

## *Introduction*

# **Taking Back the Boardroom: A Director's Call to Arms**

Reading this book will not make you a better as a director. Thriving as a better director is a personal decision you have to make. Rather, it will increase your awareness of what it takes to be a better director and to convince you that it is worth the trouble to invest yourself into becoming one.

In the first part of this book, we attempt to understand the philosophical and moral foundations for directing. This is essential to a director during a time of great change and uncertainty. The demands on directors come from the government, society, shareholders, employees and other stakeholders. Often, these demands conflict, and a director has to know how to prioritize and deal with them. Without an internally consistent framework to understand your duties as a director, you will easily become lost, confused and exposed to legal liabilities. First, one has to understand the agency theory view of corporate governance from a law and economics perspective. This view of corporate governance drives the roles and responsibilities of directors from which flow their moral and fiduciary liabilities. Next, one has to know how the chairperson (in the board and in individual committees) contributes to the effective functioning of the board. We will focus on the chairperson's role in setting the agenda, providing vision and leadership, and managing the meeting process so that effective decisions can be taken. The power relationships between the chairperson and the board and management, and how they drive the role of the chairperson are also explored.

In the next part of this book, we examine the issue of boardroom ethics and social responsibility. It has been stated repeatedly that good governance implies transparency and accountability. However, while

transparency and accountability are necessary conditions for good corporate governance, they are far from being sufficient. It has become increasingly clear that for directors to perform their jobs well, they need to have a well-placed personal sense of ethics, which translates into the collective ethics of the board. The Asian Crisis of 1997 and the stock option backdating scandal of 2007 have one thing in common: poor ethical conduct by the management of companies and poor oversight by their boards of directors. In this section, we ask how directors should think about ethics, given the diversity in backgrounds, experience, personal beliefs and philosophies that one might encounter in the boardroom. In particular, when dealing with different cultures and country practices, how should the question of ethics figure in our decision making in the boardroom? We need to explore these questions because until we can clarify how our values drive the way we think about business issues we are incapable of good governance.

Finally, we examine the nuts and bolts of how a board of directors should be organized. It has often been said that the board has power *de jure* but not power *de facto*. Although the legal system of governance has imbued the board to act with sovereignty in matters of the business of the firm, it has often been prevented from doing so by a power structure that favors either management or the controlling shareholder or both. This section will review the proper role of management and board of directors under agency theory. To exercise power *de facto*, the board has to *organize* itself. The amount of information, the lack of time and resources, and the imbalance between the control of information by management and the board is such that unless the board is able to obtain and use information effectively, it will always be at a disadvantage to management. The typical way a board is organized is via the committee structure. Thus, this section will discuss the committee structure extensively, including the roles of individual directors in specific committees, the function of the committee, and the relationship of the committee to the board and to management as a whole. Contrary to popular belief, board organization is not only for large boards but also beneficial to smaller boards. Even if individual directors have to assume multiple board responsibilities formal organization ensures that issues are not missed and

information is not ignored. Organization places the responsibility for decision taking squarely in the hands of the directors and sends an unequivocal message to management and other stakeholders that the board is in the driver's seat.

The last section of the book focuses on special situations in which directors may find themselves. These situations are driven by changes in the capital and legal structure of the firm. Directors may find themselves in the midst of change in the capital structure, for example a private company undertaking an Initial Public Offering (IPO) or a public company undertaking a going-private transaction. These changes will naturally bring about changes in the responsibilities and liability exposures of directors. Other directors may find themselves in family owned or privately controlled firms, such as venture capital financed start-ups. The roles, responsibilities, and duties of directors in such firms, in which there is no public shareholder, are discussed in this section.

Finally, the cases and illustrations used in this book are used to illustrate the managerial issues discussed in the chapters and are not designed to criticize specific decisions taken by the management of the organizations. Cases are useful because they provide a context, without which it would be difficult to talk specifically about issues. The cases also add human interest and serve to illustrate that the problems you face as a director, which you may think are unique, are in fact commonly shared.