KPMG

# Questions boards should ask about the company's governance team

## Board perspectives

Today, many directors are engaging directly with shareholders on a variety of issues—especially when the company is dealing with a crisis. However, on a day-to-day basis, directors rely on management to interface with shareholders to explain the company's and board's position on issues, as well as the board's oversight practices.

Shareholders—institutional investors and fund activists alike—are more assertive than ever. They are not hesitant to cast negative votes against directors and support activists' slates. Shareholders want to understand the board's perspective and position on key strategic, governance, environmental, and social issues. That said, in addition to considering having directors engage directly with shareholders when appropriate, it is prudent for boards to ensure that their governance teams are optimally positioned to best represent the board. After all, if shareholders are dissatisfied with their engagement, they cannot fire the engagement team; their recourse may come at the annual proxy voting booth against directors.

Boards may ask the following three questions of the CEO as part of their assessment of the governance team:

### 1 Who serves on the governance team and are they the right people?

This question aims to help ensure that the governance team has the most current skills, talents, and practices for engaging with investors in today's environment. Your largest institutional investors have a rather finite length of time to engage with your team. The last thing they want is to leave the discussion with ineffectual responses and unanswered questions.

There is no set rule about who should be on the team, but directors should be comfortable that the team:

- includes the necessary subject matter experts (e.g., legal, corporate governance, investor relations, executive compensation, corporate social responsibility, and communications);
- has the subject matter experts routinely coordinate and collaborate with each other;
- continuously updates their knowledge of all pertinent governance issues; and
- designates as investor-facing team members who have experience engaging with investors who are willing and prepared to confidently and adequately respond investor concerns as appropriate.

### 2 How thorough is the team's shareholder engagement and surveillance plan?

Understanding management's annual shareholder engagement plan is crucial. The plan should detail the team's interaction with the company's top shareholders, as well as those shareholders' questions and requests. This exercise should help determine whether the team satisfactorily manages the dynamic makeup of large institutional investors. Specifically, many large institutional investors may have multiple portfolio managers with differing viewpoints covering the company. While all of these viewpoints should be considered, it is essential that the governance team understands who exercises the investor's voting power on proxy issues. That knowledge may help avoid surprise negative votes against the directors at the annual meeting.

Additionally, directors should know how the team stays on top of the latest governance issues and what issues are top of mind for shareholders. The board should ask whether management:

— has planned meaningful engagements for the proxy "offseason" that provide significant investors time for in-depth discussion with management on how and what they think about key governance issues and company-specific issues;

— is developing strong relationships with shareholders, which will be important particularly during times of crisis;

— is interacting with the shareholder and governance communities to gather intelligence on the current investor sentiment and emerging governance demands; and

— periodically reports learnings to the board so directors can be properly informed about what's top of mind for their shareholders.

### 3 Can the team talk the "board's book"?

Shareholders are intensely focused on board oversight of strategy, risk, environmental, social, and governance issues, and board composition. Thus, in the absence of an independent director attending the engagement, it is imperative that the governance team be prepared to accurately explain the board's position on these issues. Past experience has proven that many teams are unprepared to accomplish this task. Moving forward, the board should ensure that the team can provide credible and defensible articulation of the board's position, which may be slightly different than defending the company's position on the same issues. An effective response should describe how the board engages management on strategy, risk, and ESG and details board processes related to director refreshment.

Shareholder demands have evolved over time. The threat of activism is now a fundamental business risk that must be managed. Boards should ask questions to help ensure that their governance teams have the appropriate talent and a well-developed plan to address these new challenges and properly represent the board's views.

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### About the KPMG Board Leadership Center

The KPMG Board Leadership Center champions outstanding governance to help drive long-term corporate value and enhance investor confidence. Through an array of programs and perspectives—including KPMG's Audit Committee Institute, the WomenCorporateDirectors Foundation, and more—the Center engages with directors and business leaders to help articulate their challenges and promote continuous improvement of public-and private-company governance. Drawing on insights from KPMG professionals and governance experts worldwide, the Center delivers practical thought leadership—on risk and strategy, talent and technology, globalization and compliance, financial reporting and audit quality, and more—all through a board lens. Learn more at kpmg.com/blc.

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