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The Handbook of Board Governance

An Introduction and Overview

Richard Leblanc, CMC, BSc, MBA, LLB, JD, LLM, PhD
Professor of Governance, Law & Ethics, and Director, Master of Financial Accountability Program, York University; and Independent Governance Advisor

Introduction

Welcome to the second edition of *The Handbook of Board Governance: A Comprehensive Guide for Public, Private, and Not-for-Profit Board Members*.

I hope you enjoy this second edition, which includes significant updates and many new authors. There are new chapters on agile governance, asking better questions as a director, behavioral archetypes, blindspots, blockchain governance, board chair and CEO succession, board dynamics, business model disruption, climate change governance, cannabis governance, dual class share governance, fraud detection, gender diversity, geopolitical and populism risk governance, human capital and pay governance, risk governance, shareholder engagement, social media governance, not-for-profit and private company governance, subsidiary governance, the corporate secretary, and global governance, including within Australia, the Caribbean, China, India, Singapore, Russia, and South Africa.

To the best of my knowledge, information, and belief, it is the only board governance handbook of its kind in the world. This is because of its scope (all aspects of governance are covered) and its depth (by subject matter experts).

The views of any author should not be attributed to any organization with which the author is or was affiliated.

What follows in this chapter is a description of each of the chapters within the *Handbook*. Authors are thanked for working with the editor. There are eight parts to this *Handbook*, corresponding to all the areas of board governance, for any type of board or organization. Each part has relevant chapters within its part, exploring the topics in depth.

Diversity of Authorship

The authors within this *Handbook* are carefully chosen by the editor as subject matter experts within their respective domains, and possessing deep expertise. Their expertise originates from experience, skills, education, knowledge, and training. There are current or past academics, auditors, authors, CEOs, chairs, compensation consultants, directors, executives, investors, lawyers, and recruiters, all with a passion and demonstrated track record for effective board governance. Each author is a leader within his or her governance domain, and many—if not most—authors have considerable governance expertise across all types of companies, including public, private, state owned, and not for profit.

There is also considerable diversity of experience and background among the 81 authors of the 61 chapters in this *Handbook*. The authors, collectively, live and work in 17 countries: Australia, Barbados, Belgium, Canada, China, Denmark, Finland, India, Ireland, Malaysia, Netherlands, New Zealand, Russia, South Africa, Turkey, the United States, and the United Kingdom. There is gender and ethnic diversity among the authors (almost 30% and over 15% respectively). Most authors are active on social media, and as speakers in liaising with their practitioner communities.

This *Handbook* is not only about the present, but also about where the field of board governance is going, and what changes directors and those who study and advise boards can expect over the next five years. Authors have been asked to be forward-looking and critical as much as possible. Individual authors may agree or disagree, within their respective chapters, and that is characteristic of a field that is in a period of dramatic change.

Improved Corporate Governance

The field of corporate governance is in a state of continuous change. Enron and WorldCom, among others in the early 2000s, were largely implosions that caused great harm to shareholders, employees, pensioners, and other stakeholders, and resulted in reformulating the independence of audit committees and the reporting relationship of external auditors. The global financial crisis of the late 2000s was more widespread and invoked greater outrage and regulation.

Now, since the first edition, there has been a strong focus on climate, technology, terrorism, and populism risk governance arising from the election of President Trump and Brexit. All these topics and more are addressed in this new edition.

The *Handbook* assumes that governance change is occurring and will continue. I have asked authors to be as practical as possible so that their experience and advice can be shared with readers in an efficient, inviting, informed, and time-effective way.

Readers of this *Handbook* are encouraged to view the practices within it as a menu of options to consider for their own board. There should be nothing recommended within this *Handbook* that is not already practiced or is not currently a best practice. It is not a question of whether the practices herein should be practiced by your board, but when and how.

I will now proceed to outline each of the parts and chapters within this *Handbook*.

Part I: The Board's First Responsibility: The Right CEO

To begin this part, **Gary Larkin**, researcher at The Conference Board, in Chapter 2, sets out our introductory chapter on CEO succession, entitled *CEO Succession Planning Trends and Forecast*.

Only 25 years ago, the succession of a public company's chief executive was just another traditional vanilla responsibility for the board of directors. In many cases, larger companies would have "emergency" CEO succession plans in place in the case of a long-term illness or sudden death. These used to be called the "executive gets hit by a bus" succession plan.

However, the rash of accounting scandals in the late 1990s and early 2000s followed by the financial crisis of 2008–2009 led to a new focus on CEO succession planning. Although many executives (save Enron's and MCI WorldCom's leadership) were not prosecuted, the number of CEO turnovers skyrocketed from 1999 to 2009.

While there has been some progress among S&P 500 companies in the area of CEO succession planning, there is still room for improvement. Interviews with directors and research by such organizations as The Conference

Board and the National Association of Corporate Directors show that there are two major elements to a successful CEO succession plan: ensuring the process is ongoing and part of executives' development and performance assessments and regularly disclosing to shareholders what the succession planning process entails.

We are next joined by **David F. Larcker**, James Irwin Miller Professor of Accounting, and **Brian Tayan**, researcher, Corporate Governance Initiative, both of Stanford University Graduate School of Business, in Chapter 3, entitled *CEO Succession Planning*. The authors review the processes by which board members carry out their accountabilities to hire, evaluate, and—when circumstances merit—remove or replace the chief executive officer.

CEO succession planning is a central function of the board of directors. A properly managed succession plan ensures that a company is prepared for multiple contingencies to ensure that capable leadership remains in place in the case of either planned or unplanned CEO turnover. In this way, succession planning is more extensive than simply lining up a handful of prospective candidates. It involves having a detailed understanding of the future needs of the business, the skills and attributes of candidates to meet those needs, and an understanding of the pipeline of talent—both within and outside the company—who viably could handle the responsibility of running the organization. Similarly, it requires making an honest assessment of the performance of the current CEO, and recognizing when a forced change in leadership might be required. In this chapter, the authors examine in detail the process by which board members carry out this function.

Mark B. Nadler, principal of Nadler Advisory Services, a consultancy specializing in board effectiveness and CEO succession, concludes this part in Chapter 4, *CEO Succession: Lessons from the Trenches for Directors*. Nadler describes the substantial gap between the theory and practice of the board's most important task. While the process at many companies is substantially more productive and professional than it used to be, we still have a long way to go, as Larkin has stated. Based on experience with a wide range of public, private, and family companies, Nadler highlights ten of the most common ways in which the process can easily derail.

The good news is that all are avoidable if the board steps up to actively and intelligently manage the interplay of emotional, political, and rational dynamics that characterize every instance of CEO succession. Nadler identifies ten ways where he has seen the succession process stumble and fail, and explains how they are all avoidable, by constantly monitoring and managing the delicate interplay of the emotional, political, and rational dynamics.

