



Bringing employee perspectives into the boardroom

KPMG Board Leadership Center

August 31, 2020

COVID-19 and protests against racial injustice have sharpened the board's focus on understanding employee views on a range of critical issues, from worker health and safety, diversity and inclusion, and equal pay to the company's values and corporate purpose. But a rise in employee activism and recent shareholder proposals seeking employee representation in the boardroom raise questions about whether and how employees' views are communicated to the board. Beyond annual employee surveys and company town hall meetings, how do employee perspectives factor into the boardroom dialogue?

Employee activism, particularly at technology companies, has been on the rise in recent years. Workers are increasingly speaking out for or against their employers on workplace or societal issues. Nearly 4 in 10 U.S. employees surveyed prior to COVID-19 reported that they had spoken up to support or criticize their employers' actions over a controversial issue that affects society. Not surprisingly, millennials are more likely to be employee activists than Gen Xers and baby boomers. Examples of actions taken include initiating a conversation with other employees, posting on social media, or sharing a comment posted by someone else on social media.¹ Notably, a separate survey of public relations professionals found that only 29 percent said their companies have policies regarding employee activism.²

At least 11 companies across a range of industries have received shareholder proposals in the last year requesting some form of nonmanagement employee representation on the board or a report on opportunities for such representation. See "Examples of shareholder proposals related to employee representation on the board" on p. 2. One retailer has reportedly set up a "mirror board" made up of employees to share worker views and concerns.³ And although they have not gained traction, legislative proposals have been introduced calling for a percentage of the board to be elected by workers at some U.S. public companies.⁴

There are various models for worker representation on company boards in Europe (including the German codetermination model).⁵ However, the concept is more controversial in the United States. While proponents of the idea say it would give workers more of a say, critics contend that it presents a conflict of interest for an employee to monitor their employer.

Explaining asset manager Boston Trust Walden's decision to abstain on a proposal seeking employee representation on the board, ESG analyst Jared Fernandez wrote, "We strongly believe the voice of employees in corporate decision-making is critical to effective long-term management. But while employee representation on the board is a successful model in some markets, we have not yet seen compelling

¹ "Employee Activism in the Age of Purpose: Employees (Up)rising," Weber Shandwick, United Minds, and KRC Research, May 29, 2019.

² "2020 Global Communication Report," USC Annenberg Center for Public Relations, April 2020.

³ See Andrew R. McIlvaine, "Does the presence of employees on corporate boards help companies?" *Human Resource Executive*, November 18, 2019, and Rick Wartzman, "How a few former Toys 'R' Us employees are helping lead the brand's comeback and putting workers first," *Fast Company*, November 13, 2019.

⁴ Simon Jäger, Benjamin Schoefer, and Jörg Heining, "Labor in the Boardroom," *Harvard Law School Forum on Corporate Governance*, December 4, 2019.

⁵ See Andrea Garnero, "What We Do and Don't Know About Worker Representation on Boards," *Harvard Business Review*, September 6, 2018, and "Board-level Representation," worker-participation.eu, accessed July 16, 2020.

evidence that it is a 'best-practice' model for U.S. companies. The effectiveness of this governance reform should be evaluated within the context of other mechanisms for elevating employee input, including management-employee committees, the ability to enter into collective bargaining agreements, routine engagement such as employee satisfaction surveys, and direct feedback channels, among others."⁶

Given the importance of talent to a company's success, it is worth reassessing how employee input is elevated to the board and considered in corporate decision-making.

Prior to COVID-19 and widespread social unrest and protests against systemic racism, many large institutional investors were pressing boards to consider employee views as part of broader initiatives to hold companies accountable for addressing environmental, social, and governance (ESG) issues—including human capital management (HCM)—and to demonstrate how they are carrying out their commitments to stakeholders beyond shareholders and to creating long-term value.

Support for shareholder proposals on a range of ESG issues has increased in recent proxy seasons and for the 2021 proxy season, the focus on the "S" issues is expected to grow. For example, of 468 directors and C-level executives surveyed during a June KPMG Board Leadership Center webcast, 27 percent said that they expect a more significant discussion of workplace diversity and pay equity in upcoming disclosures and proxy statements as a result of COVID-19 and other issues.⁷ Boards should also keep in mind that the shareholder proposals voted during the 2020 proxy season were largely submitted prior to COVID-19, the death of George Floyd, and subsequent civil unrest. Proposals for the 2021 proxy season will reflect shareholder sentiment about how companies responded to those events.

