TOP TAKEAWAYS

Family-Owned/Private Company Corporate Governance Best Practices

1. **The Independent Director as Trusted Advisor.** In a private company owned by a family or by multiple founders, trusted independent directors can be very valuable. They can help mediate conflict and introduce a measure of objectivity to a company's decision-making, and because of their outside status, it can be easier for them to be candid and offer fresh insights that may otherwise be lacking.

2. **Chemistry Comes from Trust, and Trust Takes Time.** Good chemistry among the board and management is crucial for a company's long-term success. While achieving a productive blend of perspectives on a board is important, maintaining a level of trust and cohesion among a group of people with different backgrounds and different interests cannot be overlooked. This takes time and ongoing effort to accomplish.

3. **Maintaining Trust When Dealing with Bad News.** If a director learns of an adverse situation that needs to be addressed with the board (for example, material litigation, financial shortfalls, negative economic news), the immediate first step usually should be to address the issue with the CEO outside of the boardroom. The director's message to the CEO should be, "How will we prepare to address this with the Board of Directors?" Next, the director and CEO should work together to prepare the board to consider and respond to this issue. This approach cements trust between management and the director, while helping the board effectively respond to a crisis.

4. **Board Member Expertise.** While there is no "one-size-fits-all" approach to staffing a private company board, one important role of the independent director is to strengthen the existing board's weaknesses in (a) knowledge (of a relevant topic, such as technology or marketing), (b) experience (in a particular area, such as M&A or corporate turnarounds), and/or (c) general business acumen. Once on the board, a good director should work hard to gain knowledge of the company's business (for example, by meeting customers and by attending trade shows and conferences).

5. **Communication by Directors Outside the Boardroom is Crucial.** Since many strategic business decisions play out between board meetings, a key to successful private company corporate governance is good communication between the CEO and directors outside the boardroom. This is especially true when regularly scheduled board meetings occur less frequently. Without such communication, board meetings too often can turn into perfunctory reporting sessions consumed by updates, with too little time devoted to important strategic considerations and decision-making.

6. **But Do Not "Nitpick" Day-to-Day Management** There is no one means to effectuate good communications outside the boardroom between the CEO and directors. Communications may occur informally through one-on-one communications with directors or regularly scheduled, but unofficial, group telephone calls and/or written reports to directors. Whatever means are adopted, companies need to be careful to not overburden the CEO and his or her management team with unnecessary reporting duties or to encroach on the CEO's day-to-day management responsibilities.

7. **Cast a Wide Net for Board Candidates.** Traditional networking and word-of-mouth hiring are not always effective at identifying the best director candidates, especially in family-owned or smaller private companies. Management should be prepared to think imaginatively beyond “old boy” networks, including possibly engaging a search firm, to better access a broader pool of talented, and more diverse, director candidates.

8. **Relationship Between the Board and the CEO.** The relationship between a board and a CEO can be a sensitive one. Building strong relationships before problems arise is key to weathering possible future storms. A board should work to create and maintain a collaborative, high-trust relationship with the CEO. While responsible for overseeing management, the board needs to empower the CEO to manage the company and his or her team and avoid intrusion into CEO duties. In difficult times, especially when the CEO is failing, the board may need to increase its involvement, including, if necessary, removal and replacement of the CEO. In those circumstances, failure to have built and maintained strong relationships between the board and CEO will make the board’s involvement during difficult times only more problematic.

9. **Private Equity/Venture Capital- Appointed Board Members.** Private equity (PE) investors and venture capitalists (VCs) invest in people as much as they invest in ideas. Coming in and immediately removing existing leadership of an early-stage company is very rarely a sound plan. Rather, if possible, VCs should embrace an atmosphere of collaboration. If leadership issues arise, VCs may consider electing a chairman of the board of directors to guide the CEO, not threaten to replace him or her. Building a track record of working with management can go a long way toward putting a company in position for success.

10. **Effective Use of Board Committees.** Appointing and empowering board committees charged with specific tasks, like audit, compensation or risk management, can help the board stay on track and ensure that important issues are afforded the necessary time and consideration.

For more information

For more information on Private Company Corporate Governance Best Practices, please feel free to contact the moderators directly:

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