Always on duty

THE FUTURE BOARD

Institute of DIRECTORS NEW ZEALAND

MinterEllison RuddWatts

Contents

Print ISBN: 978-0-473-49427-8 | **Digital ISBN:** 978-0-473-49428-5

Disclaimer: This resource should not be used or relied upon as a substitute for proper professional advice.

Foreword

Boards have a critical role in leading sustainable success for business and society – but they are under pressure.

Boards have to be across a staggering array of complex and diverse issues. They also need to be responsive to ballooning stakeholder demands and expectations. New laws targeting directors personally, active regulators, and the rise of litigation funding are also adding to the load. However despite significant change in the operating environment, including disruption to many business models, boards are operating in much the same way they always have. This includes meeting periodically according to an annual work plan and relying on static information and presentations from management.

This traditional operating model is coming under increasing pressure. Many boards are now facing a time dilemma. They are weighed down by often voluminous board papers, compliance and risk, without sufficient time to discuss and debate critical strategic and performance issues. It's vital that we consider the cumulative effect of these and other emerging issues and what they mean for the future board.

The future board could look significantly different. Technology has the potential to fundamentally change the way boards meet, breaking down global barriers with virtual reality, holoportation and instant voice translation. Technology should also help transform the way boards operate to ensure directors are more informed and equipped to monitor organisations and make decisions. Artificial intelligence in particular is expected to play a greater role in augmenting board decisions especially with real time data and analytics and this may lead to a revolution in reporting.

As we accelerate into an exciting, challenging and unpredictable future, there will need to be steady hands at the helm. Savvy, committed, ethical and inspired directors who take their roles seriously will always be in demand and essential in leading and guiding organisations into the future.

Tomorrow's directors will continue to be responsible for the strategic and overall direction of organisations and not the day-to-day operations. Directors will still need to be future-focused, adaptable and equipped to create and protect value. More time will be spent outside board and committee meetings developing a deeper understanding of the business, closing the information gap with management. Rising stakeholder expectations will also drive greater board engagement especially with employees, shareholders, regulators and customers. Directors will work more collaboratively with each other and with management, continuously learning. We can expect the need for new board and director competencies.

Tomorrow's directors will be constantly learning – always on duty.

About this paper:

This discussion paper explores trends, challenges and opportunities about how boards may evolve and operate in the future. We also include insights from research carried out specifically for the paper in July and August 2019, comprising a short online survey and questions to directors on specific topics. We thank all of the directors for their valuable contributions.

The focus of this paper is mainly on boards of listed companies. The pressure on them is particularly acute given their public nature, diverse shareholders and focus on compliance. However, the issues and topics discussed are relevant to all boards. We urge all boards to set aside time to challenge how they are operating and to innovate including adjusting their processes, practices and procedures to improve board effectiveness.

A new era for boards

Gone are the days of perfunctory boards. Increased responsibilities and expectations on boards in the 21st century and a challenging operating environment are now a given.

Boards today have to be across a breathtaking range of new and emerging issues including artificial intelligence, cybersecurity, privacy, social media, culture, wellness, climate change, human rights, and the future of work – all of which are competing for space on the board agenda. The risk landscape has been transformed and the top five risks in the World Economic Forum's 2019 *Global Risks Report* are entirely different today to a decade ago.

The legal landscape is also evolving, driving more accountability for boards and directors with increasing class actions, active regulators and litigation funders. The role of the board is now more important than ever in guiding companies to deliver sustainable success for shareholders, employees, customers, organisations, and communities. It is critical that boards continue to attract highly skilled, experienced, and responsible stewards for New Zealand's wellbeing and prosperity.

Five themes for the future-focused board

- **Shareholder primacy v stakeholder theory**
  Today, the issue is not whether a company should account for stakeholder interests but rather the extent to which it should. In the decade since the Global Financial Crisis corporate governance regimes around the world have been reformed and strengthened, swinging the pendulum away from shareholder primacy, and giving more recognition and weight to stakeholder interests.

  The global trend of focusing on stakeholders will continue. Changes in listed company ownership and a move towards greater institutional investor holdings have altered the relationship between investors, boards and management. Shareholder engagement has moved beyond just the Annual General Meeting to year round communication. Greater visibility and accessibility to boards can be expected in the future.

- **The importance of purpose**
  Every year business leaders around the world pause to read Larry Fink's annual letter to CEOs. Fink, who is chair and CEO of the world's largest investment company, BlackRock, candidly shares the firm's views on corporate governance matters and its areas of focus from an investment perspective. Fink's 2018 and 2019 letters zero-in on the importance of organisational purpose. Purpose beyond profit is the key to remaining competitive and sustainable in the long-term and needs to be led by the board. We expect to see greater focus on purpose as companies continue to adapt to shareholder and stakeholder expectations in the 21st century.

- **Trust and transparency**
  Trust in business and society is vital to New Zealand's wellbeing and prosperity. Businesses and leaders are increasingly under public scrutiny, particularly due to the use, speed and ubiquity of social media. Reputations and trust can take decades to build and just moments to destroy. The 2019 *Edelman Trust Barometer* revealed that the most trusted institution is now 'my employer'. Globally, 'my employer' (75%) is significantly more trusted than NGOs (57%), business (56%), government (48%) and media (47%). Building and retaining trust should be front of mind for the future-focused board. Transparency about corporate activities can be a key opportunity to help foster trust, for example by showing what businesses are doing, how they're doing it, and their impact on the environment and society.

- **Escalating responsibilities and accountability**
The remit of the board has expanded in the last decade bringing new technological, environmental, social and governance matters to the table and increasing the time commitment of directors. Stakeholder expectations of boards have also increased particularly around professionalism and leadership. Being a director often carries a high level of reputational risk. There have been a number of examples in New Zealand and Australia recently where directors have faced significant public scrutiny and legal action when things have gone awry in their organisations. Accountability is critical to corporate governance and director personal liability definitely has its place. However, the current trend of introducing additional laws and regulations to extend director personal liability across more areas will very likely have a negative impact on boards and directors in the future.

- **Game-changing technology**
Technology is radically and unpredictably reshaping companies and the business and social environment. Giant tech companies dominating new and existing industries are leading the way in demonstrating the potential opportunities and disruptive risks including new ways of doing business, and the impact of data privacy scandals and cyberattacks. Technology is central to the future of work and will enable dramatic change on a scale not seen before. Boards are in the driver's seat in these uncertain times, responsible for navigating their organisations into the unknown. The way forward lies in staying on top and current, at increasing speed, in relation to new and emerging technologies, data, digital opportunities and innovation.

  Boardrooms and corporate governance itself will be transformed and disrupted by artificial intelligence, blockchain and virtual reality. And this heralds a new age with more effective and efficient ways of operating.

In May 2019, **Kirsten Patterson**, MInstD, CEO of IoD, spoke about the future of governance at the 2019 Global Women Hui on the Future of Leadership in a Diverse New Zealand:

"We have to ask if our current governance model is meeting our needs and achieving its purpose. Is it positioned to discuss and lead the conversations we need to be having about how we genuinely build long-term value and not just short-term share price?

How do we govern in a tweeting world? How do we take the time to make long-term strategic decisions when we are being pulled every day by hourly trends and headlines? Is how we operate as boards flexible enough to stay on top of our game? And how do we as a board get assurance over non-financial matters? That in a nutshell is the future of governance – the governance of the amorphous."

Pressure on the 1950s operating model

In a disrupted world the board operating model has been sheltered. Many boards have functioned in the same vein for decades, in general having a steady rhythm:

- Boards and committees meet periodically, with meeting dates usually set down the year before in annual work-plans
- Board meeting agendas are set in advance of meetings often with prescribed time-limits for each item on the agenda
- Most information the board receives is provided by management, up to a few weeks before a meeting
- Many boards still use printed board packs and excel spreadsheets, and management will often talk to papers by PowerPoint
- In terms of shareholder engagement, the main opportunity for access to the board is often through the Annual General Meeting.

This operating model has limitations, especially in light of the increasing responsibilities and expectations on boards. Many boards may not have enough information or a sufficient understanding of the business to make informed decisions. They can be weighed down by compliance and distracted from their core strategic role inhibiting their ability to be nimble in response to change. And time restrictions may limit important board time needed to rigorously discuss and debate issues, and hold management to account.

These traditional ways now need to be challenged to allow directors to continue to add value and fulfil their governance responsibilities in the future. Perhaps most importantly they need time to innovate board processes, practices and procedures.

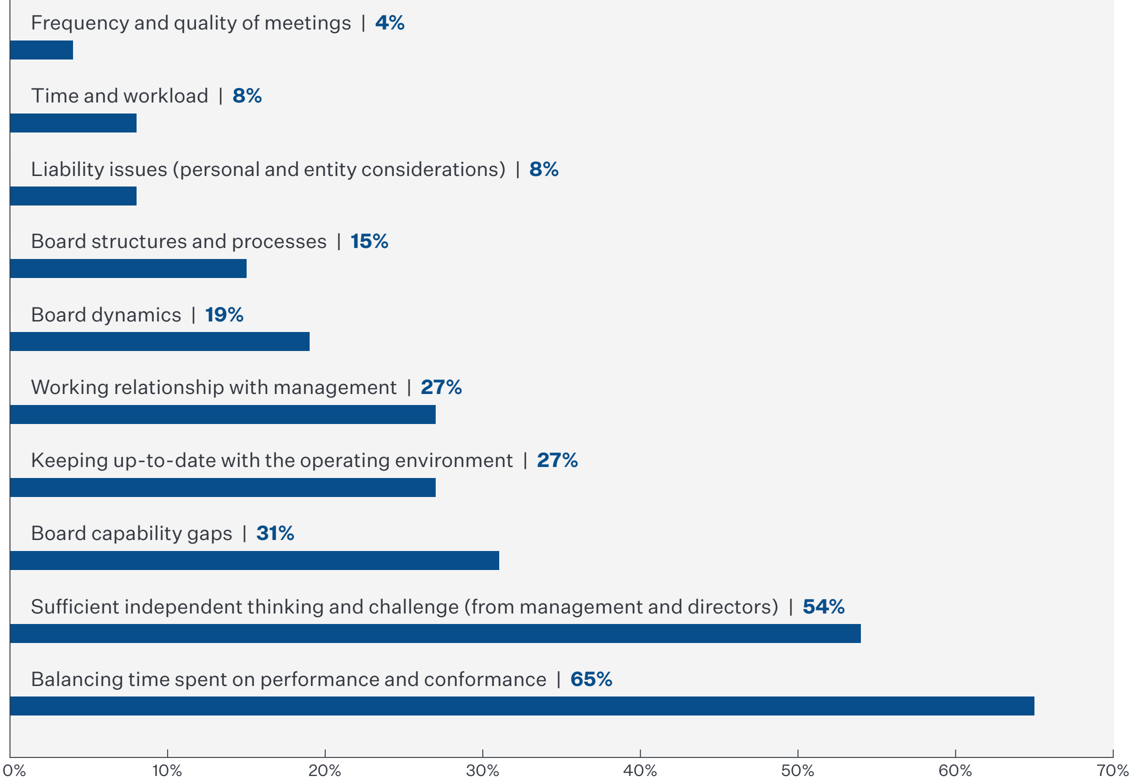
Michael Smith, chair of 7-Eleven, said it well at the IoD's 2019 Leadership Conference:

> "The business environment has changed enormously. But our level of business model innovation has not been matched in the way we operate our boards. There has been little innovation in board practice and it is demonstrably falling short of being enough. Boards need to embrace risk-taking innovation in the board process accepting some ideals will fail. Innovation includes adjusting the levers of process to make the best use of time and resources."

