered.

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, starting in 2022 we will 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 and Expectations for Director Time Commitments

Insights gleaned from our director engagements, coupled with a growing body of research,[5] 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.[6] Investors would benefit from increased transparency over how Nominating Committees assess their directors' time commitments and what factors are included in these decisions. Rather than investors holding individual directors with excessive external commitments accountable, we believe well-governed boards are responsible for establishing, enforcing and disclosing their director commitment policies.

We are updating our proxy voting guidelines on directors commitments to ensure Nominating Committees evaluate their directors' time commitments, regularly assess director effectiveness, and provide public disclosure on their policies and efforts to investors.

By providing clear guidance on director commitment levels, we hope to prioritize other topics in our discussions with investee companies, including how traditional and emerging material risks and opportunities are being managed and incorporated into long-term corporate strategy.

Voting

Incorporating Our Expectations into Our Voting Policies

In order to achieve alignment with our aforementioned expectations and advance transparency on these policies in the public markets, State Street Global Advisors will implement the following voting guidelines, in addition to our existing guidelines regarding director time commitment:

Starting in March 2022, for directors who hold excessive commitments according to either of the following conditions:

- Board chairs or lead independent directors who sit on more than three public company boards* or
- Director nominees who sit on more than four public company boards*

We may consider waiving our policy and vote in support of a director if the company does the following:

- Disclose 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

An example of acceptable disclosure includes:

"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."

We ask companies to share their publicly disclosed director commitment policy (including primary source materials), or intention to establish such a policy in 2022 with our team via email at GovernanceTeam@SSGA.com.

Our director commitment policy for NEOs of a public company board who sit on more than two public company boards remains unchanged, and is not subject to the disclosure waivers above.

* Service on mutual fund boards and UK investment trusts is not considered when evaluating directors for excessive commitments.

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.

Consistent with our guidelines' exclusionary approach to mutual fund boards and UK investment trusts, service on a SPAC board will not be 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 maximize 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. If our updated 2022 voting guidelines and expectations apply to your board, please share your compliant disclosure with our State Street Global Advisors' Asset Stewardship team at GovernanceTeam@ssga.com.

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 Julie 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 Tessa 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 State Street Global Advisors Proxy Voting Database, 2021.

5 Celia Huber, Frithjof Lund and Nina Speilmann, "How boards have risen to the COVID-19 challenge, and what's next,"

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

About State Street Global Advisors

Our clients are the world's governments, institutions and financial advisors. To help them achieve their financial goals we live our guiding principles each and every day:

- 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 30 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 $3.86 trillion† under our care.

*Pensions & Investments Research Center, as of December 31, 2020.
† This figure is presented as of September 30, 2021 and includes approximately $59.84 billion 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.