Part II: The Board's Second Responsibility: The Right Board Chair

Henry D. Wolfe, private investor and chairman of De La Vega Occidental & Oriental Holdings, in Chapter 5, entitled *The Nonexecutive Chairman: Toward a Shareholder Value Maximization Role*, opens this part on *The Right Board Chair*. Wolfe provides a comprehensive blueprint for a more robust model of the nonexecutive chairman role. Wolfe notes that the current model of governance in public companies is broken. Although there is some positive movement in the right direction, far too many boards have failed to understand that their primary responsibility is to ensure that there is optimization of capital allocation and maximization of company performance and shareholder value. This failure has led to a grossly imbalanced focus toward compliance, suboptimal director selection, according to the author, and a continuing lack of holding management accountable for results. As such, a new, more robust model is needed that approximates the more engaged and high-performance model found at the best private equity firms' portfolio companies.

Wolfe recommends that the foundation of this new governance model is an expanded view of the role of the nonexecutive chairman, which is detailed in this chapter. The concept of this role must extend beyond simply separation from the CEO position and independence. New responsibilities must be defined, including: leadership, setting the standards for the value creation process, focusing the board toward engagement in monitoring progress toward the targets of the value maximization plan, and holding management accountable. In addition, to ensure that this role is executed at the highest level, this chapter delineates the high-level qualities and skills needed from directors, such as a performance-oriented mindset, understanding of and track record with the value-creation process, and the ability to have a holistic view of the enterprise that is essential to an optimization of this key role.

To continue this part on board leadership, we are joined next by **Elizabeth Watson** and **Heather Kelsall**, CEO and founder, and governance associate, respectively at Watson Advisors Inc., who author Chapter 6, *Great Boards Don't Exist Without Great Chairs*. In governance circles, it has long been recognized that the board chair plays a key role in overall board performance. The board chair's role touches all aspects of the board and its work—it is challenging and takes time, practice, and reflection to truly master. While in the past, the board chair's role might have been seen primarily as managing meetings and liaising with the CEO, and generating consensus, today there is a growing appreciation of the breadth and complexity of the role, including such activities as planning the forward agenda, ensuring the right information is before the board, framing key issues for board decision or oversight, orchestrating the strategic planning process, nurturing relationships with stakeholders, coaching and developing other directors, and fostering a healthy board culture.

Along with this evolution in how the board chair contributes to the board's work comes a shift in the skills and attributes required for success in the role. Traditionally, chairs were chosen for their industry expertise, gravitas, or general reputation. Increasingly, however, they are being selected based on a consideration of emotional intelligence, credibility and influence in the boardroom, and exceptional communication skills. Chairs are becoming more attuned to the softer side of governance: heightening their focus on teambuilding, managing interpersonal dynamics and using facilitation techniques to promote meaningful dialogue. Based on the authors' practical experience, this chapter unpacks this critical role and the implications of key shifts in the board chair role. It explores what the role entails and what it takes to be a great chair in today's boardrooms.

The above two chapters speak to a nonexecutive, independent chair, which is the case in Canada, the UK, Australia, New Zealand, South Africa, and many parts of Europe. However, more than half of all U.S. companies today have a lead director, one of the highest percentages of any time in history. Yet, despite their prevalence, there is no universal definition of the role, nor shared understanding of what a lead director does on a day-to-day basis, and how that compares to other board leaders. We now call on Chapter 7, from **Richard Fields**, counsel and director of Corporate Stakeholder Engagement at King & Spalding, and **Anthony Goodman**, a consultant in the Board and CEO Advisory Partners of Russell Reynolds Associates, who wrote *What's in a Name? The Lead Director Role at U.S. Public Companies*. This chapter examines the origins of the role of lead director in the wake of corporate failures and scandals in the early 2000s, and positions it as part of a broader wave of ongoing corporate governance reform. This chapter will be of particular interest to American directors.

Fields and Goodman analyze the S&P 500 to identify the lead directors serving in the role today, who they are, and what they have done prior to taking the role, including the 28 individuals who serve as lead director on two or more boards simultaneously. The chapter then shifts focus to look at the responsibilities of the role as defined by different companies, the stated expectations of institutional investors and other stakeholders, and the metrics used to judge the success of the individual. Lastly, it looks at the challenges facing incumbents—including their role in CEO evaluation and succession planning, M&A oversight, shareholder engagement, and crisis response—and what makes for a successful lead director, including developing a productive partnership with the CEO, embracing their "first among equals" role on the board, and onboarding and providing feedback to new directors.

Part III: Who Is at the Board Table? Board Composition, Dynamics, and Decision-Making

Richard Leblanc, editor of this *Handbook*, and professor of Governance, Law & Ethics and director of the Masters in Financial Accountability Program, at York University, in Toronto, Canada, begins Part III with Chapter 8, *Director Independence, Competency, and Behavior*. Leblanc hones in on individual director effectiveness. This chapter first explores the differences between regulatory defined independence and independence of mind, and how directors, management, and internal, independent oversight functions can be captured or beholden to senior and operating management, thus rendering them ineffective, and how this can be and is prevented within good boardrooms.

Second, Leblanc describes how to design and implement a proper Director Competency Matrix, to maximize any board's likelihood of having well-qualified directors at the board table. Third, Leblanc describes 15 behaviors and other attributes that directors should possess in order to maximize their contribution to boardroom dynamics and oversight of management. Lastly, the author summarizes the rationale for recent regulatory or investor actions that attempt to compel board renewal, including: the enhancement of boardroom diversity; term limits for directors; limits on the number of boards on which a director may serve; and proxy access. Leblanc concludes this chapter by outlining what could be the most effective way to associate director tenure with performance, namely by peer director assessment, which is required in Canada but not the United States.

Next we move to address board diversity, and gender diversity in particular, more closely than in the first edition. There are several countries now that are active here, including in the United States, where a few states have imposed quotas on gender representations on boards.

We begin with **Mary Halton**, managing director of Align Consulting and author of Chapter 9, *Board Behaviors: How Women Directors Influence Decision Outcomes*. This chapter delves inside the boardroom to examine how women approach their board roles and help to shape decision-making in the boardrooms of public limited companies and other large organizations in the public and private sectors. Drawing on a study by Halton ("Balancing the Board," Dublin, Ireland: Chartered Accountants Ireland, 2020, pending), the chapter explores the experiences of chairs, directors, and other key players, focusing in particular on behaviors that are key to board effectiveness. It examines how women directors prepare and bring independent judgment to bear in discharging their roles, and how these behaviors support constructive challenge and wider contributions around the board table.