TIME TO ASK

How can boards work more effectively and efficiently to fulfil their governance responsibilities in light of increasing responsibilities and a dynamic operating environment?

What are the greatest challenges to board effectiveness?[1]



One-or two-tier boards?

The OECD Corporate Governance Factbook 2019 notes that "one-tier board systems are favoured in twice the number of jurisdictions as two-tier boards, but a growing number of jurisdictions allow both one-and two-tier structures."[2]

On the whole, the unitary board structure (consisting of non-executive and executive directors responsible for the governance of organisations) in New Zealand and many jurisdictions overseas has been successful in ensuring high standards of governance and strong performance. It can still serve companies and society in the future.

A LEGAL LENS

We do not see any reason to move away from the current one-tier board structure in New Zealand. The legal and business framework we have works. In practice, executive teams 'manage' and boards 'govern' (as the law requires). Shareholders do have rights to approve major changes and transactions both under the Companies Act 1993 and the *NZX Listing Rules*. Board workload has increased over the years, as has the professionalism required of directors. We do believe that given the expectations now on boards, directors do need to have the time to fully engage in their role. Director fees also need to reflect this reality.

The time dilemma

The expectation on directors to be across everything, whether realistic or not, is a reality. Directors are having to spend increasing hours staying up to date with the changing operating environment, their industry and understanding the business.

It is even more challenging for boards of listed companies who have to manage growing regulatory responsibilities, including continuous disclosure requirements and a broad range of shareholder and stakeholder expectations.

> "There is a tension between boards being satisfied they are meeting their various legal and compliance obligations and the need to really focus on the business, so that the business meets its objectives, is successful and sustainable. There is a danger that a company can become overly focused on compliance, and therefore the long term sustainability of the business itself, may be threatened."

Cathy Quinn, CMInstD, Partner MinterEllisonRuddWatts

INSIGHT INTO THE FUTURE

"I think in 10 years there will be more tools (likely AI based) which will decrease the amount of time directors spend on the more functional or administrative matters. Meeting structures and formats will likely become more agile and issue focussed with fewer pages to read. You would hope to be having more quality conversations less frequently due to the previous changes."

Dame Therese Walsh, CMInstD

Boards set, drive and oversee an organisation's strategy to help create long-term value. However, strategy is just one part of the equation and it is often a challenge to balance strategy and performance issues with other elements like compliance and risk management.

In 2018, 71% of directors said they were spending more time on compliance and 64% said that the time their boards spent on risk oversight had increased.[3]

Time spent by non-executive directors on board matters has increased 10% from 127 hours a year in 2018 to 140 hours in 2019.[4] This is up from 88 hours in 2014.[5]

10% **increase in time from 2018 to 2019**

Time outside the boardroom

A board's work is not restricted to the boardroom. Directors can spend significant time on board activities outside meetings including site visits, shareholder engagement, stakeholder events, and corresponding on board matters. Eighty-eight percent of leading directors agreed or strongly agreed that time spent on board activity outside formal board and committee meetings is likely to increase in the future.[6]

88% **said time spent on board activity outside the boardroom will increase**

How can boards meet differently?

Boards must meet regularly to fulfil their responsibilities, and meeting times may vary depending on the volume and importance of the business at hand.

Half of the leading directors said that their board meets monthly.[7] Forty-two percent meet six weekly or every two months.[8] For a majority (62%) of leading directors, the frequency of their board meetings has stayed the same compared with three years ago.[9]

50% **of directors said their boards meet monthly**

INSIGHT INTO THE FUTURE

"My boards have generally been meeting less and for longer, with the intent of focusing more on the future. They have also been working to get board papers shorter and shorter. But because of the environment and expectations on them, we are reaching important inflection points where boards may revert to meeting how they used to and the size of board papers may increase."

Tony Carter, CFInstD

There are a range of ways that boards are meeting and using time more effectively, including:

- Moving from monthly to two-monthly meetings, but meeting for longer. This can bring benefits including the opportunity for 'deep dives' into particular issues. In non-meeting months there would still be management reporting on compliance matters and key performance metrics (for example, significant projects and risks.)
- Some boards split their work over two days. They arrive on day one and meet in the afternoon and again in the morning on day two. A key benefit of this is that the board can spend more time on day one with management and staff, possibly over dinner which may include speakers or presentations on strategic or important issues.
- Boards may allocate half their time on the agenda to strategic matters, splitting the remainder between compliance, operational and administrative matters. As an alternative, boards may also separate out content into different meetings, or allocate more to committees.
- Some boards meet at different locations and incorporate opportunities for stakeholder engagement into their schedule which allows them to gain more perspectives on a company's performance, products and services. This could include customer or supply chain partner presentations on their experience with the company.

INSIGHT INTO THE FUTURE

"There may be meetings in different formats, for example fewer 'all day' face-to-face meetings, and more pulse and micro meetings covering specific matters. I'd expect that there will be greater use of advisors to support board competence and horsepower, including covering compliance matters so that the board can focus their discretionary time upon strategy, performance and growth."

Sheridan Broadbent, CMInstD

Over-boarding – how many directorships is too many?

The concept of 'over-boarding' refers to directors who serve on multiple boards and may not have enough time available to adequately address and fulfil the demands of each role, especially in a crisis or major organisational event such as mergers and acquisitions.

The number of directorships an individual holds is under increasing scrutiny particularly for listed company roles and is receiving attention globally. It's a complex issue as there is a no 'one size fits all' solution. Instead it is about having sufficient time to fulfil the responsibilities and be effective in each role. The type of role is also important, for example the role of the chair may require more than twice as much time as a director of the board. Proxy advisory firms CGI Glass Lewis and ISS have guidance in relation to New Zealand companies.

The UK Corporate Governance Code 2018 covers this issue, stating: "When making new appointments, the board should take into account other demands on directors' time. Prior to appointment, significant commitments should be disclosed with an indication of the time involved. Additional external appointments should not be undertaken without prior approval of the board."[10] Increasing board workloads and scrutiny from stakeholders and regulators means boards, nomination committees, and prospective candidates will need to be hyper-vigilant around this issue.

Committees to the fore

Board committees are an important mechanism to help boards spend sufficient time on strategic and priority issues and operate more effectively.

Some committees are standing committees with an enduring function. Others are charged with undertaking specific and finite tasks, such as investigating an investment opportunity or overseeing a major project.

The *NZX Corporate Governance Code* (2019) sets out in Principle 3 that "the board should use committees where this will enhance its effectiveness in key areas, while still retaining board responsibility."

Seventy-seven percent of leading directors said that the amount of board work carried out by board committees has increased or increased significantly compared with three years ago.[11]

77% **said committee work had increased**

Expanding oversight of committees and new committees

The increasing use of committees and escalating responsibilities means that boards will need to regularly revisit the scope of their committee responsibilities. Some committees may have to expand their ambit, for example this can be seen with the trend for boards to have a broader focus on human capital and talent oversight matters and the evolution of remuneration committees to include HR, people and culture.

While committees can be useful in managing the board's workload, caution is needed. It is important to ensure that there is effective communication across committees and with the board. Care also needs to be taken to ensure that the full-board still has opportunities to engage meaningfully and contribute on important strategic matters.

Improving board and committees effectiveness – lessons from APRA's Inquiry into CBA

The Australian Prudential Regulation Authority's report on its inquiry into a number of high-profile conduct and compliance incidents at the Commonwealth Bank of Australia (CBA) sets out findings and recommendations to improve the bank's frameworks and practices in relation to governance, culture and accountability. There are significant learnings for boards and board committees, especially around the oversight of non-financial risks. As a result of the inquiry, the board of CBA changed the way it was operating to be more effective by:

- Extending board and committee meetings to allow more time on strategic matters and to enable more effective challenge of management
- Refocusing the board agenda to ensure more time for 'deep dives' on priority matters
- Reviewing the reports to the board and committees to improve the quality of information provided
- Ensuring reporting by committees to the board at relevant points during the meeting rather than at the end (when time can be an issue)
- Amending charters to provide better communication between committees and more clarity of roles and responsibilities.[12]

See also MinterEllisonRuddWatts' article *APRA report much for boards to reflect on.*

Broadening risk issues

Audit committees of many NZX-listed companies combine both audit and risk functions. Risk issues have broadened significantly in recent years especially in relation to culture and ethics, health and safety, climate change, technology, modern slavery, global supply chains, data and privacy. *On the 2019 Audit Committee Agenda* by KPMG (US) discusses this issue and possible solutions:

> "We continue to hear from audit committee members that it is increasingly difficult to oversee the major risks on the committee's agenda in addition to its core oversight responsibilities (financial reporting and related internal controls and oversight of internal and external auditors). Aside from any new agenda items, the risk that many audit committees have had on their plates-cybersecurity and IT risks, supply chain and other operational risks, and legal and regulatory compliance-have become more complex, as have the committee's core responsibilities. Reassess whether the committee has the time and expertise to oversee these other major risks. Does cyber-risk require more attention at the full-board level, or perhaps a separate board committee? Is there a need for a compliance or risk committee? Keeping the audit committee's agenda focused will require vigilance."[13]

INSIGHT INTO THE FUTURE

"The risk side of the Audit & Risk Committee will absorb most of the committee's time, rather than the financial reporting side, continuing the trends we are seeing already. Committees will need to be capable of moving between discussions on emerging strategic risks through to deep dives on current enterprise risks, all the while maintaining a detached view in order to see the 'wood for the trees'. The greater workload will put pressure on the committee agendas, which may necessitate more frequent and/or longer meetings, or separation of the committee into both an audit and a risk committee. Committee members may also need to spend time in the business between meetings to better understand certain risks in the same way that health and safety now requires time out of meetings for directors to undertake safety visits and get better visibility on safety risks."

