

Expanding Diversity in the Boardroom



EXPANDING DIVERSITY IN THE BOARDROOM

Corporate governance circles are becoming increasingly aware that diversity in the boardroom is good for business. At the sixth annual Foley & Lardner LLP National Directors Institute held on March 8, 2007 in Chicago, Illinois, a panel including Linda Bollinger, CEO and founder of Boardroom Bound; Adela Cepeda, president of A.C. Advisory, Inc.; and Donald Sykes, chairman and CEO of Action Associates Workforce Consulting, LLC, addressed the issue of “Expanding Diversity in the Boardroom.” Pamela A. McElvane, chief executive officer of P&L Group, Ltd., was scheduled to participate and assisted with preparation for the panel. Teveia R. Barnes, partner at Foley moderated the discussion.

The Business Case for Board Diversity

Data indicates that diversity in top management and on the board has a positive correlation to greater profitability.¹ Several factors likely contribute to this link.

First, profound demographic shifts are occurring in this country. Corporation stakeholders, customers, shareholders, vendors, and employees all are becoming increasingly diverse. The combined economic power of people of color and women actually makes them the majority; African-Americans and Hispanics together represent over \$1.7 trillion in consumer purchasing power and on a combined basis, women, people of color, and recent immigrants currently affect over 90 percent of all consumer decisions.² A corporate board more reflective of the demographics of such stakeholders is naturally more in tune with such stakeholders and therefore is able to make better strategic decisions.

Two different corporate boards illustrate this point. The first, a national retailer with a diverse board that has been able to address the challenges of urban expansion by tapping into the personal experience of its board members. The second, another retailer with no diversity on its board, that has been challenged to keep pace with the changing marketplace. It is telling to note that none of the directors on the second board had ever patronized any of the corporation’s stores. Certainly a director need not be within a corporation’s target customer base to effectively govern it, but such a complete disconnect between a corporation’s leadership and its constituents cannot be beneficial.

Second, research indicates that a group of reasonably well-educated and informed diverse persons generates a greater volume of ideas and perspectives and is therefore better equipped to make complex strategic decisions than a group of like-minded persons. Diverse boards may be less likely to suffer from single focused “group think.” Further,

¹ Catalyst (2004), *The Bottom Line: Connecting Corporate Performance and Gender Diversity*.

² *Exchanging Business Culture / The Next Frontier: Diversity in the Corporate Boardroom*, by Arthur A. Fletcher, Ph.D., Linda K. Bollinger, M.A. and Sylvester E. Williams III, Ph.D. (Updated version March, 2006), www.boardroombound.biz (the “Boardroom Bound Article”).



seeking diversity expands the pool of qualified applicants. Expanding the scope of director searches provides a benefit in the race for talent by identifying the best and brightest regardless of gender or ethnicity. As Mr. Sykes noted, in this global economy there is an opportunity to cash in on diverse human capital.

Additionally, Wall Street awards extra points to companies going public that have diversity in the executive suite and in the boardroom. Research analysts are likely responding to the fact that shareholders generally support board diversity. A shift toward increased social responsibility among the investment community has resulted in the use of proxies to oppose non-diverse director slates and board diversity resolutions have had the highest average vote of social issue shareholder proposals.³

Current State of Board Diversity

Despite the empirical evidence illustrating the benefits of board diversity, significant change has not yet occurred in the boardroom. A report just issued by the InterOrganization Network, comprised of eight regional organizations across the country that work to advance women to positions of power in business (ION), indicates that “[o]verall, the composition of corporate boards has remained stolidly white and male.”⁴ As described by Boardroom Bound, “the culture that dominates the vast majority of the American Corporate Boardrooms continues to be pale, male and insular despite minor inroads being made by women, ethnic minority men, gays, recent immigrants and the physically challenged.” ION reported that of 539 new independent directors appointed in 2006 (as reported by seven ION members), the boards nominated men to fill 77-88 percent of all vacant seats. As noted in the ION report, “there is no credible basis upon which to link the absence of women directors to a dearth of board vacancies or slow pace of board turnover; and unless concerted action is taken promptly, it will be decades, if not generations, before we see any dramatic change in the gender composition of public company boards.”

Advice on How to Recruit a Diverse Board

The question then becomes, how can corporate leadership turn the tide and begin to reap the benefits of board diversity? As noted by Ms. Bollinger, “during the era of the ‘CEO-Centric’ dominant board model (pre-Enron), most boards were sourced word-of-mouth through the old boys’ network from the boardroom to the country club.” Executive search firms performed just 5.5 percent of all director searches. Post-Enron heralded a decrease in CEO external board service and search firm sourcing activities increased to 18 percent. Despite this shift in the use of search firms, the pool of applicants being sourced did not

³ June 2004 presentation by Susan Williams of the Investor Responsibility Research Center, www.namme.org/programs/conference/040719_highlights/susan_williams.ppt.

⁴ ION, *Women on Boards: Missed Opportunities, A Status Report on Women Directors and Executive Officers of Public Companies in Eight Regions of the United States*, February 2007, www.IONWomen.org.



significantly change. Simply stated, boards need to completely change the way directors are recruited. Leadership must make a proactive effort to recruit diverse candidates. The group Milwaukee Women inc. recommends that corporations “[d]evelop and implement explicit written strategies or guidelines for adding women and people of color to your board.”⁵ Make it clear that diversity is a priority through the appointment of a diversity chief and committee that report directly to the CEO and/or the board and have substantive authority. Also, consider forming a diversity advisory board to road test individuals for future board service as well as use member skills to mentor executive staff. Nominating committees and leadership in general need to demonstrate that diversity is a core value of the board.