Noting that it is not every woman, or every man, Halton sees that women often approach board behaviors somewhat differently, and by doing so, bring a positive influence to decision-making and organizational outcomes. In particular, findings suggest that women increase the focus on stakeholders and can significantly influence the scope and nature of the discussion, the consideration of risk, and the disruption of groupthink. This suggests that including substantive input from both women and men in the decision-making process can broaden the board's line of sight and support outcomes that foster long-term sustainable success.

We continue our discussion on women on boards with recent PhD graduate, **Nancy Gianni Herbert**, immediate past chair of Elevations Credit Union and author of Chapter 10, *The State of Gender Diversity in the Boardroom*. The evolution of board governance in the twenty-first century has shifted best practice board composition from a mono-dimensional to a diversified model aimed at balanced representations of gender, professional capital, and social capital. The paradigm shift surrounding board governance is that the absence of gender equality on boards is becoming regarded as a shortcoming by shareholders, employees, and industry leaders. This shift toward good board governance reform identifies the strength and value of gender diversity for providing optimum value to the organization, and it is gaining momentum, as mentioned above.

Increases in women's representation, legislators supporting political strategies, alignment of organizational quotas and gender parity goals, and quotas supported and influenced by international norms incur positive support for transformations of the women-on-boards leadership landscape (Krook 2007). Establishing boards built on integrative strength will need a succession of diverse individuals with abilities to contribute their professional and social capital collaboratively, with a focus on leadership expertise derived from a variety of influential roles. This insight is rapidly becoming the greatest impetus for change and it will result in savvy boards joining the race toward and sustainment of gender parity in the boardroom.

We now turn to boardroom behavior. Calling on **Annie Tobias** and **Lina Pallotta**, vice president and director, respectively, of Learning and Engagement at the Ontario Hospital Association, and designers of the Advanced Governance Program at the Ontario Hospital Association, Tobias and Pallotta present a series of archetype directors within boardrooms—the 2VArchetype framework. There is a paucity of research on actual board behavior inside boardrooms, so this Chapter 11—entitled *Every Seat Matters*—is very welcome.

The authors correctly postulate that there is no good reason why a board should fly with only half its engines operating at full throttle. They suggest that most boards have a preponderance of underperforming directors, and the heavy lifting of governance work falls to a few. Why is this tolerated in governance when it would never be tolerated in management? *Every Seat Matters* offers a new and compelling framework to assess potential and existing director contribution on two axes: value and voice. The 2V framework, populated by director archetypes, is a welcome addition to the skills-based matrix frequently used to identify skill requirements for a board. These skills do not necessarily translate to high-performing and contributing directors. Chapter 11 offers the reader specific suggestions for board recruitment and a more precise tool for individual director evaluation and the overall contribution of directors to the work of governance.

Continuing our discussion of boardroom dynamics, we know that a major way that directors contribute is to ask effective questions. In Chapter 12, "The Art of Asking Questions as a Director," **Lyn McDonell**, president of The Accountability Group, provides practical guidance on one of the most important skills of a good director. The focus of this chapter is on directors developing the abilities to listen attentively in the boardroom, discern when a question should be asked, and pose it effectively. McDonell positions this capability as critical in today's context when board leaders must grasp the strategic context of their organizations through questions and meaningful dialogue, and to generate accountability, calibrate performance, and drive organizational resilience.

McDonell approaches the topic by first appreciating why asking questions can be daunting—especially for new directors, then turns to the purpose of questions at the organizational level, the listening process in the boardroom, and real-time triggers for directors to know when questions should be asked. There is helpful advice on how to frame simple, clear, and penetrating questions effectively. This section on how to ask questions is particularly fresh with attention given to both being clear on what questions are intended to get at and framing them well, and the human factors at play—relationships, egos, and motivations. The chapter concludes with guidance on how directors can respond to the answers provided, particularly when responses are unsatisfactory. All in all, this chapter is not only for new directors but all directors who want to add value to their boards through better questions.

Lastly, to conclude this part, we invite **Jakob Stengel**, managing partner at Case Rose | InterSearch, Global Head of Board Practice, InterSearch, and Founder and Chairman of Board Network, The Danish Professional Directors Association, for a global perspective on board succession, evaluation, and recruitment. Chapter 13 is entitled *Board Succession, Evaluation, and Recruitment: A Global Perspective*.

With a clear focus on the board's value-adding role, this chapter takes the reader through best practice of the entire value-chain in how to identify, recruit, vet, nominate, onboard, and evaluate a fit-for-purpose board (i.e., a board of directors that corresponds to the company's overall values, vision, mission statement, current financial and market conditions, and future strategy). Across a vast number of countries, differences in governance structures, independence requirements, and diversity regulation are among the areas that the reader is guided through. Drivers of how great boards separate themselves from good boards are also highlighted.

In particular, this chapter outlines how a fit-for-purpose board is not only built on competent directors, but equally on directors' character (i.e., integrity) and the chemistry between the board members as a team. A step-by-step guideline on competency mapping and board composition is provided, as well as a thorough exposition of one of the key drivers on the governance agenda of today: diversity as a value-adding component in how to build high-performance teams. Finally, the reader is given a number of pieces of advice on which questions potential board candidates should ask before accepting a new board position—and on what to bear in mind when onboarding a new board.

Part IV A: Climate Governance

We now turn to one of the most challenging issues not only for boards but for society and the world—climate change—and call on the following experts:

Chapter 14, *Climate Change and Directors' Duties: Closing the Gap Between Legal Obligation and Enforcement Practice*, co-authored by **Ellie Mulholland**, director of the Commonwealth Climate and Law Initiative and senior associate at Asia Pacific commercial law firm MinterEllison; **Sarah Barker**, global head of Climate Risk Governance at MinterEllison; **Cynthia Williams**, Osler Chair in Business Law, Osgoode Hall Law School, York University; and **Robert G. Eccles**, visiting professor of Management Practice at Saïd Business School, the University of Oxford, founding chairman of the Sustainability

Accounting Standards Board, and one of the founders of the International Integrated Reporting Council, sets out why climate change has moved from an "ethical" or "environmental" issue to a core corporate governance matter for the boardroom agenda.

It is widely recognized by investors, regulators, and business alike that climate change poses financial risks to the performance and prospects of companies across the globe, and not just in highly exposed industries such as fossil fuel extractives, utilities, and financial sectors. Many of these risks will arise within mainstream planning and investment horizons and are indeed already materializing today, with the first "climate bankruptcy" reported in January 2019 after the devastating California wildfires in recent years. Directors now need to add a base level of climate competency to their governance skillset to guide their companies through the physical impacts of climate change and the transition to the net-zero emissions world agreed to by the global community in the Paris Agreement.