Mark Cross, CMInstD

Understanding the business

"Directors whose knowledge is derived only from sporadic meetings are not fulfilling their duty."[14]

Larry Fink, CEO of BlackRock

Although an important way for boards to gain an understanding of a business is reporting from management, the days of being confined to the boardroom are over.

Directors 'walking the floor' is not a new concept and has become more common since the introduction of the Health and Safety at Work Act 2015 which includes active duties and obligations on directors. The emphasis on culture and conduct in the current environment also provides extra responsibilities, and incentives for directors to have a more direct line of sight into a business.

There can be many opportunities for boards to get a greater knowledge of a business including visiting different company sites and meeting with external stakeholders such as customers or partners.

Many directors also stay current with a business operating environment by attending industry conferences and undertaking their own research including subscribing to industry and thought leadership publications and discussing issues with fellow directors and other people in their networks. Management can assist directors by organising stakeholder presentations, trials of emerging technologies, and visits to new and existing markets and technology hubs.

As part of their core strategic role, boards should: "embrace an activist mindset and seek third-party data about future business, talent, revenue models and transformation opportunities. This data will help the board constructively challenge biases, identify blind spots and unknown unknowns, and bring an objective perspective and new ideas to the strategic planning process."[15]

FROM THE UK

Examples of workforce engagement include:

- Hosting talent breakfast/ lunches, and open-door days
- Listening groups for frontline workers and supervisors
- Focus or consultative groups
- Meeting future leaders without senior management present
- Social media updates
- Visiting regional and overseas sites
- Inviting colleagues from different business functions to board meetings
- Employee AGMs
- Involvement in training and development activities
- Surveys
- Digital sharing platforms
- Establishing mentoring between non-executive directors and middle managers.[16]

INSIGHT INTO THE FUTURE

"I believe it is important for boards to be exposed to key senior managers and not just the CEO and CFO. I think this is best achieved by having the key senior management present with the board for strategic discussions. Just as the focus on health and safety has resulted in more interaction and observations carried out by directors, I see spending time visiting various parts of the business and talking informally with staff on the ground will be increasingly important in expanding a director's detailed knowledge of the business. For this to operate successfully directors must be clear on their roles and responsibilities as governors and the interface with management."

David Pilkington, CFInstD

Getting the right information – and mind the gap

It is critical that boards have the necessary information to help drive strategy and discharge their responsibilities including challenging and holding management to account.

The structure and nature of management papers presented to the board can have a strong influence on its efficiency and effectiveness. Too much volume and detail can waste valuable resources and divert the board and management's attention from more important matters. Conversely, inadequate and insufficient information can leave information gaps for directors and lead to a poor basis for decision-making.

Traditional board packs include items such as the CEO's operational report, the financial report, operational updates, papers supporting matters requiring decisions, information on performance and compliance, key strategic issues and risks. It is important that there is an appropriate balance of forward and backward looking information with an internal and external focus.

A key criticism of boards and management in the *Final Report: Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry* (2019) in Australia was that boards often did not receive the right information:

> "Boards must have the right information in order to discharge their functions. In particular, boards must have the right information in order to challenge management on important issues including issues about breaches

of law and standards of conduct, and issues that may give rise to poor outcomes for customers. Without the right information a board cannot discharge its functions effectively.

When I refer to boards having the *right* information, I am not referring to boards having *more* information. As I noted earlier, it is the quality, not the quantity, of information that must increase. Often, improving the *quality* of information given to boards will require giving directors *less* material and more information.

I do not pretend to be able to offer any single answer to how boards can ensure that they receive the right information. But boards and management must keep considering how to present information about the right issues, in the right way."[17]

There is an information asymmetry between boards and management especially in listed companies (the so called 'information gap'). Asymmetries occur because of the very nature of non-executive directors' part-time and independent roles, compared with management who are immersed in the business and industry.

Quality over quantity in board reporting

Boards need to make decisions based on sufficient, accurate, relevant and timely information. It is up to the board to define its information requirements so that reporting is meaningful, with management providing thoughtful interpretation about key matters. Measuring what matters, and providing trend information, has never been more important for an organisation's core financial and non-financial performance indicators. If a board's information requirements aren't being met by management, this should be raised as a priority.

In the *Life Insurer Conduct and Culture* report (2019) by the Financial Markets Authority and Reserve Bank of New Zealand it was noted:

> "Some directors noted it was challenging to get information – senior management should be open with the board and give them the information they need. Some senior managers commented that their access to the board was restricted. Insurers initially told us they had high levels of board engagement – but when interviewed, some senior managers and executives talked about a lack of board visibility and engagement."[18]

More than half (54%) of leading directors said the size of board packs had increased or significantly increased since 3 years ago.[19] Forty-three percent received board packs averaging between 201 – 500 pages.[20] In addition some directors have talked at IoD events about receiving 1000+ page board packs.

54% **said the size of board packs had increased**

Longer board packs may not be surprising given increasing board responsibilities (especially non-financial risks) and personal liability on directors but quality is key. Just over half (57%) of leading directors said that the quality (relevance and timeliness) of information from management was high or very high.[21] This can present a real challenge for directors to be able to focus on material issues and risks.

57% **said the information from management was high quality**

APRA's report on the inquiry into CBA commented favourably on improvements that had been made to board packs:

> "… the board agenda has been recast to ensure a more robust and effective discussion of relevant topics, including the most pressing risk matters. Standard business updates have been abridged, and the time saved has typically been utilised by 'deep dives' into areas of interest, with a recent focus on risk topics."[22]

A LEGAL LENS

Directors need to remember that if they receive information (including electronically via Diligent and the like) they will be expected by a Court to have read it. Directors should exercise some thought before asking for more and more information. Ask for what you need, read it, digest it and test it as needed.

TIME TO ASK

How can technology and innovative practices help ensure boards get the right information that is high quality – accurate, reliable, material, succinct, sufficient and verified?

Getting the bad with the good news

It is critical that directors are well informed and prepared to ask management probing and challenging questions to hold them to account. They also need the experience and business acumen to understand and evaluate the answers, and to challenge and verify.

However, as APRA noted in its inquiry into CBA the board is "dependent on a small number of key individuals to filter and curate the information on which they rely to perform their duties."[23] To address potential biases, boards can engage with specialists and employees at operational levels:

> "Boards globally have tried to compensate for these potential biases by deliberately engaging with specialists and employees at more operational levels in the organisation. This helps them establish the necessary confidence in their organisation's capabilities to manage risk, and to reduce the impact of inevitable management filters that are applied in communicating upward to the Board or its Committees. For example, Board risk committees in Europe and the United States will meet with their AML responsible officer or their cyber security experts to ensure that concerns felt at the 'coal face' in the fight against these key risks are being transparently communicated upward to them."[24]

Dennis Gentilin, author of *The Origins of Ethical Failures*, highlighted a key risk in assessing conduct risk and organisational culture saying:

> "There's a tendency in any organisation where there is a hierarchy for managers to sugar-coat the message, not because they're bad people but because as managers we like to downplay issues and impress those above us. Boards need to be aware of this and ask the right questions."

It's essential that boards hear the bad news as well as the good news. A 'no surprises' policy can help support open and transparent communication between management and boards. More than three quarters (79%) of leading directors agreed or strongly agreed that management is transparent in reporting 'bad news' to the board.[25] While the board may have a high level of trust in management, philosophies of 'trust but verify' or 'don't tell me, show me' help directors stay on top of things, and to robustly hold management to account.

79% **said management reported 'bad news' to the board**

INSIGHT INTO THE FUTURE

"I believe that there will be more constant communication between board members and between the board and management. The communication will be more directly with management information and less 'curated' by senior management. The content of board decisions will be more directly related to commercial risks and less procedural in nature."

Rob Campbell, CFInstD

"Quality board papers have a pyramid style which requires management to make judgments about the most important issues facing the business. This pyramid style has to meet the 'happy medium standard', identifying not just the leading business challenges, but also other issues that can grow in importance. Directors should pay special attention to the issues that are not, on their face, financially material, but have the potential to impact the company's reputation, key stakeholder relations, and their license to operate. The challenge for directors and management is to have enough information, imagination and breadth of vision to identify these issues early."

Jonathan Mason, CFInstD

The Netflix approach to solving the information gap

The *Netflix approach to corporate governance: genuine transparency with the board* (2018) documents the company's innovative approach to reducing the information gap through the following practices:

- **Staff meetings**
  Netflix has a range of management and staff meetings that directors attend as observers only. There are many benefits of this including seeing management in action, and getting a deep knowledge of the company.
- **Board memos**
  Board members receive an online memo a few days before board meetings. Memos are approximately 30-pages in narrative form with information on business performance, industry trends, competitive developments, and other strategic and organisational issues. Links are included to supporting analysis and there is open access to data and information on the company's internal shared systems. There is also the ability to ask questions or seek clarification, and responses are provided before the board meeting.