It is vital for a company to look beyond its Rolodex and social network for board candidates. Companies should proactively extend networks by joining minority and women’s professional organizations, such as ethnic chambers of commerce, the Black MBA, and CPA associations and business and professional women’s clubs. They also can contact national diversity leaders and organizations dedicated to increasing diversity, such as Boardroom Bound and ION’s member organizations.

As noted above, executive search firms increasingly are being used, but they are not necessarily successful in sourcing qualified diverse candidates. Driven by their clients’ demands, search firms will expand their candidate pools to include diverse candidates if their clients request — or demand — that they do so. Many recruiters note that clients request only board candidates who are public company CEOs, which limits the pool of potential diverse candidates. As it becomes increasingly more difficult to find qualified directors willing to serve, companies will need to look for talent beyond the CEO ranks, regardless of diversity considerations.

Additionally, it is important for a company to tap into its current workforce. Through affirmative action initiatives at lower management levels, an increased pool of internal, diverse talent is moving up the ranks. That talent should be nurtured by, for example, having diverse personnel serve on boards of smaller subsidiaries or encouraging them to serve on community boards to acquire the necessary experience for board service. Preparing diverse executive staff for external board service further expands a corporation’s diversity network.

Making diversity a goal does not dilute the quality of board members; a sufficient pool of diverse talent exists if boards are willing to look. In fact, as noted in the Boardroom Bound Article, the demographics of the talent pool is itself shifting as more American women than men earn associate, bachelor’s and master’s degrees, and the number of women receiving degrees has increased at a faster rate than the number of men. There is no question that candidates, diverse or not, must have the base knowledge and expertise necessary to be an effective director. Affirmatively seeking qualified talent rather than

⁵ Milwaukee Women inc., *The Time is Now for Gender Diversity in Corporate Leadership, Executive Summary 2005 Census*, www.milwaukeewomeninc.org.



relying on word-of-mouth and social networks is likely to reduce the incidence of unqualified candidates.

Effectiveness Through Critical Mass

A difference exists between true diversity and tokenism. It is not enough to add one woman or one person of color to a board. Ms. Cepeda noted that as the sole woman on a board, “the different sound of your voice resonates” which can have a chilling effect on your willingness to express your opinion. Ms. Bollinger further noted that a single diverse director has the burden of representing all women or all people of his or her ethnicity and at least three persons of any representative group are required to create a collective voice. This is consistent with the 2006 *Critical Mass* study that cited numerous examples of the positive impact gained by having three or more women in the boardroom.⁶

Expanding Diversity to Meet Regulatory Demands

The Sarbanes-Oxley Act has presented corporations with opportunities to bring on new independent directors who will likely come from talent pools that have been underutilized in the past, including women and people of color. CEO tenure is decreasing and regulatory scrutiny is causing increased turnover in the boardroom. Conflicts of interest arising from business conducted solely within the established network are less tolerated by regulators and shareholders. Increasing potential director liability is resulting in fewer qualified candidates who are willing to serve. Having chaired the audit company of a public corporation, Ms. Cepeda noted that these issues are heightened with respect to audit committees, and expanding diversity on the audit committee can be particularly advantageous. The increasing need to bring on qualified independent directors creates tremendous opportunity to positively change board composition.

Given that diversity increases profitability, expanding diversity in the boardroom is good for business and good corporate governance. Corporations that seize the opportunity to depart from the status quo and join the race for diverse talent will gain a definite strategic advantage in the increasingly diverse global economy. As noted in the Boardroom Bound Article, “now is the time to be a first-mover to create better balance in the boardroom by tapping the enormous pool of talented women and minorities.”

⁶ Vicki W. Kramer, Alison M. Conrad and Sumru Erkut, *Critical Mass on Corporate Boards: Why Three or More Women Enhance Governance*, Working Paper Series, Report No. WCW 11, Wellesley Centers for Women (2006) www.wcwoonline.org/pubs/title.php?id=487.



For More Information

For more information on this session or the sixth annual National Directors Institute, visit Foley.com/ndi2007 or contact the panelists directly.

Teveia R. Barnes
Foley & Lardner LLP
tbarnes@foley.com

Linda K. Bolliger
Boardroom Bound
linda@boardroombound.biz

Adela Cepeda
A.C. Advisory, Inc.
adcepeda@aol.com

Pamela McElvane
P&L Group, Ltd.
pam@blackmbamagazine.net

Donald Sykes
Action Associates Workforce Consulting, LLC
sykesdon@yahoo.com

2007 National Directors Institute Sponsors

Foley proudly recognizes the 2007 National Directors Institute sponsors: [UBS](#), [Aon](#), [Korn/Ferry International](#), [Deloitte](#), [RR Donnelley](#), [D. F. King](#), [Ashton Partners](#), Boardroom Bound, Chicagoland Chamber of Commerce, NASDAQ, NYSE and Springboard Enterprises. The support we receive from our sponsors is crucial to the development of the program and we thank them for their efforts in once again making NDI a huge success.

Save the date! The 7th Annual National Directors Institute will be held on March 6, 2008 in Chicago. Learn more at Foley.com/ndi.