Focusing on key common law jurisdictions, this chapter shows that existing corporate and securities laws are conceptually capable of being applied to failures to govern and disclose climate risk. While there is generally a gap between the law on the books and its enforcement against directors, the authors argue that the climate change litigation gap is likely to close in the relatively near future. Bringing an overtly practical focus, this chapter provides an overview of a number of tools developed to assist boards and their committees to navigate the new governance and disclosure expectations and to take up the opportunities created by climate disruption on business.

Next, we are joined by **Patricia A. Koval**, corporate director and former senior partner, Torys LLP (retired), author of Chapter 15, *Board Oversight and Climate Change: What Directors Need to Know*. There can be no doubt that climate change is now a mainstream issue for business—the risks and opportunities it presents may affect growth, access to capital, and profitability in the immediate and longer term. Climate change drives questions such as: What impact will climate change have on the company's operations in the short, medium, and long term? What impact will it have on the viability of the company's current business model? How can the company ensure that its business model is resilient in the longer term as climate change occurs and the world transitions to a lower carbon economy?

As such, climate change is now one of many important areas in which directors must understand and assess risk and opportunity and their implications for a company's business, operations, financial performance, strategy, and continuing value creation. This chapter looks at why and how climate change is now a core business issue for companies, public or private, and how it should be addressed within the board of directors' governance framework. Koval provides directors with background to understand the dynamic of climate risk, opportunity, and financial impact, as well as an overview of the tools available to management and directors to evaluate them.

This chapter highlights key issues for a board to consider and suggests questions that directors should ask about climate-related risk and opportunities analysis, risk management, and strategic planning. As well, given that disclosure of climate-change-related matters is a very timely subject, particularly for public companies, the chapter also provides an overview and suggestions with respect to this evolving issue.

In Chapter 16, *Responsible Boards for a Sustainable Future*, **Yılmaz Argüden**, chairman of ARGE Consulting and founder of Argüden Governance Academy, provides a European perspective and traces the development of a corporation's attitude to sustainability from sustainability being an add-on, which is nice to have and may enhance corporate reputation, through an approach which sees it more as a tool of risk management, to being a key builder of value not just for the corporation but for all its stakeholders.

Argüden traces the transformation of business attitude from "Business of business is business" to "Doing good is good business." This chapter also provides a very practical and useful guideline for board members and a checklist of questions for any board to ask itself and build assurance. This list is as useful to a company just starting on the sustainability journey as it will be to those companies already well advanced in creating sustainable shared value and who want to make sure that they are not missing any opportunities. Having served as the elected Global Chair of the UN Global Compact Local Networks, Argüden is well experienced in stakeholder relationships, bringing together companies, civil society, and labor unions from diverse countries and situations around the world. I encourage all boards to review Dr. Argüden's checklist for responsible boards and challenge their executives in all of these areas.

Last, but certainly not least, to conclude this part on climate change governance, **Alice Korngold**, president and CEO of Korngold Consulting, and author of *A Better World, Inc.: How Companies Profit by Solving Global Problems . . . Where Governments Cannot*, authors Chapter 17, *Corporate Governance to Advance Business and Society*.

Natural disasters due to climate change, the growth of violence and terrorism in volatile regions, the increasing scarcity of food and water, the rise of wealth inequality, and the spread of deadly disease are expected to continue to threaten lives, property, and prosperity in the twenty-first century. Only multinational corporations have the vast resources, global footprint, and incentives of the marketplace to find solutions to the world's greatest social, environmental, and economic challenges. Importantly, the responsibility to ensure that companies and their management drive innovation to address global problems lies squarely with boards of directors.

This chapter shows how boards of public companies can only fulfill their duty of maximizing shareholder value by embracing business strategies that address the world's greatest challenges. Korngold describes how boards and CEOs can lead the way by integrating global problem solving into the corporate mission and strategy. This chapter concludes with new evidence of a unique approach for companies to develop leaders to advance sustainability and innovation. Recent studies show that business employees who serve on nonprofit boards gain a deeper understanding and appreciation of social, economic, and environmental problems while also developing the creativity and sense of responsibility to find compelling solutions. Broader participation in improving communities worldwide benefits humanity, the planet, and business.

Part IV B: Technology Governance

We now move to emerging and current technologies, including blockchain, artificial intelligence, Internet of Things, cybercrime, social media, and others, and the board's oversight role.

We open with **Gary Evans**, professor, Corporate Governance and Strategy, at the University of Prince Edward Island and recent PhD graduate, with Chapter 18, *Technology and the Corporate Board 2020 and Beyond*. This chapter looks at the impact that technology is having on and within the corporate boardroom today and looking forward to the future. Boardrooms have historically looked to technology as tools of efficiency and effectiveness, but today's technology is far more. It impacts the very fabric of the business model and requires that boards take a different view on the concepts of strategic planning and the business models that have historically impacted the profitability of the corporation.

According to Evans, directors need to go beyond the classic concepts of strategic planning and learn to apply exponential thinking as part of the decision process of the board when applying technology to their strategic planning. This chapter explores the mainstream technologies, and the fringe technologies of 2019–2020, that need to be part of the strategic planning process. Boards need to develop a different attitude toward technology not just as disruption but as essential to survival. Boards need to consider technology training for all board members so that they understand the concepts of upcoming and developing technologies as applied to their industry. The empirical evidence clearly indicates that the world is in an era of technological transformation, and radical changes will occur across industries. Each corporate board needs to improve at predicting how to best utilize technology to their advantage.

Next, for Chapter 19, *Responsive Governance in a Digital World: The Need to Up-Skill*, we call on **Elizabeth Valentine**, chief information officer of Massey University, New Zealand, and adjunct research fellow and teaching fellow at Victoria University of Wellington, New Zealand; **Steven De Haes**, dean of Antwerp Management School and Professor of Digital Strategy & Governance at Antwerp Management School and the University of Antwerp; and **Anant Joshi**, assistant professor of Information Management at the department of Accounting and Information Management at Maastricht University's School of Business and Economics.

Governing digital transformation is a topic boards around the world are grappling with. Fear of cybersecurity breaches has raised awareness, and there's a growing sense of urgency around board-level IT governance capability. High-performing boards are evaluating how to provide quality oversight and responsive decision-making to better govern digital strategy, risk, and opportunity. This chapter provides detail of three Enterprise Technology Governance competency areas for boards to assess and develop. In addition, the emerging topic of agile governance and rapid-risk-response methods are explored; and five practical steps are suggested to help boards become more responsive and to remain relevant.