The authors of the paper note that:

> "… because directors are extensively prepared, board meetings themselves are significantly more efficient, with a focus on questions and discussion rather than presentation. Meetings are only 3 to 4 hours in length (compared to all day or multiple days at many large corporations). They begin with the CEO and directors listing the main questions on a white board and proceed immediately to discussion."[26]

The stakeholder voice

Stakeholder expectations of boards and organisations are increasing and they are becoming more vocal in airing their concerns and aspirations.

The power of social media in both enhancing or destroying reputations and brand should not be underestimated. Improving effective engagement can help boards manage stakeholder expectations.

It's important to think about *whom* you serve as a director and *why*. While the importance of shareholder interests is clear, recognising legitimate stakeholder interests is advantageous for a number of reasons:

- Identifying the needs, wants and aspirations of stakeholders (both existing and latent) can lead to the development of new markets and new business opportunities together with a more accurate understanding of existing operations
- Competitive advantage over those not attuned to stakeholder needs
- Ensuring business operations and policies accord with broad community support can enhance corporate reputation, strengthen a corporate brand and build defensive barriers against competitors and a greater responsiveness to new opportunities
- Being seen as a responsible company can attract and retain more skilled and motivated employees leading to higher staff morale, increased productivity, lower staff turnover and a continual reinforcement of a company's brand message
- A company which constantly monitors social or community concerns can develop a much more responsive and accurate risk management capacity (and strategy)
- Being seen to be a responsible corporate citizen is a valuable brand, reputational and competitive advantage in a rapid 21st century world where issue-conscious consumers make quick judgements as to which companies they choose to support.[27]

Boards are increasingly finding ways to hear more directly from stakeholders, for example having presentations from customers, supply chain and other business partners. Direct engagement can provide an opportunity for the board to hear about the experience people have in working with the company.

Global survey: How are boards engaging with stakeholders?

Sixty-four percent of boards in the 2018 *Global Director Survey Report* had direct engagement with stakeholders through industry associations or partnerships, and around half engaged with commercial relationships (51%) or customer feedback tools (50%).[28]

Workers on boards

The possibility of having employees on boards, to bring their voice into the boardroom, has been debated globally for the last few years. Currently some European countries have requirements for employee representation on boards.[29]

In 2017 and 2018, the United Kingdom debated having mandatory worker representation on boards. However, it settled for alternative options which are set out in *The UK Corporate Governance Code* (2018): "For engagement with the workforce, one or a combination of the following methods should be used:

- A director appointed from the workforce
- A formal workforce advisory panel
- A designated non-executive director."[30]

In the United States, Senator Elizabeth Warren is championing what is known as 'the Accountable Capitalism Act' which includes a proposal to allow workers to elect at least 40 percent of the membership of their board of directors (for companies with revenue over US$1billion).[31]

INSIGHT INTO THE FUTURE

"Society is demanding more from companies. The scrutiny that boards are under and the expectations that directors be more involved in the business are greater than ever. The pendulum has swung and very quickly, particularly in New Zealand. Expectations are going to drive greater engagement."

Tony Carter, CFInstD

"Boards will be responding to customer, stakeholder and community activism by being much more open, engaging and transparent. Communities and shareholders will be demanding more face-time and information from chairs and directors."

Jackie Lloyd, CMInstD

TIME TO ASK

How are workers being heard in New Zealand boardrooms?

Shareholder engagement

In 2018, Larry Fink called for "a new model of shareholder engagement – one that strengthens and deepens communication between shareholders and the companies they own... engagement needs to be a year-round conversation about improving long-term value."[32]

Most companies are engaged in regular dialogue with shareholders through online communications, roadshows and selected meetings. Going forward, there may be more opportunities for non-executive directors to engage with shareholders.

Global survey: Board-shareholder engagement

- Fifty-five percent of global directors surveyed in 2018 reported that their boards are actively engaged with shareholders.[33] However, there is noticeable difference among sectors with stronger responses reported in private companies (69%), government (54%), and NFP (50%) than for listed companies (43%).[34]

FROM THE US

Benefits of shareholder engagement include:

- Understanding shareholder viewpoints on corporate strategy and governance
- Hearing shareholder concerns in an unfiltered environment and understanding what drives shareholding voting decisions
- Encouraging long-term relationships with shareholders, garnering potential support in the event of a short downturn, a crisis, or an activist situation
- Achieving greater support for management proposals
- Promoting long term share ownership
- Providing opportunities to help shape evolving shareholder viewpoints on emerging issues
- Fostering goodwill and trust.[35]

Shareholder meetings in a digital age

In recent years attendance at AGMs has been in decline. With improvements in communication technology, increasing regulatory reporting and higher levels of information being provided by companies to shareholders, the value of AGMs has been questioned.[36]

Since 2012, New Zealand companies have had the ability to conduct virtual shareholder meetings including online voting. Options include virtual-only or hybrid (a physical meeting with people also attending virtually). For more, see the 2017 IoD DirectorsBrief, *Shareholder meetings in the digital age*.

It is possible that AGMs could be replaced in the future with the advent of new technologies. The United States' Chamber of Commerce has said that AGMs "could be replaced by something akin to the 'Instagram investor' generation: solicited, tracked and analysed, instant and ongoing shareholder to company communications."[37]

In the meantime, AGMs are still an important part of the yearly cycle for most entities. They provide an opportunity for shareholders to experience a company's brand first-hand and they encourage dialogue between shareholders, the board and management.

Would a stewardship code help with shareholder engagement?

Many jurisdictions have investor stewardship codes designed to improve the quality of engagement between investors and companies, strengthen corporate governance, and promote long-term profitability. Codes recognise that large shareholders have a responsibility to engage with boards in a constructive way and to not pressure a company to deliver short-term results. They are often voluntary, and usually apply to institutional investors. In 2015, the New Zealand Corporate Governance Forum (a group of institutional investors) published voluntary guidelines to be used by both listed companies and institutional investors.

Australia's first compulsory stewardship code was introduced in 2017 by the Financial Services Council which represents the country's fund management and pension industry. In the United States, the *Framework for US Stewardship and Governance* came into effect in January 2018. Other jurisdictions that have stewardship codes in place include the United Kingdom (which is currently being reviewed), Hong Kong, Japan and South Africa.

TIME TO ASK

With the Capital Markets 2029 review this year should New Zealand develop a stewardship code?

The future chair

A board adds value through collective leadership and stewardship, guiding an organisation into the future. Within the board the chair has a particularly important and influential leadership role.

Other than requirements under the Companies Act 1993 to chair meetings of shareholders and directors the role of the chair is not prescribed in legislation. Despite this it is widely accepted that the chair can have a significant impact on board effectiveness and governance culture.

The role of the chair has been much studied and has been variously described as 'the first among equals', 'the board conductor' and 'the Chief Reputation Officer'. INSEAD Professor Stanislav Shekshnia describes the chair as having "the role of servant leader and facilitator, creating the right environment under which the directors individually and collectively can be as effective as possible."[38]

Time spent by non-executive chairs on board matters has increased by nearly 7% from 161 hours a year in 2018 to 172 hours in 2019.[39] This is up from 150 hours in 2014.[40]

7% **increase in time from 2018 to 2019**

The chair of the future will remain vitally important and in demand. The time commitment and expectations on them are likely to increase. The chair and boards will need to find ways to manage this.

In the *Chair of the Future*[41] the skills, capabilities and experiences that will be required to be a successful chair in the future having regard to the changing role of the corporation in society are summarised with the following five dimensions:

1. Company ambassador
2. Strategy provocateur
3. Culture and talent provocateur
4. Guardian
5. Board conductor

A LEGAL LENS

MinterEllisonRuddWatts highlights the evolving nature of boardroom leadership in *Chairing a diverse board in an age of complexity* (in MEttle Eleven). The article includes insights from Abby Foote, chair of Z Energy, on the current challenges faced in the boardroom and the importance of culture in managing the ever-increasing emphasis on risk and safety.

Is there a need for a new type of director?

Independent directors are a fundamental part of New Zealand's governance framework and help provide a broader perspective, specific skills and expertise, a fresh viewpoint, independent oversight and accountability.

The *NZX Corporate Governance Code* 2019 highlights that:

> "It is widely recognised that independence is an important consideration and that independent views add value to boards. Directors with an independent perspective are more likely to constructively challenge each other and executives – increasing their effectiveness."[42]

Do boards need lead/senior independent directors?

The 'senior independent director' or 'lead director' role is common in the United Kingdom and in the United States in listed companies. In the United Kingdom, the role was introduced in 2003[43] and is included in its *Corporate Governance Code*.

Senior/lead independent directors can be particularly helpful in organisations with executive chairs which are common in the United States.

Senior/lead independent directors are usually elected by the independent directors of the board and may:

- Provide support to the board chair and act as a sounding board
- Act as an intermediary for the other directors and shareholders
- Provide an alternative avenue of communication from the chair or CEO for stakeholders (especially when they do not feel their concerns have been appropriately addressed or resolved through discussion with the chair or CEO, or where stakeholders have issues with the performance of the chair or CEO)
- Conduct annual evaluations of the chair's performance and succession planning for the role
- Act as a mediator in relation to issues with the chair and CEO
- Work with the board, management and shareholders in times of board stress or organisational crisis.[44]

TIME TO ASK

With the burgeoning role of chairs and expectations on boards around shareholder engagement, is there a need for a 'senior independent director' or 'lead director' on some New Zealand boards?

Special purpose directors to the rescue

In *Calling the Cavalry: Special Purpose Directors in Times of Boardroom Stress,*[45] the benefits of boards co-opting so called 'special purpose directors' are discussed including to provide additional expertise and assistance on ad hoc committees in times of crisis or where a substantial amount of time is required by directors (eg in M&A).

TIME TO ASK

In times of particular need, could special purpose directors help reduce pressure on boards?

Governance arbitrage – learning from the private equity model?

The term 'governance arbitrage' has been around for some time. It refers to private equity firms identifying and turning around organisations with sub-optimal governance and ownership structures. Recent publications such as *Governance Arbitrage: Blowing up the Public Company* (2019) by Henry D Wolfe and *Boards 3.0* by Ronald J Gilson and Jeffrey N Gordon, set out a case for a new board model for listed companies with reference to private equity.

