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Board and Governance Thoughts

New Year. More Knowledge.

This is the inaugural issue of Board and Governance Thoughts ("BGT"). The mission for BGT is to provide some thought provoking observations and stimulate some discussions in a format that can be read in less time than it takes to scan the Google news headers!

Whether you are a C-Suite member who deals with the board/governance or you share my passion for board service or you aspire to become a board member, I think you'll find BGT entertaining and useful. I hope you enjoy it. I welcome your comments and feedback - just send them to vdivito@vdivito.com.



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Board Service - is it still the "old boys network"?

There was a time when entry to the boardroom was akin to club membership based upon a (potential) board member's relationship to the CEO - in some cases a literal relationship (e.g. brother-in-law). I would like to believe that in a post-Sarbanes-Oxley world those days are long gone. Given the SEC and various stock exchange rules for independence, the increased scrutiny of the role of the board both by the press and the activist community (not to mention the plaintiff's bar) and the abundant "best practices" information published by such organizations as NACD and other governance leaders, you might expect the nomination process for board members to be a much more independent and professional search focused on targeted skills and experience sets. In addition, the push for greater diversity on boards (whether by gender, ethnic/geographic, experience/skills, etc.) has also influenced the nomination process. Despite the great progress that has been made you may still hear about board selections that appear to be the result of a "who do you know?" among the incumbent board members. In many of those cases the board has also run a process - frequently using some of the top names in board recruiting - and vetted the "who do you know" candidate(s) through the recruiter. While this leaves open the possibility of protecting the "old boys network" I think that the confluence of pressures described above (and that list is not intended to be exhaustive) have largely resulted in a better, more independent and professional approach to board selection - and yes, relationship still has value in the process but generally not at the expense of creating a dysfunctional or a glaringly weak board.

Term Limits and Age Limits on Boards

I'm not a big fan of age limits or term limits. The argument for both has been that having them in place insures a healthy turnover and new thought processes/ideas and is a "kind" way to replace aging or long-tenured board members who may not be contributing to the board's overall performance. In my view, both age limits and term limits are a poor substitute for good board leadership. If a board member is not carrying his or her weight and is not contributing then either the Board Chair or the Nominating/Governance Committee Chair should take the lead in addressing this matter. It is understandable in some circumstances where certain relationships are in place that another member of the

board can speak to the non-performer. If a board is taking its self-assessment process seriously this should be the expected way of dealing with the performance issue. Age limits and term limits tend to create a form of "adverse selection" whereby the wrong individuals may be forced to leave the board. What is interesting is how many companies that have either (or both) age/tenure limits will make exceptions when they are faced with their own adverse selection.

Warm regards,

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