Jack Bensimon, managing partner, Black Swan Diagnostics Inc., introduces blockchain for directors in Chapter 20, *The Impact of Blockchain Technology for Corporate Governance*. Technology is changing at a ferocious pace and is impacting how corporate boards and directors govern their organizations. Bensimon discusses the role of blockchain, an emerging technology platform that is gaining acceptance, credibility, and application. Blockchain solves the integrity and trust problem in recording transactions without having a trusted third party. What DOS (Disk Operating System) did to power numerous applications today, this technology will do and be as powerful if not more so.

Many of the governance structures in ensuring shareholder transparency have been manual processes that contain human error, lack efficiency, and enable material data to vanish. Existing processes are fractured in regards to seamless corporate reporting ensuring unrestricted shareholder transparency. For example, directors have faced inefficiencies in managing AGMs (Annual General Meetings) through proxy voting techniques that have been corrupted and fraught with errors. These inefficiencies have also applied to boards monitoring insider trading surveillance and the regulatory implications generated.

This chapter examines the impact of this new technology in unlocking shareholder value across many verticals while enhancing corporate governance effectiveness.

We continue with our blockchain governance discussion in Chapter 21, *Blockchain: An Introduction for Boards of Directors*, co-authored by **Elizabeth Valentine**, chief information officer of Massey University, New Zealand, and adjunct research fellow and teaching fellow at Victoria University of Wellington, New Zealand; **Greg Timbrell**, part-time director of Teaching and Learning in the Information Systems School at Queensland University of Technology, and dean of Studies of the Education Cluster of Anvia Holdings Corporation, a U.S.-listed global company; **Lachlan Feeney**, CEO of blockchain development agency Labrys, and an academic within the Information Systems faculty at Queensland University of Technology; and **John Puttick**, founder of GBST Holdings Ltd., who has guided this innovative leader in IT for the financial services sector from embryonic idea through to its listing on the ASX in 2005,

Blockchain is an Internet technology that records entitlements and can enforce rights in contractual relationships. The opportunity and risk of blockchain is its ability to bypass intermediaries in the execution of transactions. This is evidenced by its original application of the cryptocurrency Bitcoin, a global financial ecosystem that bypasses traditional government and banking systems. Through its ability disintermediate, blockchain will create disruption in sectors where trusted third parties earn fees from conducting transactions on behalf of others. A case study about the securities industry illustrates this point. Directors will also gain insight into opportunities across a range of sectors discussed in this chapter, including real estate, healthcare, legal, government, and education. A brief overview on the workings of the technology shows how early adopters can take advantage of the technology but also demonstrates the need for careful board oversight.

We conclude our discussion on technology governance with commentary on the role of social media and oversight by boards, including reflections on the Christchurch massacre in New Zealand and the use of social media, by a director from New Zealand, **Drew Stein**, professional board chair and director, in Chapter 22, *Reflections of a Board Chair on the Christchurch Massacre: Governing Social Media*. There are numerous challenges facing business enterprises in today's market. Some are real and historic, such as ensuring businesses in volatile and changing markets achieve profit levels in line with their shareholders expectations. On the other hand, technology continues to develop the challenges such technical innovations present, while producing potential upsides can also produce real difficulties which boards and executives have and do find difficult to grapple with.

Perhaps the most contentious and certainly the most difficult to address is malicious and negative social media comment, which can and does in certain instances relate more to personal issues than business factors. The nub of the problem with such social media comment is that what is stated is often totally untrue and without foundation but is viewed by most readers as being fact. Thus, unless managed via strong governance practices, such comments can negatively influence the business's performance. It needs to be remembered that governance as a discipline establishes the parameters and actions which not just influence but dictate the behavior of the enterprise both in a public and business sense. As a New Zealander having lived alongside the recent Christchurch massacre Stein is more aware than ever the damage social media can inflict on the general public and the influence it can exert on individual behavior.

This chapter endeavors to address the issues surrounding contentious social media comment and the manner in which boards and executives address the problem. A warning: There is no cookie-cutter model which can simply be rolled out when social media problems arise. Each situation is different. However, there is one truism, which is that the problem needs to be faced quickly and firmly within the board's established governance guidelines. To let social media issues linger is a recipe for disaster.

Enjoy the read, the author suggests. It's quite probable that some readers may not agree with the drift of Stein's comments but if he has stimulated and prompted discussion around this contentious subject, then Stein will have achieved his objective in writing this chapter.

Part IV C: Risk and Financial Governance

We open this part with an important governance topic, and that is financial literacy of directors and the effectiveness of the audit committees. Frequently, with fraud, financial impropriety, or other forms of wrongdoing or governance failure, audit committees and boards may claim that "we missed it." Yet, upon investigation, the directors are not financially literate and the audit committee was not fulfilling its roles and responsibilities as it should have. If directors were suitably qualified for the complexity and scale of the company, and if they were doing what they should have been doing (and were paid to do in many cases), it is debatable whether they would have "missed it."

We are therefore joined in the first chapter of this part, Chapter 23, *Financial Literacy and Audit Committees: A Primer for Directors and Audit Committee Members*, by audit committee expert Jason Masters. According to Masters, boards are no longer the place for a regular lunch, catching up with friends, and confirming that management is delivering in the right direction. With class actions against directors and external auditors relating to the financial performance of organizations, the role of the Audit Committee is central to overall governance of our organizations.

Through this chapter, Masters provides an overview of some of the key elements of the work of an effective Audit Committee, including: (i) the need for all directors to have basic financial literacy; (ii) the selection and appointment of the independent or external auditor; (iii) the relationship with the external auditor; (iv) the oversight of internal audit and the importance of the structure of the Audit Committee to assist with the independence of the internal audit function; (v) the interrelationship between external and internal audit; (vi) the role of the Audit Committee in the oversight of the organization's enterprise risk management framework and the importance of the risk appetite statement; (vii) as with the chief audit executive (head of internal audit) the importance of the right organizational structure for the chief risk officer; (viii) culture is one of the emerging issues cutting across all activities within an organization and the Audit Committee's role in the areas of ethics, culture, and sustaining an effective whistleblower process; and (iv) technology and cybersecurity are core to the operations of most organization, and in the absence of a specialist board committee, the role an Audit Committee may take around technology assurance.

Risk and financial governance continues in this part.

Risk oversight is to mature as the risk governance matures, but also as risks change. In continuing this part, I have asked authors to opine now on:

(i) Political risk, regulatory risk, populism, large-scale or unthinkable risks, and how the best boards govern themselves for these (Chapters 24–26);
(ii) Red flags for pay governance failure, fraud, impropriety, and risk questions directors should be asking (Chapters 27–30); and
(iii) Best enterprise risk governance practices (Chapters 31 and 32).