ssga.com

State Street Global Advisors Worldwide Entities

Abu Dhabi: State Street Global Advisors Limited, ADGM Branch, Al Khatem Tower, Suite 42801, Level 28, ADGM Square, Al Maryah Island, P.O Box 76404, Abu Dhabi, United Arab Emirates. Regulated by the ADGM Financial Services Regulatory Authority. T: +971 2 245 9000. **Australia:** State Street Global Advisors, Australia, Limited (ABN 42 003 914 225) is the holder of an Australian Financial Services License (AFSL Number 238276). Registered office: Level 14, 420 George Street, Sydney, NSW 2000, Australia. T: +612 9240-7600. F: +612 9240-7611. **Belgium:** State Street Global Advisors Belgium, Chaussée de La Hulpe 185, 1170 Brussels, Belgium. T: +32 2 663 2036. State Street Global Advisors Belgium is a branch office of State Street Global Advisors Europe Limited, registered in Ireland with company number 49934, authorised and regulated by the Central Bank of Ireland, and whose registered office is at 78 Sir John Rogerson's Quay, Dublin 2. **Canada:** State Street Global Advisors, Ltd., 1981 McGill College Avenue, Suite 500, Montreal, Qc, H3A 3A8, T: +514 282 2400 and 30 Adelaide Street East Suite 800, Toronto, Ontario M5C 3G6. T: +647 775 5900. **France:** State Street Global Advisors Europe Limited, France Branch ("State Street Global Advisors France") is a branch of State Street Global Advisors Europe Limited, registered in Ireland with company number 49934, authorised and regulated by the Central Bank of Ireland, and whose registered office is at 78 Sir John Rogerson's Quay, Dublin 2. State Street Global Advisors France is registered in France with company number RCS Nanterre 899 183 289, and its office is located at Coeur Défense – Tour A – La Défense 4, 33e étage, 100, Esplanade du Général de Gaulle, 92 931 Paris La Défense Cedex, France. T: +33 1 44 45 40 00. F: +33 1 44 45 41 92. **Germany:** State Street Global Advisors Europe Limited, Branch in Germany, Brienner Strasse 59, D-80333 Munich, Germany ("State Street Global Advisors Germany"). T: +49 (0)89 55878 400. State Street Global Advisors Germany is a branch of State Street Global Advisors Europe Limited, registered in Ireland with company number 49934, authorised and regulated by the Central Bank of Ireland, and whose registered office is at 78 Sir John Rogerson's Quay, Dublin 2. **Hong Kong:** State Street Global Advisors Asia Limited, 68/F, Two International Finance Centre, 8 Finance Street, Central, Hong Kong. T: +852 2103-0288. F: +852 2103-0200. **Ireland:** State Street Global Advisors Europe Limited is regulated by the Central Bank of Ireland. Registered office address 78 Sir John Rogerson's Quay, Dublin 2. Registered Number: 49934. T: +353 (0)1 776 3000. F: +353 (0)1 776 3300. **Italy:** State Street Global Advisors Europe Limited, Italy Branch ("State Street Global Advisors Italy") is a branch of State Street Global Advisors Europe Limited, registered in Ireland with company number 49934, authorised and regulated by the Central Bank of Ireland, and whose registered office is at 78 Sir John Rogerson's Quay, Dublin 2. State Street Global Advisors Italy is registered in Italy with company number 11871450968 – REA: 2628603 and VAT number 11871450968, and its office is located at Via Ferrante Aporti, 10 - 20125 Milan, Italy. T: +39 02 32066 100. F: +39 02 32066 155. **Japan:** State Street Global Advisors (Japan) Co., Ltd., Toranomon Hills Mori Tower 25F 1-23-1 Toranomon, Minato-ku, Tokyo 105-6325 Japan. T: +81-3-4530-7380. Financial Instruments Business Operator, Kanto Local Financial Bureau (Kinsho #345), Membership: Japan Investment Advisers Association, The Investment Trust Association, Japan, Japan Securities Dealers' Association. **Netherlands:** State Street Global Advisors Netherlands, Apollo Building 7th floor, Herikerbergweg 29, 1101 CN Amsterdam, Netherlands. T: +31 20 7181 000. State Street Global Advisors Netherlands is a branch office of State Street Global Advisors Europe Limited, registered in Ireland with company number 49934, authorised and regulated by the Central Bank of Ireland, and whose registered office is at 78 Sir John Rogerson's Quay, Dublin 2. **Singapore:** State Street Global Advisors Singapore Limited, 168, Robinson Road, #33-01 Capital Tower, Singapore 068912 (Company Reg. No: 200002719D, regulated by the Monetary Authority of Singapore). T: +65 6826-7555. F: +65 6826-7501. **Switzerland:** State Street Global Advisors AG, Beethovenstr. 19, CH-8027 Zurich. Registered with the Register of Commerce Zurich CHE-105.078.458. T: +41 (0)44 245 70 00. F: +41 (0)44 245 70 16. **United Kingdom:** State Street Global Advisors Limited. Authorised and regulated by the Financial Conduct Authority. Registered in England. Registered No. 2509928. VAT No. 5776591 81. Registered office: 20 Churchill Place, Canary Wharf, London, E14 5HJ. T: 020 3395 6000. F: 020 3395 6350. **United States:** State Street Global Advisors, 1 Iron Street, Boston, MA 02210-1641. T: +1 617 786 3000.

The information provided does not constitute investment advice and it should not be relied on as such. It should not be considered a solicitation to buy or an offer to sell a security. It does not take into account any investor's particular investment objectives, strategies, tax status or investment horizon. You should consult your tax and financial advisor.

All information has been obtained from sources believed to be reliable, but its accuracy is not guaranteed. There is no representation or warranty as to the current accuracy, reliability or completeness of, nor liability for, decisions based on such information.

ID853403-4059969.1.2.GBL.RTL 0122
Exp. Date: 12/31/2022