Boards 3.0 discusses three models of boards over time:

- Board 1.0: staffed by insiders and the CEO's trusted outside advisors;
- Board 2.0: staffed principally by independent directors who are 'thinly informed' (time constrained, resource constrained and knowledge constrained);
- Board 3.0: boards with 'thickly informed' directors with deep commitments.[46]

Working with management

New Zealand's corporate governance framework under the Companies Act 1993 is based on a board of directors managing a company on behalf of its shareholders.

Usually, this involves the board delegating day-to-day management to professional managers while remaining responsible for monitoring and overseeing management. The board is also there to support and guide management and to work with them to achieve strategic objectives and sustainable success. We're hearing more about how boards and executive teams are working collaboratively, including upskilling in new areas.

It is sometimes said that directors 'work on the business, and not in it' and that they should have their 'noses in, and fingers out' of the business in performing their role. However, there will be times when non-executive directors will be more involved, especially in times of crisis or a major organisational event such as a takeover.

> "The days of strict allegiance to 'nose-in, fingers-out' seem to be waning. You may bring a special expertise to your board. But unless you're scanning the skies as well as the cafeteria, unless you have the courage to act with fingers in as well when required, your usefulness as a director will be hobbled and your company's future put at risk."

Rahul Bhardwaj, CEO of the Institute of Corporate Directors (Canada) at its 2019 conference.

The governance management divide

Accountability is central to corporate governance and the separation of governance and management provides clear lines of accountability. The board is accountable to the company and shareholders, and management is accountable to the board.

As the responsibilities, and liabilities, on directors continue to grow it is important that the roles do not get blurred. The importance of the separation between governance and management was highlighted by both APRA and the Hayne Royal Commission:

> "One of the challenges facing all boards is ensuring strong oversight of senior management while still preserving an appropriate separation from managerial responsibilities."[47]

> "Boards cannot, and must not, involve themselves in the day-to-day management of the corporation … The task of the board is overall superintendence of the company, not its day-to-day management."[48]

A LEGAL LENS

Boards need to be sufficiently engaged with the business to adequately supervise management and meet the standard of care expected of them. The board's role is not to manage the business itself however. If it strays into doing so boards should be asking themselves if they have the right board and management in place.

INSIGHT INTO THE FUTURE

"We'll see more rather than less engaged boards – sensitivity to stepping over the governance line into management will dissipate over time under the weight of a more complex operating environment, greater stakeholder expectations and more accountability for performance. Directors will need to be more engaged in terms of knowledge of the entity's market, strategy, operations and how value can be created (or at least not lost). This will not be considered stepping into management. As a result directors will not be able to sustain a large number of roles, instead the reality of the workload for each role will drive fewer active roles and higher remuneration per role. The more hands-on approach will move boards away from selection of directors based on narrow skill sets to those who are able to make a broader contribution based on curiosity, adaptability and diligence. At that point the days of a governance career being a retirement option will be long gone, replaced by governance as more stage II of an active career."

Mark Cross, CMInstD

Technology and innovation in the boardroom

Technology has the potential to fundamentally change the way boards meet, breaking down global barriers for directors such as location and language.

It should also help transform the way boards operate to ensure directors are more informed and equipped to monitor and make decisions.

Boards can learn from recent TV series such as Netflix's BlackMirror and HBO's Westworld that highlight the dark side of technology including moral and ethical risks that are foreseeable in the not too distant future.

Will we need human directors or boards?

Disruption to boards and directors doesn't get any scarier than this existential question. AI and blockchain are two technologies that have the potential to disrupt not only how organisations are controlled and directed but whether there is a need for boards at all.

Robo directors

Many directors will have already heard about the world's first so called 'AI' or 'robo' director, referred to as VITAL (meaning Validating Investment Tool for Advancing Life Sciences). This is an algorithm (not formally appointed as a director) used by the board of a Hong Kong company for investment decisions. One *current* legal barrier in New Zealand to robo directors is that section 151 of the Companies Act 1993 requires directors to be 'natural persons'.

As technology advances, robo directors could be a real possibility. In 2015, a survey of 800 business leaders predicted AI would be on a board of directors by 2025.[49] There is a 50% chance AI will exceed the general intelligence of a human by 2040 and a 90% chance by 2065, according to the median estimate of respondents in a survey of experts.[50] In the short term, we don't see robo directors replacing humans in the boardroom. Rather, AI will assume a greater role in augmenting board decision-making.

Blockchain governance and distributed organisations

Another potential disruptor to boards and directors are blockchain based 'distributed organisations'.[51] These organisations, sometimes referred to as DAOs (decentralised autonomous organisations), follow computer code and are controlled by shareholders without the need for boards. The technology is relatively new and it has the potential to be used across society, not just for business. Time will tell if it can be scaled up to apply to large and complex organisations.

What is blockchain?

"At its core, blockchain is a record keeping system. It's like a decentralised database, or ledger, that is shared and maintained on multiple computers. When a user makes a change, all copies of the database are updated and reconciled almost simultaneously. No one can change the data in a blockchain without other people seeing."[52]

TIME TO ASK

How could AI help the board to recruit, vet and appoint the CEO? What are the ethical issues and risks?

The digital boardroom

Most leading directors and boards already use board management software such as Diligent to support their governance functions. There are significant benefits to this technology for directors including instantaneous access to board information from anywhere in the world. Utilising this technology is only the beginning of the journey towards a fully digital and integrated boardroom.

Leveraging the power of data

A more significant transition for boards will be moving away from reliance on traditional, static tools that capture data and insights at a point in time such as Excel and PowerPoint. With advances in cloud technologies, AI and data analytics, directors in the future will access and use real time, interactive data and analysis in, and out, of the boardroom. This will help lead to more informed decision making and will enable boards to better monitor organisations from a compliance and risk perspective. It should also create efficiencies such as generating more time for directors to spend on strategy and performance. An example of this new way of operating is the SAP Digital Boardroom, a cloud based system which provides real time access to data and business insights enabling boards and management to reinvent meetings.[53]

As part of the future digital boardroom, boards will need to continue to leverage big data and open data (data that can be accessed, used and shared by anyone), and other new technologies such as smart contracts.

VR in the boardroom

Virtual reality (VR) technology has existed for some time and is now being used in boardrooms. It has significant potential to help address some of the challenges of board effectiveness. VR may be especially helpful for organisations with large-scale operations and global directors.

Virtual site visits

VR also provides a greater opportunity to experience the business in different ways such as showing directors remote locations or new premises that are under construction. We don't see VR replacing site visits but it will be a valuable supplemental tool. VR will also enable directors to appreciate health and safety risks in the business in new ways, for example by getting to experience what it is like for staff using certain machinery.

Beaming in to board meetings

Attending a meeting by phone or via video is no substitute for being there in person as much communication is non-verbal. This can impact board dynamics. What difference would it make if directors could experience all meetings as if they were there in person, for example by attending virtually by VR or holoportation technology? A number of companies, including Microsoft, are working on revolutionary holoportation technology. Add to this advancements in real-time language translation and this may help overcome some barriers for global directors.

TIME TO ASK

How can technology enable your board to transform how it is operating?

INSIGHT INTO THE FUTURE

"The future board will unquestionably have access to more real-time data and analysis because this is already starting now. Boards need to use this in the right way in terms of their governance role, rather than getting into management. That is the difficult part and it will take work. It is critical that boards stay focused on the future and digital and technology advances will also help with this, especially forecasting and predictive tools."

Joanna Perry, CFInstD

Reporting revolution

In 1903, US Steel published what is known as one of the earliest corporate annual reports with its financial accuracy certified by Price, Waterhouse & Co.[54]

Despite major change in how we create and consume information, not a great deal has changed in corporate reporting in over a century. Companies still produce annual reports with auditors providing assurance over (primarily) financial information covering the previous year. However, there have been major changes in corporate value, for example with the rise of intangible assets. It is often said that up to 80 percent of company value is made up of intangible assets such as brand, data, IP and organisational/social capital, but they are still massively under-represented on the balance sheet.[55]

TIME TO ASK

Does the annual report still serve its purpose? Are accounting and auditing standards enablers or impediments to building greater confidence and trust with stakeholders?

INSIGHT INTO THE FUTURE

"There will be more real time communication and access between directors and stakeholders. This will be both online and direct, in print, audio and video. Annual reports as such will be less dominant, though still a vital record of what has occurred and for measuring performance. The annual meeting may not be as important and could even disappear."

Rob Campbell, CFInstD

With high-speed data and the rise of technologies such as blockchain and AI there is huge potential for disruption and transformative change in how companies report, verify and communicate performance information. In a 2019 report the United Kingdom's Financial Reporting Lab examines the use of AI in the production, distribution and consumption of corporate reporting and concludes that "it is not a question of will AI become important for corporate reporting, but when?"[56]

The Lab assesses how AI can be used in the finance and reporting processes, including automating elements of preparing the annual report. It also considers there is future potential for "the annual reporting-cycle to end, with reports being generated at any point of time and covering any time period."[57] This may be 10 – 20 years away but in the meantime AI is expected to improve efficiencies in annual report preparation through digitising and automating various finance and reporting functions.

Evolving corporate disclosure

The rise in voluntary disclosure, for example through reporting frameworks such as Integrated Reporting and sustainability reporting illustrates the trend for more open corporate communication that goes beyond compliance. Social and environmental issues will continue to be on company agendas and consequently will be in their disclosures in the future.

Activist shareholders, and stakeholders, will continue to expect greater transparency and the opportunities will only increase for organisations to use technology to engage in genuine two-way dialogue.

In a significant change in the new *NZX Listing Rules*, continuous disclosure is required not only where directors or a senior manager comes into possession of material information, but also when they ought to be aware of that information. We expect that boards and management will adjust their processes as a result of this change and greater attention will be given to this in the future.

See also *What directors need to know about the new NZX Listing Rules* by MinterEllisonRuddWatts and the IoD.

The advent of social media and other communication platforms have changed the continuous disclosure landscape bringing new risks, highlighted by Elon Musk's tweets last year about potentially taking Tesla private. Boards will need to be alert to new risks in this space in the future.

A LEGAL LENS

With a constructive knowledge test now applying to their continuous disclosure obligation, listed companies must have adequate processes and arrangements in place to enable material information to be promptly identified and appropriately escalated to allow directors to comply with their duties.