John Zinkin, managing director of Zinkin Ettinger Sdn Berhad, opens this part with Chapter 24, *Corporate Governance in an Age of Populism*. According to Zinkin, Brexit in the UK, the election of Donald Trump in the United

States, and the rise of nativist populism across the EU are symptoms of a failure of modern capitalism creating unsustainable inequality. Neoliberal capitalism and democracy itself could come under threat if they do not regain their moral footing. Averting this "political tragedy of the commons" requires a fundamental change in how modern capitalism operates.

Directors must recognize corporate governance has a role to play in helping avert such an outcome, Zinkin argues. Modern corporate governance broadens the responsibilities of directors to reconcile stakeholder needs with shareholder interests, rather than focusing on maximizing shareholder value alone. Directors need to recognize decisions which make sense on an individual company basis, when taken by all companies at the same time, could precipitate a "political tragedy of the commons." Avoiding such an outcome is feasible if directors put corporate reputation first when making their decisions; if they treat their employees as assets rather than as disposable costs; and if they rethink their processes accordingly.

This reconciliation is difficult and it cannot be achieved by directors on their own. Three things must happen to help. CEO remuneration must be seen to be fair and clearly linked to performance; investors should stop seeking unsustainable levels of yield, achieved with dangerous levels of leverage; and accountants must find a way of valuing the three most important assets any organization has—its reputation, people, and processes—recording them on the balance sheet so directors can give them the attention they deserve.

The author concludes with a dire warning: Failure by directors to reconcile stakeholder and shareholder interests satisfactorily may increase populist discontent with neoliberal capitalism, helping lead to a replay of the 1930s.

Sean West, senior advisor, Eurasia Group, and **Rohitesh Dhawan**, director, Eurasia Group, continue the discussion on political risk in Chapter 25, *A Call to Action for Geopolitical Governance*. The authors argue the idea that the pace of change in the business environment is accelerating pervades contemporary management thinking. Until the middle of this decade, geopolitics was not seen as one of those drivers of disruption. However, the past few years have made it clear that a world of declining U.S. global leadership and an assertive China, of populist leaders and nationalist politics, and a rise of authoritarianism enabled or at least supported by technology has fundamental implications for the way companies do business.

Dealing with politics has been a way of life for companies for many decades, but dealing with the current geopolitical environment requires companies to think differently. Not only are today's political forces unprecedented in recent times, but there are new tools available to help companies respond. By framing politics differently within the organization, using new datasets that are now available, and establishing appropriate governance structures, West and Dhawan argue that companies can better manage, and boards can better oversee, political risks and seize opportunities from political dislocations.

Directors play a key role in the appropriate governance of geopolitics. They are key to ensuring that firms are adequately prepared to deal with geopolitical change—akin to how they've helped firms navigate other emerging risks such as environment, social, and governance or cyber. Some of the same techniques are relevant: appointing experts to the board or conducting regular risk reviews. But boards will need to go further than the typical responses if they are to be effective. Four key actions stand out in this regard from this chapter: to **anchor** political risk management within the leadership of the company by prompting a political risk-mapping exercise; to hold management to account to appropriately **analyze** the impact of different political scenarios; to build their own individual and collective capability to **assess** the responses of management; and to ensure that the firm regularly **adjusts** its understanding of the environment and recalibrates its responses accordingly.

Michael Useem, professor of Management, Wharton School, University of Pennsylvania, continues the risk governance discussion in Chapter 26, *Governing Boards, Risk Management, and Deliberative Thinking*. Useem argues that reducing large-scale risks, preparing for unthinkable events, and coming back from crises are certainly the province of company leadership at the top. And for that, a firm's governing board can serve as an invaluable advisor and partner. Yet until the turn of the century, relatively few boards were prepared to provide it, leaving risk management and continuity planning largely to those who run the firm day-to-day.

During the past two decades, however, Useem has found that this delegation of authority has been retracted at many firms, bringing the board directly into the business of risk protection. Major institutional investors have pressed for this. One of the largest, Vanguard Group with $5 trillion under management, has urged directors to serve as the "shareholders' eyes and ears on risk." The increasing engagement of boards in risk management is part of a broader trend toward a greater director partnership with company executives in a host of arenas, from company strategy to talent development. According to those that Useem and his colleagues have interviewed at more than one hundred of the country's largest corporations, directors now devote substantial attention to risk management.

Academic research points to the advantage of involving the governing board in risk management. In a study of 296 publicly listed companies, investigators found that companies that brought risk oversight into the boardroom exercised more effective oversight that correlated with stronger risk practices, operating performance, and share price.

Drawing on the governing experience of directors of the companies where Useem et al. interviewed, Useem concludes with eight guidelines for strategic thinking and risk engagement among company boards, including a call for directors to take direct responsibility for identifying hazards that can become disruptive or even disastrous if not detected early and mitigated effectively.

Next, we turn our attention to pay governance failure, the potential for fraud at companies, and the role of the board of directors in overseeing and detecting if not preventing this impropriety. I have called on legal and accounting experts who advise boards for their views.

Noted employment lawyer, **Howard Levitt**, senior partner at Levitt LLP, and **Allyson Lee**, associate at Levitt LLP, author Chapter 27, *Lawyers' Advice to Directors on Overseeing Executive Pay*.

Executive and board member compensation is an important aspect of corporate governance—but it is also rife with potential pitfalls and traps for the unwary. Every officer, director, and executive owes their corporation various legal duties, which can be difficult to reconcile with the realities of negotiating and setting executive compensation. Both the process and the outcome must be fair and transparent, with a failure to do so leading to serious legal consequences.

In Chapter 27, Levitt and his team go on to discuss golden parachute clauses, the formulation of compensation committees, and negotiating around the fiduciary duty, as well as the legal consequences of failing to abide by the required standards.

Whether you are an experienced board member seeking to keep yourself abreast of legal developments in this area, or are brand-new to the area of executive compensation, this chapter will take you through some practical steps that can be taken to prevent common errors—and provide some tips to ensure your compensation process and outcome (legally) pass muster, saving you from appearing as a cautionary tale in a chapter such as this one.

Next, we turn to **L. S. (Al) Rosen**, founder, Rosen & Associates Limited, for Chapter 28, *Accountant's Advice to Company Directors: Directors' Obligations to Detect Top-10 Frauds*. One of Rosen's favorite cartoons that he tends to show to his audiences displays a board member opening a window on the twentieth floor, and preparing to jump out. The board chair casually remarks to the others: "Well, at least one of you knows how to read financial statements." Rosen and his firm's experience is similar to that of the board chair. Lawyers/attorneys are not fond of financial reporting, nor are many judges.

Serious consequences can obviously arise from board decisions to act or not to act on emerging financial happenings. Litigation, for instance, can result and can drag on for many years. Rosen's personal record is 22 years. Cases involving board members, officers, external auditors, and similar can easily involve billions of dollars. Often given little attention in the media is the personal impact on each board member's health, and the time consumption.