HCM practices continue to be of keen interest to investors and regulators, and COVID-19 has intensified the spotlight on how companies are taking care of

Examples of shareholder proposals related to employee representation on the board

The following are some examples of proposals submitted by shareholders related to employee representation in the boardroom. While none of the 11 proposals voted as of July 2020 passed (average support was roughly 4 percent and none received more than 8 percent support), the proposals underscore the importance of the board understanding employee sentiment. The proposals called for the board to:



Prepare a report to shareholders describing opportunities for the inclusion of nonmanagement employee representation on the board.



Include a nonexecutive employee representative on the board in order to address culture issues and increase diversity.



Give current employees the opportunity to nominate a nonexecutive employee to the nominating and governance committee, which would then recommend a candidate for nomination by the full board to serve as an "Employee Representative Director."



Create an advisory position to the board to be filled by a wage-roll employee serving as an employee representative.



Adopt a policy to require that the initial list of director candidates include hourly associates.

⁶ Jared Fernandez, "Reflections on the 2020 Proxy Voting Season," Boston Trust Walden Company, July 16, 2020.

⁷ See "2020 proxy season hot topics and the impact of COVID-19," KPMG Board Leadership Center, July 2020.

their employees amid a health and economic crisis. Recognizing that human capital can be an important driver of long-term value and performance for many companies, a number of institutional investors have made HCM an engagement priority. For example, the Human Capital Management Coalition, a group of 28 institutional investors representing over \$4 trillion in assets, focuses on engaging with companies to understand how HCM contributes to the creation of long-term shareholder value. The Coalition's 2017 rulemaking petition served as a key driver for amendments to Regulation S-K adopted August 26 by the U.S. Securities and Exchange Commission. The amendments, which will take effect 30 days after publication in the *Federal Register*, require principles-based disclosure of HCM-related measures.⁸

In addition, signatories of the August 2019 Business Roundtable's Statement on the Purpose of a Corporation (BRT Statement) committed to "lead their companies for the benefit of all stakeholders—customers, employees, suppliers, communities, and shareholders," putting the discussion of commitments to stakeholders, including employees, front and center. Shortly thereafter, shareholders began submitting proposals to several boards asking them to report on how their companies are implementing the statement.

An "Investor Statement on Coronavirus Response" signed in March by more than 300 institutional investors and service providers representing over \$9.2 trillion in assets under management stated that: "Board directors are accountable for long-term human capital management strategy; the companies they oversee have invested in their workforces and will be well served by having retained a well-trained and committed workforce when business operations are able to resume." The statement urged the business community to take steps to protect workers, including providing paid leave, prioritizing health and safety, maintaining employment, maintaining supplier/customer relationships, and exercising financial prudence.⁹ In addition, JUST Capital, a nonprofit research organization focused on inclusive capitalism, has been tracking corporate responses to COVID-19¹⁰ as well as corporate responses to protests for racial justice.

Scrutiny of how companies and their boards consider all of their stakeholders in corporate decision-making—employees, customers, communities, suppliers, and shareholders—is likely to increase. With that in mind, we offer questions for boards to consider to help them better understand the concerns and views of the company's workforce.

- 1. What systems and processes does the company have in place to gather feedback from employees at all levels?
- 2. What is the company's process for responding to employee concerns?
- 3. What type and frequency of reporting does the board get from management on employee concerns/needs?
- 4. How does the board get unfiltered information about employee needs and concerns? For example, do directors meet with employees in the field? Does the board review third-party sources of information about the company, such as online bulletin boards and career sites? Does the board review trends and other information from employee exit interviews?
- 5. Does the board have a committee that oversees HCM issues? Does the board have expertise related to HCM or human resources?
- 6. Does the company have a written public statement of purpose that clearly defines its commitments to all of its stakeholders? If not, does the company plan to develop one?
- 7. What are the company's plans to engage with stakeholders, including employees? What is the board's involvement in that engagement?

⁸ U.S. Securities and Exchange Commission Modernization of Regulation S-K Items 101, 103, and 105, <https://www.sec.gov/rules/final/2020/33-10825.pdf>. (Final rule, adopted August 26, 2020.)

⁹ "Statement on Coronavirus Response," March 26, 2020.

¹⁰ JUST Capital, "The COVID-19 Corporate Response Tracker: How America's Largest Employers Are Treating Stakeholders Amid the Coronavirus Crisis," June 9, 2020.

About the KPMG Board Leadership Center

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