INSIGHT INTO THE FUTURE

"I expect future boards will be gaining assurance in many different ways, for example companies that use blockchain or AI will rely more on technology based assurance alongside human judgment and intervention. Auditors will still play an important role but they will engage with boards in a more dynamic way providing greater real time assurance. Boards will also gain assurance by using technology and external data sources to test and validate information reported by management. As recognising social licence to operate becomes more paramount audit will be as focused on non-financial as financial matters."

Julia Hoare, CMInstD

Dynamic assurance – auditing in real time?

Boards will always need to have confidence and trust in the information they use for decision-making and reporting externally. But how they get there will change as new technologies and capabilities disrupt how boards gain assurance, internal and external, over corporate information.

Technology is changing how organisations operate (eg with blockchain smart contracts and advanced algorithms and machine learning to predict inventory levels and manage cash flow) and this means that monitoring and oversight functions will need to adapt. Boards need to harness technologies to ensure effective risk assessment and that controls and processes are functioning effectively.

Boards, audit committees, internal and external auditors will increasingly be able to access external sources of data to test and validate internal information. For example, "a board wanting to challenge culture or customer disclosure could use AI tools to source and analyse external opinion such as Glassdoor™ or Twitter™."[58]

The speed of creating and making data available will also drive more dynamic or instant auditing. We expect there will be more sophisticated data analysis, enhanced transparency over audit processes and greater insight into companies' systems and control environment. It could also mean continuous assurance through real-time auditing.

KPMG's Clara is a smart audit platform using new technologies, and powerful data and analytics capabilities.

This video[59] by KPMG (UK) provides a peek into *Audit 2023: Audit technology fit for the future* and what real time audit supported by smart technology could look like in detecting a fraud as it is occurring.

The learning board

Board and director evaluations provide a powerful tool to hold the board accountable and help improve performance.

Ultimately, the goal of such evaluations is for the board to achieve greater insight from its individual directors regarding the strengths of the board and its members, and to identify areas for improvement.

Many boards use services such as the IoD's BetterBoards to evaluate performance and engage an independent person to facilitate feedback and discussion.

TIME TO ASK

What's next in board evaluation? For example, would it be helpful to have an observer at board and committee meetings?

Reflection

An important aspect of directorship is allowing time for self-reflection. APRA's report on the inquiry into the CBA discussed the importance of this:

> "CBA has not set aside the requisite space, time and permission for quality reflection, introspection and learning. There is little evidence to suggest that reflection is a skill that is widely valued in practice. In fact, there appears to be a genuine lack of appreciation for its importance. This behavioural characteristic has been observed at the top of CBA. With respect to the various incidents under review, only a few Board members and leaders interviewed mentioned without prompting taking time to personally reflect on these; those who did, often did so after the Inquiry had begun, and pointed to a 'lack of questioning', 'not seeing the wood for the trees', and 'insufficient time to consider issues."[60]

Psychologists in the boardroom

Across the Tasman, the Australian Securities & Investments Commission (ASIC) has engaged a psychologist, as part of its Corporate Governance Taskforce, to sit in on board meetings of some the country's biggest companies. The intention is to gain insights into how they are operating, including in relation to overseeing corporate culture and management.

TIME TO ASK

How often does your board take time to reflect including when things haven't gone to plan?

Continuous learning

The Four Pillars of Governance Best Practice[61] emphasizes that a commitment to director development can improve directors' contributions around the board table and add value to the company and its shareholders. The current climate of rapid technological change, disruption, globalisation and complex financial transactions, the number of laws and regulations imposing potential liability on directors and the world-wide demand for professionalism and accountability make it essential that directors acquire, maintain, and grow their knowledge and skills.

INSIGHT INTO THE FUTURE

"I see there being a much greater emphasis on combined board/management learning in the future and I expect that there will be more reliance on non-competitive partner businesses/organisations sharing experiences and lessons with each other board to board."

Jackie Lloyd, CMInstD

Strengthening professionalism

There are strong expectations across many jurisdictions for directors to adhere to professional standards, through requirements in corporate governance codes and by national director institutes.

Since 2014, continuing professional development (CPD) has been a requirement for IoD Members, Chartered Members, and Chartered Fellows. The IoD's Chartered designation demonstrates to the business and general community that a director has committed to the IoD's professional standards and to ongoing professional development. Those making the step up to Chartered Membership have to prove their skill through the Chartered Member assessment, passing a written assignment and an exam. They must also attest to their good character and commit to upholding the principles of the IoD Charter.

Globally, other director institutes are also following suit, for example in early 2019 the National Association of Corporate Directors (NACD) in the United States announced a new certification program for its members.

TIME TO ASK

What is the next step in strengthening professionalism of listed company directors in New Zealand? Should they be required to be Chartered, to commit to CPD (including an ethics component), and be subject to a fit and proper person test?

Global Network of Directors Institutes (GNDI)

The GNDI was established in 2012 and New Zealand was one of six founding members. It now has 21 members with a combined global membership of over 134,000. The GNDI's purpose is:

> "To develop and promote leading practices and programmes that enhance the capability of directors to drive sustainable performance for the benefit of shareholders, the economy and society."[62]

INSIGHT INTO THE FUTURE

"The culture of board professionalism will continue to be advanced. There will be greater emphasis on ensuring prospective candidates have demonstrated high ethical standards, competency and made a commitment to continuing development. My vision is that the IoD's chartered designation will be the gold standard, and that boards will be expected to have a certain percentage of Chartered Members."

Alan Isaac, CFInstD, President of the IoD

Directors in India to sit exams

In June 2019 the Indian Government announced that independent directors will soon need to pass exams (possibly covering ethics, capital markets and companies law) before they may be appointed to publicly listed companies.[63]

Tomorrow's directors

There is a well-trodden path to being a non-executive director in New Zealand, but the future path may have many junctures.

Traditionally, directors often come from the executive ranks, and professional or consulting backgrounds. Many directors have developed a portfolio of directorships including across listed and private companies, not-for-profits and the state sector.

Today, the average number of directorships is four and directors serve for an average of four years.[64]

There are a variety of reasons why people choose to serve as directors. Ensuring highly skilled and experienced people will continue to want to serve as directors in the future is critical for New Zealand's future wellbeing and prosperity.

Potential challenges

With the changing nature of work and expectations of different generations, some prospective candidates with desirable backgrounds may not be attracted to governance roles. Successful entrepreneurs, for example, may be deterred by the heavy compliance and risk workload of some boards and also the traditional ways of working associated with boards (compared with more agile, participatory, and collaborative approaches).

The deterrent effect of the trend for more laws and regulations extending director responsibilities and personal liability is deeply concerning. In the 2018 *Director Sentiment Survey*, one-third of directors said that the scope of director responsibilities was more likely to deter them from taking on governance roles.

Directors have the choice to contribute to New Zealand in a range of ways, and we are already seeing signs that some directors favour serving on boards of organisations with a lower risk profile than listed companies.

Director fees

Not many issues receive as much scrutiny as remuneration, and director fees are no exception. Directors serve for a variety of personal and professional reasons, and are often not driven by remuneration. However, it is important that tomorrow's directors receive appropriate remuneration that is fair and reasonable to ensure that skilled and experienced people are attracted into governance and are properly rewarded for the work they do.

INSIGHT INTO THE FUTURE

"Improvements in the *NZX Corporate Governance Code* around director remuneration have already brought greater transparency. This is positive and there will need to be more effective engagement between boards and shareholders to address the many challenges in this space such as ensuring boards have access to global directors and that the rewards of serving outweigh the risks. The increasing time commitment and changing role of directors will also need to be reflected in remuneration."

Kirsten Patterson, MInstD, CEO of the IoD

D&O insurance – trends and issues in turbulent times (June 2019) by IoD, MinterEllisonRuddWatts and Marsh highlights the increasing regulatory and liability burden for directors and the impact that this is having on the D&O insurance market.

Diversity and inclusion

Having the right mix of people on the board is a direct contributor to board performance. Boards are at their best when they are distinguished by diversity of thought and capability. We know that diversity is important to boards – 68% of directors said diversity was a key consideration in making appointments to their board in the 2018 *Director Sentiment Survey*.[65]

Board composition has received unprecedented attention in recent years. Investors have been the loudest stakeholder voice on the topic generally. Although there are many dimensions of diversity, including age, ethnicity, skills and professional experience, tenure and independence, the primary area of board diversity under scrutiny is gender diversity.

Major institutional investors (eg BlackRock) and stock exchanges, including NZX and ASX, expect and support gender diversity on boards and reference this in their corporate governance codes. NZX reported for the 12 months to 31 March 2019 the number of women on listed company boards was 22.8%, just a slight change from 22.5% for the 12 months to 31 December 2018.[66]

Some countries (including Finland, France and Germany) have mandatory quotas for women on boards. The debate on quotas is ramping up and in 2018 California passed a law requiring all publicly traded companies headquartered in the state to include at least one woman on the board of directors by the end of 2019.

The updated 2019 ASX Corporate Governance Council's *Corporate Governance Principles and Recommendations* includes a new recommendation that ASX 300 companies set a target of having at least 30% women and 30% men on their boards.[67]

TIME TO ASK

Is it time to push harder on targets for NZX companies or will quotas be imposed in the future?

Changing demographics and cultures

New Zealand is now a country with more than 200 ethnicities and 160 languages, and 25.2% of New Zealand's population is born overseas.[68] New Zealand is not alone. There is a pattern of demographic shifts across the world. We may have thought we were managing this change better than most countries but the Christchurch mosque attacks have made many New Zealanders step back and question whether we could, and should, be doing better.

Cultural considerations at board level are vital today for overseeing a diverse workforce and stakeholder portfolio. Acknowledging and respecting the unique place of Māori as tangata whenua and the Treaty of Waitangi in Aotearoa/New Zealand provides a basis for leading diverse cultures. Boards will need to ensure that they are inclusive of cultural norms and practice at a governance level and throughout organisations.

New thinking and new competencies

As stewards and kaitiaki of company value, boards are increasingly taking a more holistic view of how their companies create value. This can be seen in the global and national take up of integrated thinking and reporting using the IR framework of six capitals: financial, manufactured, intellectual, human, social and relationship, and natural.