This chapter is derived from actual cases. Similar themes and patterns often occur, and therefore ought to appear on directors' radars. Lawyers frequently ask Rosen why, on his first hearing of a description of what happened, he and his team display no facial reaction. Rosen's answer is simple: "It's not the first time we've heard this scenario." Most board members are in need of greater financial literacy. Sources other than the entity's financial statement auditors have to be consulted so as to avoid biases. Board procrastination has to be curtailed. Financial "cover-ups" should be minimized because they can be detected. And more.

This chapter attempts to introduce the importance of an often apparently neglected topic in board of directors' education. It is a hard-hitting and candid top-ten fraud list that will be useful to any company director regardless of the sector or industry. Rosen gives several examples for each fraud, which is even more instructive.

Next, to conclude our "anti-fraud" role of directors, and the red flags to recognize and guidance to act, we are joined by **James Hunter**, retired and past president of KPMG Forensic Inc., for Chapter 29, *Ten Tell-Tale Signs of Possible Fraud: A Director's Primer*.

A serious fraud, publicly exposed, will taint a corporation's reputation. The taint may attach to the board, to management, and indeed to anyone who is publicly associated with such a corporation. In extreme cases, corporate fraud can result in a liquidity crisis, or indeed, in bankruptcy proceedings which will likely be accompanied by protracted litigation played out in the business press. In many cases involving serious fraud, board members are among the last to find out what has been going on. That is hardly surprising since deceit is the hallmark of fraud; the perpetrators of fraud go to extraordinary lengths to hide their wrongdoing.

Fraud generally occurs over time. A vigilant board may be able to read the runes if they know where to look. But what should directors do to be able to nip corporate malfeasance in the bud? This chapter by Hunter attempts to answer this question. It has been prepared by a forensic accountant whose investigative experience has led him to identify some common fraud indicia which may give an informed board a heads-up that all may not be well.

F. Edward "Ted" Price, principal, Kingburg Governance, and retired deputy superintendent, Supervision, Office of the Superintendent of Financial Institutions Canada, authors Chapter 30, *100 Questions Directors Should Ask When Assessing the Effectiveness of Risk Systems*. This chapter is based on publicly available speaking notes that accompanied remarks delivered by Ted Price, and are reproduced with permission from Price for a speech delivered by Price after the Global Financial Crisis. Canada did not experience significant adverse effects of the above financial crisis, and had not had to bail out a financial institution. The federal financial regulator of banks, insurance companies, and other federally regulated financial institutions is very effective, and emphasizes effective risk management. (In full disclosure, the editor has advised the federal regulator in the past, and came to meet and know Mr. Price.)

Although the questions in this chapter have not been edited since their inception, they are effective questions that any good board should be asking in the area of risk management, particularly boards of financial companies. The editor is grateful to Mr. Price for permission to reproduce these questions.

Next, to conclude this part on risk and financial governance, we are joined by two risk governance experts. **Stephen J. Mallory**, risk and insurance industry executive, experienced board member, and risk and governance committee chair, authors Chapter 31, *Risk Oversight for Directors: A Practical Guide*. To oversee risk, the board must understand the basics in Enterprise Risk Management (referred to in this chapter as "ERM") and what is required of management to make it work and be sustainable. Mallory provides a high-level and brief introduction to risk oversight for directors—a practical guide to what's needed, and how to implement the risk oversight function.

Chapter 31 is structured as follows: (i) Introduction: What is the current state of board risk oversight, and why are directors challenged in implementing it; (ii) Section 1, Mechanics of ERM, which provides an overview of how ERM works, some key concepts directors need to understand, and why it is necessary for an interface between the board and management; (iii) Section 2, Board Risk Oversight: Effective board risk oversight is one of the five elements of ERM and must occur simultaneously while the other four elements are being coordinated; and (iv) Appendix A, Gap Study: A best practices checklist of ERM which briefly summarizes the components within each of the five elements of ERM (Education; Process, Governance, Oversight, and Strategy).

Second, **Ingrid Robinson**, director of Thought Leadership, Canadian Public Accountability Board, board director at Charitable Impact Foundation (Canada), former principal and managing director, Enterprise Risk

Management, BGIS Global Integrated Solutions, authors Chapter 32, *Risk Governance: Leading Practice and Demographic Impacts*.

As disconcerted stakeholders questioned what the board was doing to govern risk when Lehman Brothers ignited the seminal event of the 2008/2009 global financial crisis, effective risk governance was the rally cry that echoed throughout the globe. With the perception that reckless risk taking underpinned the economic turmoil, the spotlight turned on board oversight of Enterprise Risk Management (ERM).

It has been a decade since the onset of the global financial crisis. Have directors learned how to more effectively govern risk? What does effective risk governance require? How do board demographics (such as gender and professional experience) influence effective risk governance in practice?

Robinson explores these questions, unpacking global corporate governance rules and investor expectations for risk oversight and providing proven practical approaches to risk governance with a roadmap that all firms, not-for-profit, crown, public, and private, can aspire to. The chapter concludes with reflective insight of directors regarding the impact of board demographics on effective risk governance.

Part IV D: Strategic Governance

The theme of this part is business model disruption, technology, and the role of boards in strategic oversight, including governing for the longer term.

We begin with Chapter 33, *Agile Governance*, by **Scott Koerwer**, vice president and vice dean for Graduate Education at Geisinger Commonwealth School of Medicine, and **Joseph Perfetti**, award-winning professor of Finance, executive speaker, and entrepreneur.

Just as the environment for business leaders has changed in an increasingly agile world due to speed, complexity, and uncertainty, the roles and responsibilities for board members must also evolve. In order to be effective, value-adding directors and board members must understand the context and changing ecosystems within which their organizations operate. In this chapter, Koerwer and Perfetti offer four agile governance principles and a toolbox for directors to help them stay aligned with the markets in which their companies compete.

The essential attributes for agile board members are that they must own organizational purpose, press leadership for continuous reinvention, mandate acquisition of institutional capacity, and ensure an appropriate balance of risk and reward. Optimization of historic models of governance will not enable organizations or their leadership teams to build a sustainable enterprise. As complexity increases in the workplace, boards must ensure that organizations do not try to do the wrong things right while optimizing legacy models in a changing world. They must be as resilient and dynamic as the markets their organizations compete within.

Next, we speak to how to govern for the longer term in Chapter 34, *The Three Dilemmas for Creating a Long-Term Board*. We are joined by **Ariel Fromer Babcock**, managing director, Research, FCLTGlobal; **Robert G. Eccles**, visiting professor of Management Practice at Saïd Business School, the University of Oxford, founding chairman of the Sustainability Accounting Standards Board, and one of the founders of the International Integrated Reporting Council; and **Sarah Keohane Williamson**, chief executive officer, FCLTGlobal.

