

Overview

This edition of the *Guidebook*, like its predecessors, explores the relationship of the board of directors to the CEO and other senior management officers as well as to shareholders. Directors are elected by the shareholders and have a duty to advance the interests of the corporation to the exclusion of their own interests. Shareholders do not have the right to manage the corporation. Instead, the board of directors oversees the business and affairs of the corporation and delegates to the officers the day-to-day operation of the enterprise. This book focuses on the balance in the allocation of rights and duties, emphasizing the ways in which directors of public corporations devote their time and experience to the strategy and oversight of the company's business.

The book is geared to the individual directors of public companies, or those with public shareholders and a trading market for their shares. The *Guidebook* is, however, relevant to all corporate directors. It provides an overview or guide to the role of the board, the functions and responsibilities of the board, and the board's structure, including committees and operations. The goal is to help directors be effective in fulfilling their duties to the corporation and in the boardroom.

Directors make many decisions on a regular basis. In doing so, they must apply their business judgment based on reasonably available material information and act in what they reasonably believe to be the best interests of the corporation. In some cases, a board may even make a decision, in good faith, knowing that a substantial percentage of shareholders might disagree with that decision.

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activities and strategy by utilizing effective oversight processes and making informed decisions, without becoming day-to-day managers. In doing so, directors must be cognizant of their obligation to act free of conflicts and in what they perceive to be the best interests of all shareholders. This *Guidebook* helps directors meet that responsibility by explaining how they can exercise their oversight and decision-making responsibilities

and by identifying the boardroom practices and procedures that support and promote effective director involvement.

Importantly, directors exercise their decision-making powers only by acting collectively, either as a board or as a board committee. Judgment, however, is exercised individually, and informed judgment requires individual preparation and participation, as well as group deliberation. Effective board oversight results from both group deliberation and from the recognition by an individual that a particular matter warrants further inquiry or action.

Corporations are creatures of the state in which they are incorporated. For corporate directors and the corporation itself, that means that the statutes and state court decisions of the state of incorporation will govern many corporate decisions and processes. The same is true of judicial decisions. Public corporations, however, are also subject to federal securities laws and regulations and the listing standards of the major securities markets. The *Guidebook* addresses the federal securities law regime and the listing standards that mandate specific

governance processes. The *Guidebook* does not, however, address industry-specific federal or state regimes, such as, for example, regulations applicable to financial institutions or utilities.

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corporations have an internal general counsel, for convenience, the *Guidebook* uses the term "general counsel" to refer to both internal and external lawyers who fulfill that role.