> "The drive for integrated thinking comes from our values… Manaakitanga (looking after our people our way), whakapapa (knowing where we are from), whakatipuranga (prosperity for future generations), and kaitiakitanga (custodians for our future generations)."

Whaimutu Dewes, chair of Moana New Zealand, in a 2018 IoD DirectorsBrief, *Integrated thinking – a pathway to greater stakeholder engagement*.

These and other changes in the operating environment will drive future board composition requirements. Strategic leadership, informed decision-making, business acumen, industry skills and experience, financial literacy, and other core governance skills will continue to be critical for boards to help lead and grow companies. However other skills, such as digital literacy and the ability to lead in a dynamic and changing environment are also needed.

Capability deficits on boards relating to digital competency and overseeing business complexity and risk were highlighted in the 2018 *Director Sentiment Survey*. Only 33% of directors said their board had the right capability to lead the digital future of their organisation and only 57% said that their board had the right capabilities to deal with increasing business complexity and risk.[69]

There is the potential for more of the 'modern' c-suite to play a greater role on boards, such as chief information/data/digital/marketing officers. Entrepreneurs, scientists, technologists and other specialists also have much to offer to the future board.

It may not be realistic or possible for boards to have comprehensive experience and skills to cover all issues and eventualities. But they need to have access to particular expertise when required including through employees, committees, advisory groups, and external experts.

A LEGAL LENS

The Companies Act 1993 makes it clear that boards can rely on experts and advisers so long as they believe on reasonable grounds that the person(s) is competent, act in good faith and make due inquiry where required. Businesses develop and the board does not need every skill set on the board. The board's needs change and many skills can become outdated unless constantly honed. Accessing experts as needed is something the law has long contemplated as being appropriate, and a way for a board to acquire up to date expertise on a topic.

INSIGHT INTO THE FUTURE

"Shareholders and the community generally will expect more from us – sustainability will rule superior above other objectives. The further convergence of industries will also be likely which will make giving customers the best possible outcomes the North Star. Directors will need to be creative, agile and with a true commitment to sustainability."

Dame Therese Walsh, CMInstD

Attention on attributes

The *New Zealand Director Competency Framework* sets out key areas of competency for directors (ie strategic and governance leadership, informed decision making, business acumen, and communication) and an aspirational list of attributes.

- Truthful, trustworthy and demonstrates absolute integrity
- Upholds a high personal standard of ethics
- Frank and open communicator
  - willing to admit errors
  - assured when dealing with others
- Reliable, committed, enthusiastic, encouraging and supportive
- Self-aware
- Resilient
  - Composed and effective in the face of adversity
- Courageous
- Energetic
  - committed to the organisation's values and culture
- Alert and responsive to change
- Fosters cooperation and effective teamwork
  - participates, collaborates and values the input of others
- Inspires others to achieve by ensuring clear understanding of strategic goals
- Emotionally intelligent, self-motivated and respectful of others
- Takes charge of a situation when appropriate
- Loyal to and works in the interest of the entity governed
- Comfortable with and tolerant of reasonable risk, ambiguity and uncertainty
- Respects the law
- Demonstrates a propensity for decision-making
- Inventive and original when tackling issues and solving problems
- Empathetic, compassionate and fair-minded
- Encourages new initiatives
- Committed to professional development and lifelong learning
- Culturally astute
- Curious, inquisitive and intuitive

These attributes include 'soft skills' and characteristics that are as relevant today as when developed in 2012. They are also relevant and valuable for tomorrow's directors.

We expect that chairs and nomination committees will give increasing attention to attributes in combination with utilising a skills matrix for board composition. As a result, prospective candidates may be increasingly required to undertake psychometric or similar tests in the future.

Directors of tomorrow have the opportunity to help transform the future and build a better world. One constant in the ever changing business landscape is that directors who bring a professional approach to their roles – staying current and at the leading edge – will be better equipped to navigate their organisations successfully into the future.

Forecasting the future board

Fifteen years ago another Royal Commission in Australia described good corporate governance in a way that is just as relevant to the future:

> "… the key to good corporate governance lies in substance, not form. It is about the way the directors of a company create and develop a model to fit the circumstances of that company and then test it periodically for its practical effectiveness. It is about the directors taking control of a regime they have established and for which they are responsible."[70]

In the face of escalating responsibilities and expectations, boards need to challenge how they are functioning to ensure future effectiveness and sustainability. It means asking how technology and innovative practices can help transform how the board works.

In forecasting the future board, some things are more certain than others. Boards will still have governance and stewardship at their core, and be focused on leading and guiding companies for long-term value creation. Technology should help save time and enable more effective and efficient ways of meeting and operating. It should help ensure boards get the right information, and may ultimately radically change internal and external reporting, auditing, and board and shareholder meetings. New committees may emerge and more time will be spent outside of meetings, with greater, more meaningful engagement with shareholders, management, workers, customers and other stakeholders.

The value of diversity should be embedded into board composition, and boards may include robo-directors, and need new board and director competencies. Future boards will be learning boards, focused on professional standards and performing to their optimum, informed by robust board evaluations that may include expert observers to coach and support board development.

Tomorrow's directors will be constantly learning – always on duty.

Endnotes

1 Institute of Directors NZ and MinterEllisonRuddWatts, *Leading directors' survey on the future of boards*, 2019.

2 OECD, *OECD Corporate Governance Factbook 2019*, p. 14.

3 Institute of Directors NZ and ASB, *Director Sentiment Survey 2018,* November 2018, p. 20 – 21.

4 Institute of Directors NZ and EY, *Directors' Fees Report 2019/20,* 2019.

5 Institute of Directors NZ and EY, *Directors' Fees Report 2014,* 2014.

6 Institute of Directors NZ and MinterEllisonRuddWatts, *Leading directors' survey on the future of boards*, 2019.

7 Ibid.

8 Ibid.

9 Ibid.

10 Financial Reporting Council UK, *The UK Corporate Governance Code*, July 2018, p. 7.

11 Institute of Directors NZ and MinterEllisonRuddWatts, *Leading directors' survey on the future of boards*, 2019.

12 Australian Prudential Regulation Authority, *Prudential Inquiry into the Commonwealth Bank of Australia (CBA) Final Report*, April 2018, p. 97.

13 KPMG USA, *On the 2019 audit committee agenda*, 2018.

14 BlackRock, *'A Sense of Purpose: Larry Fink's 2018 Letter to CEOs'*, 2018, blackrock.com.

15 EY, *Top Priorities for Boards in 2019*, 2018, p. 5.

16 Financial Reporting Council UK, *Guidance on Board Effectiveness*, July 2018, p. 16.

17 Hayne, Kenneth M, *Final Report: Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry*, February 2019, p. 400.

18 Reserve Bank of New Zealand and Financial Markets Authority, *Life Insurer Conduct and Culture: Findings from an FMA and RBNZ review of conduct and culture in New Zealand life insurers*, January 2019, p. 21.

19 Institute of Directors NZ and MinterEllisonRuddWatts, *Leading directors' survey on the future of boards*, 2019.

20 Ibid.

21 Ibid.

22 Australian Prudential Regulation Authority, *Prudential Inquiry into the Commonwealth Bank of Australia (CBA) Final Report*, April 2018, p. 15.

23 Ibid p. 19.

24 Ibid p. 20.

25 Institute of Directors NZ and MinterEllisonRuddWatts, *Leading directors' survey on the future of boards*, 2019.

26 Larcker, David F and Tayan, Brian, *Netflix Approach to Governance, Genuine Transparency with the Board*, Stanford Closer Look Series. Corporate Research Initiative, May 2018.

27 Institute of Directors, *The Four Pillars of Governance Best Practice for New Zealand Directors* (2018), p. 11.

28 Global Network of Director Institutes, *Global Director Survey Report 2018,* 2018, p. 10.

29 OECD*, OECD Corporate Governance Factbook 2019*, p. 120.

30 Financial Reporting Council UK, *The UK Corporate Governance Code*, July 2018, p. 5.

31 US Congress, '*Accountable Capitalism Act'*, August 2018, congress.gov.

32 BlackRock, '*A Sense of Purpose: Larry Fink's 2018 Letter to CEOs'*, 2018, blackrock.com.

33 Global Network of Director Institutes, *Global Director Survey Report 2018,* 2018 p. 13.

34 Ibid.

35 National Association of Corporate Directors, *Governance Challenges 2018, Board-Shareholder Engagement in the New Investor Environment*, May 2018, p. 25.

36 EY, *Future proofing corporate governance – reflections and practical questions for board consideration*, June 2017, p. 13, provides an example.

37 US Chamber of Commerce, *Into the Looking Glass: The Future of Corporate Governance, Boards of Directors and Investor Communication*, March 2016.

38 Shekshnia, Stanislav, *How to be a Good Board Chair*, Harvard Business Review, March 2018.

39 Institute of Directors NZ and EY, *Directors' Fees Report 2019/20*, 2019.

40 Institute of Directors NZ and EY, *Directors' Fees Report 2014*, 2014.

41 Deloitte, *Chair of the Future: Supporting the next generation of business leaders*, 2018.

42 NZX, *NZX Corporate Governance Code*, 2019, p. 9.

43 Higgs, Derek, *Review of the role and effectiveness of non-executive directors*, January 2003.

44 Institute of Directors (UK), *What is the role of the senior independent director*, 2018.

45 Squire Patton Boggs LLP, *Calling the Cavalry: Special Purpose Directors in Timers of Boardroom Stress*, June 2019. (corpgov.law.harvard.edu/).

46 Gilson, Ronald J and Gordon, Jeffrey N, *Board 3.0 – An Introduction*, The Business Lawyer, Vol. 74, April 2019 (papers.ssrn.com).

47 Australian Prudential Regulation Authority, *Prudential Inquiry into the Commonwealth Bank of Australia (CBA) Final Report*, April 2018, p. 14.

48 Hayne, Kenneth M, *Final Report: Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry*, February 2019, p. 400.

49 World Economic Forum, *Deep Shift Technology Tipping Points and Societal Impact, Survey Report, September 2015*, p. 21.

