

TOP TAKEAWAYS

Independent Chair / Lead Director / Governance Committee Chair

These are the top takeaways from the roundtable on **Independent Chair / Lead Director / Governance Committee Chair** moderated by Paul Broude and Richard (Jack) Lasater II, partners with Foley & Lardner LLP, on November 17, 2011 during the NDI Executive Exchange, a segment of Foley's National Directors Institute. Featured participants in the roundtable discussion were Ari Buchler, Senior Legal Executive and Corporate Advisor, Todd Krasnow of Highland Capital Partners and Oleg Pohotsky, Managing Partner of Right Bank Partners. The takeaways reflect the input of the roundtable participants in addition to the moderators and panelists.

1. Having an Independent Chair can allow the CEO to focus on managing the company and lets the Independent Chair focus on managing the effectiveness of the board. It can be difficult for the CEO to fulfill the duties of both roles and often board effectiveness falls to the wayside for more urgent day-to-day operational concerns with a combined CEO/Chair.
2. If you have an existing combined CEO/Chair and are moving to a model of separating the roles, it is important to consider the timing of that implementation. It could be perceived as a lack of confidence by the board in the CEO to separate the roles at the wrong time, and these considerations are often best factored into succession planning.
3. There is no "one-size-fits-all" solution that is right for every company when considering whether to have a combined or separated CEO/Chair. For instance, a CEO with a dominant personality can overpower an Independent Chair and cause friction on the board. The internal perception of board members as to who has authority is important when the roles of CEO and Chair are separated.
4. The Lead Director is a position of compromise. The position does not typically include the authority that a Chair position has, but often includes some of the same responsibilities for ensuring board effectiveness.
5. The definition of a Lead Director amongst peer firms is often very different, in part because of the different stages of growth each company may be in and the needs of the company at that time. Often the CEO/Chair and Lead Director develop the parameters of the role together and adjust as needed with feedback from the board.
6. A Lead Director can be helpful in ensuring that the other independent directors have the information needed to make decisions effectively and that the CEO/Chair has the right topics on the agenda for board meetings.
7. It may be particularly helpful to have a Lead Director in times of crisis or significant change for the company. However, it is important for that Lead Director to have both the necessary skill set and available time to be able to lead when necessary.
8. It may not be necessary to institutionalize the role of the Lead Director. Not every board will always have times someone who can fill the role, and having an ineffective Lead Director can be worse for the board than not having one at all.

9. When considering whether to rotate the role of the Lead Director, consider the turnover the board will experience during the proposed rotation period. If the board will stay the same and only the identity of Lead Director will change, it may be inadvisable to consider a rotation, as team dynamics can be difficult to change accordingly.
10. Term limits for an Independent Chair or Lead Director may be inadvisable because it is difficult to find individuals with the right skill sets to fill these specialized roles. Often term limits or mandatory retirement periods are used as a substitute for board evaluations. Having a Governance Committee that can drive the process of effective board evaluations can negate the need for either term limits or mandatory retirement ages.

For more information

For more information on the roundtable on Independent Chair / Lead Director / Governance Committee Chair, please feel free to contact the moderators directly:

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