50 Bostrom, Nick and Millar, Vincent C, Future Progress in Artificial Intelligence: A survey of expert opinion in Vincent C Muller (ed) *Fundamental Issues of Artificial Intelligence* (Synthese Library, Berlin, Springer, 2016), p. 553.

51 Institute for the Future, Blockchain Futures Lab, *Binding Commitments: The future of Blockchain Governance and Distributed Organizations*, 2017 (iftf.org).

52 Institute of Directors NZ, "The blockchain gamechanger", *Boardroom magazine*, April/May 2018.

53 SAP Digital Boardroom (sap.com).

54 Wessel D. (2002), When Standards Are Unacceptable, WSJ, en.wikipedia.org, accessed 23 August 2019.

55 Institute of Directors NZ, *Understanding and valuing intangible assets*, *DirectorsBrief,* 2016.

56 Financial Reporting Council UK, *Artificial Intelligence and Corporate Reporting: How does it measure up?,* January 2019, p. 3.

57 Ibid p. 12.

58 Ibid p. 13.

59 KPMG UK, *Audit 2023: Audit technology fit for the future* (youtube.com).

60 Australian Prudential Regulation Authority, *Prudential Inquiry into the Commonwealth Bank of Australia (CBA) Final Report*, April 2018, p. 88.

61 Institute of Directors NZ, *The Four Pillars of Governance Best Practice for New Zealand Directors* (2018), p. 83.

62 Global Network of Director Institutes, gndi.weebly.com, accessed 23 August, 2019.

63 Bloomberg, *Company directors will have to sit exams in India after scandals*, June 2019, Bloomberg.com.

64 Institute of Directors NZ and EY, *Directors' Fees Report 2019/20,* 2019.

65 Institute of Directors NZ and ASB, *Director Sentiment Survey 2018*, p. 21.

66 NZX, *NZX Gender Diversity Statistics*, June 2019, and December 2018.

67 ASX Corporate Governance Council, *Corporate Governance Principles and Recommendations,* February 2019, p. 9.

68 Statistics New Zealand, *2013 Census,* stats.govt.nz.

69 Institute of Directors NZ and ASB, *Director Sentiment Survey 2018*, November 2018, p. 21.

70 Owen, Neville, *Report of the Royal Commission into HIH Insurance*, 2003 at 6.6.

Key resources

Institute of Directors
(available at iod.org.nz)

- *Directors and Officers Insurance – Trends and Issues in Turbulent Times*, IoD, MinterEllisonRuddWatts and Marsh, 2019
- *Integrated thinking – a pathway to greater stakeholder engagement, DirectorsBrief*, 2018
- *Shareholder meetings in the digital age, DirectorsBrief*, 2017
- *The blockchain game-changer* Boardroom magazine, April/May 2018
- *The Four Pillars of Governance Best Practice for New Zealand Directors*, 2018
- *Understanding and valuing intangible assets, DirectorsBrief*, 2016
- *What directors need to know about the new NZX Listing Rules*, IoD and MinterEllisonRuddWatts, 2018

MinterEllisonRuddWatts
(available at minterellison.co.nz)

- *APRA Report – Much for boards to reflect on*, September 2018
- *Chairing a diverse board in an age of complexity* in MEttle Eleven, August 2019

Other sources

- *A Sense of Purpose: Larry Fink's 2018 Letter to CEOs*, BlackRock, 2018
- *Artificial Intelligence and Corporate Reporting: How does it measure up?* Financial Reporting Council (UK) 2019
- *Bank Conduct and Culture: Findings from an FMA and RBNZ review of conduct and culture in New Zealand retail banks*, Reserve Bank of New Zealand and the Financial Markets Authority, 2018
- *Binding Commitments: The future of Blockchain Governance and Distributed Organizations*, IFTF, Blockchain Futures Lab, 2017
- *Board 3.0 – An Introduction*, Gilson, Ronald J and Gordon, Jeffrey N, The Business Lawyer, Vol. 74, April 2019
- *Building a Balance Board: Thoughts on the Challenges of Board Composition*, ICSA: The Governance Institute (UK), 2019
- *Calling the Cavalry: Special Purpose Directors in Timers of Boardroom Stress*, Squire Patton Boggs LLP, (corpgov.law.harvard.edu), June 2019
- *Chair of the Future: Supporting the next generation of business leaders*, Deloitte, 2018
- *Company directors will have to sit exams in India after scandals*, Bloomberg, June 2019
- *Corporate Governance Principles and Recommendations*, 4th ed, ASX Corporate Governance Council, 2019
- *Corporate Governance Reform: Green Paper*, Department for Business, Energy & Industrial Strategy (UK), 2016
- *Deep Shift Technology Tipping Points and Societal Impact*, Survey Report, World Economic Forum, 2015
- *Emerging Technologies and the Future of the Internal Audit: Dialogue with F500 Audit Committee Chairs*, National Association of Corporate Directors (USA), 2019
- *Emerging Technologies, Risk, and the Auditor's Focus*, Bell Lindsay, Julie et al, CAQ, (corpgov.law.harvard.edu), 2019
- *Final Report: Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry*, Hayne, Kenneth M, 2019
- *Future of boardroom composition*, Australian Institute of Company Directors, July 2018
- *Future Progress in Artificial Intelligence: A survey of expert opinion*, in *Fundamental Issues of Artificial Intelligence*, Vincent C Muller (ed), 2016
- *Future proofing corporate governance: Reflections and practical questions for board consideration*, EY, 2017
- *Governance Arbitrage: Radical governance model change is needed to maximize the full asset value of public company boards*, Wolfe, Henry D, 2019
- *Governance Challenges 2018, Board-Shareholder Engagement in the New Investor Environment*, National Association of Corporate Directors (USA), May 2018
- *Governance innovation needed for higher board performance*, Australian Institute of Company Directors, December 2018

- *Guidance on Board Effectiveness*, Financial Reporting Council (UK), 2018
- *How Boards Will Look in Ten Years*, Shekshnia, Stanislav, INSEAD, 2017
- *How to be a Good Board Chair*, Shekshnia, Stanislav, Harvard Business Review, March 2018
- *Into the Looking Glass: The Future of Corporate Governance, Boards of Directors and Investor Communication*, US Chamber of Commerce, 2016
- *Life Insurer Conduct and Culture: Findings from an FMA and RBNZ review of conduct and culture in New Zealand life insurers*, Reserve Bank of New Zealand and the Financial Markets Authority, 2019
- *Netflix Approach to Governance: Genuine Transparency with the Board*, Larcker, David F and Tayan, Brian, Stanford Closer Look Series. Corporate Research Initiative, May 2018
- *New Zealand Corporate Governance Forum Guidelines*, New Zealand Corporate Governance Forum 2015
- *NZX Corporate Governance Code*, NZX, 2019
- *NZX Gender Diversity Statistics*, NZX, July 2019
- *OECD Corporate Governance Factbook*, OECD, 2019
- *On the 2019 audit committee agenda*, KPMG USA, 2018
- *Peering in the Future: Reimagining Governance in the Non-Profit Sector*, Mowat Research, 2018
- *Prudential Inquiry into the Commonwealth Bank of Australia (CBA) Final Report*, Australian Prudential Regulation Authority, 2018
- *Purpose & Profit: Larry Fink's 2019 Letter to CEOs*, BlackRock, 2019
- *Report of the Royal Commission into HIH Insurance*, Owen, Neville (2003)
- *Review of the role and effectiveness of non-executive directors*, Higgs, Derek, 2003
- *The Future Board: Getting in Shape for Tomorrow's Challenges*, ICSA: The Governance Institute, 2019
- *The Future of the Corporation: Towards Humane Business*, Mayer, Colin, 2018
- *The No. 1 Mistake Most Boards Continue to Make*, Cvetkovic, Marina, (forbes.com), April 2019
- *The UK Corporate Governance Code*, Financial Reporting Council (UK), 2018
- *Top Priorities for Boards in 2019*, EY, 2018
- *What is the role of the senior independent director*, Institute of Directors (UK), 2018

Research and acknowledgment

Research for this paper included a literature review (key resources are included on page 41) and insights and data from the following surveys (available at iod.org.nz):

- *Director Sentiment Survey*, Institute of Directors and ASB, 2018
- *Global Director Survey Report*, Global Network of Director Institutes, 2018
- *Directors' Fees Report*, Institute of Directors and EY, 2014, 2018 and 2019

In addition, the IoD and MinterEllisonRuddWatts conducted a small online survey of *leading directors on the future of boards* specifically for this paper during July and August 2019.

We wish to express our sincere thanks to the many IoD members and directors who have contributed to this paper by sharing their thoughts on the future board, including via the survey and in conversations with the IoD's Governance Leadership Centre. We particularly appreciate being able to share input from many of our leading directors as *Insights into the future* throughout the paper.

Key contacts

CATHY QUINN
Partner
cathy.quinn@minterellison.co.nz
+64 9 353 9951 | Auckland

SILVANA SCHENONE
Partner and Head of Corporate
silvana.schenone@minterellison.co.nz
+64 9 353 9986 | Auckland

FELICITY CAIRD
GM Governance Leadership Centre
felicity.caird@iod.org.nz
+64 4 470 2663 | Wellington

SELWYN EATHORNE
Senior Governance Advisor
selwyn.eathorne@iod.org.nz
+64 4 474 7650 | Wellington

Institute of DIRECTORS NEW ZEALAND

The IoD is New Zealand's pre-eminent organisation for directors and at the heart of the governance community. We believe in the power of good governance to create a strong, fair and sustainable future. Our role is to drive excellence and high standards in governance. We support and equip our members, who lead a range of organisations from listed companies, large private organisations, state and public sector entities, to small and medium enterprises, not-for-profit organisations and charities.

MinterEllison RuddWatts

MinterEllisonRuddWatts is a top tier New Zealand law firm known for providing clients with technically excellent legal solutions and innovative commercial advice. We are trusted advisors and work alongside our clients to ensure success. Our offices in Auckland and Wellington are able to access an international network through the MinterEllison Legal Group, a leading firm in the Asia-Pacific region.

Institute of
DIRECTORS
NEW ZEALAND

MinterEllison
RuddWatts