Arguably among a company's biggest untapped strategic assets, a well-functioning corporate board of directors wields the power to meaningfully influence the purpose, culture, and direction of an organization. While many boards may display good corporate governance principles, the most effective boards leading companies with consistent track records of long-term value creation are truly long-term boards.

These long-term boards may look different around the world, but they share a few key characteristics:

- Time Spent on Strategy—Long-term boards prioritize the future of the business, including spending significant time on strategy, business model, risks, and the company's value creation proposition.
- Directors as Owners—Long-term boards build and perpetuate an effective board over time by acting like owners, aligning the board's interests with shareholders, often via stock ownership.
- Board-Level Engagement with Shareholders—Long-term boards possess a strong understanding of the objectives of long-term shareholders and regularly engage with them on topics of strategic importance.

However, achieving this combination of characteristics presents the board with three meaningful dilemmas:

- Should boards devote more time to strategy by spending less time on routine matters or do they need to spend more time on board work overall?
- Can board members be meaningful owners of the companies they serve without getting caught up in the short-term pressures caused by gyrations in market valuation and volatility?

- How do board members engage with shareholders without distracting or undermining management?

Through a series of in-depth interviews with institutional investors, senior directors, and board consultants, the authors gathered perspectives on how leading boards have tackled these challenges and found that getting these things right often creates a virtuous cycle that entrenches a long-term approach to value creation at the board level.

To conclude this part on strategic governance, **Estelle Métayer**, principal and founder of Competia, authors Chapter 35, *Strategic Blindspots in the Boardroom*.

Even the most sophisticated companies fail sometimes to pick up signals that the environment is about to change. When strategic decisions are largely driven by anecdotes, executive intuition, and past experiences, companies run the risk of making decisions based on biased information and wrongly rejecting potential growth avenues and hence limiting entrepreneurial opportunities.

The objective of this chapter is to introduce to board members tools and methodologies to identify and prevent strategic blindspots and unlock future opportunities for growth. More specifically, this chapter will outline questions directors should ask to reveal sources of strategic blindspots, to ask management to develop tools and frameworks to test industry boundaries and challenge unchallenged assumptions and develop the toolkit to tap into insights at the periphery of their industry.

Part IV E: Human Capital and Compensation Governance

Now we move to our next important governance topic: human capital and compensation governance. We are joined by human resource, legal, and pay experts who speak to human capital data analytics, the compensation committee, setting incentive compensation for management, strategies to align incentive pay and performance, and the role of the human resource function in human capital and executive pay.

Solange Charas, board advisor, senior-level HR executive, entrepreneur, and adjunct professor, and **Michael Young**, partner, Willkie Farr & Gallagher LLP, start us off with Chapter 36, *Winter Is Coming: The Approaching Human Capital Management Storm*. One of the biggest frustrations of board governance can be understanding the effectiveness of a company's workforce. To be sure, workforce effectiveness is ultimately reflected in financial performance—revenue growth, expense management, earnings, and so on. But being briefed on the financial "bottom line" doesn't necessarily reveal those factors that are contributing to—or, more ominously, detracting from—optimum results. In particular, financial results can disguise, rather than illuminate, the extent to which a company's workforce is being effectively deployed.

The resulting information gap is giving rise to a new area of corporate governance: human capital data analytics. The underlying concept is that, within any company, there is data about the company's human capital—that is, data about the behavior and performance of its people and people programs—that may correlate to indicators of financial performance. The goal of human capital (HC) analytics is to make such information available to the board of directors in a way that is objective, reliable, easily understood, and validated through statistical approaches. Ultimately, the data-metrics approach translates human capital data into financial ratios that allow the drivers of economic value creation to be more readily understood, measured, and benchmarked.

This chapter provides a practical introduction to the use of HC data analytics. It focuses on the increasing attentiveness of the SEC and others on data analytics usefulness and disclosure, the links between human capital and financial performance, and standardized measures that can be effectively examined and benchmarked. The goal is to allow a board of directors to better understand the dynamics of workforce deployment and the extent to which it is contributing to, or detracting from, sustainable financial results.

Next, **Steven Hall** and **Steven Hall Jr.** of Steven Hall & Partners author Chapter 37, *The Effective Compensation Committee*. The authors discuss the current landscape of corporate governance best practices related to executive pay and provide practical advice about the keys to an effective compensation committee grounded in their collective experience as practitioners in the field for over 60 years. They begin with a discussion of the appropriate roles of various participants in the process, including the compensation committee, its chair, its outside advisors, and management. They describe the foundation of the committee's work, the compensation committee charter, the company's compensation philosophy, and the committee calendar, and provide examples of what these items include and how they should be structured to ensure a well-functioning compensation committee. The authors then cover one of the most challenging tasks for today's compensation committees: that of aligning pay with performance.

In Chapter 37, Hall and Hall Jr. provide an overview of issues compensation committees should consider when selecting forms of incentive compensation, how to select performance metrics and targets that motivate and reward performance consistent with the strategic objectives of the organization, and when it may make sense to use committee discretion to ensure that payouts are appropriate. The chapter concludes with a summary of shareholder engagement best practices in a Say-on-Pay environment, including ways to mitigate shareholder critiques of the program, the role compensation committees, and particularly committee chairs, should play as ambassadors of the pay program, and how to navigate the influence of shareholder advisory firms.

Paul Gryglewicz, senior partner at Global Governance Advisors, authors Chapter 38, *Compensation Governance and Performance-Based Executive Compensation*. Compensation governance is an evolution, according to Gryglewicz. This chapter explores today's leading practices of compensation governance and trends in performance-based executive compensation. The learnings are derived from real-world examples from two of the world's largest organizations. In addition, the chapter incorporates institutional shareholder perspectives learned through the author's direct experience advising many of North America's publicly traded organizations.

The approach a board follows in reviewing and establishing compensation is the determinant in being fair and justifiable. The key learnings objectives of this chapter include: (i) responsibilities expected of the Compensation Committee; (ii) four steps to follow when evaluating compensation; (iii) the role of the independent advisor to the Compensation Committee; (iv) developing a clear and transparent communication with shareholders through the Proxy Circular (DEF 14A); (v) key trends in annual and long-term performance-based compensation; (vi) framework to review annual and long-term incentive plans against the corporation's business strategy; and (vii) how and why to select various equity vehicles to incentivize executives and how to incorporate performance vesting compensation that aligns future compensation with shareholder value creation.

Stephen F. O'Byrne, president of Shareholder Value Advisors, weighs in with Chapter 39, *Measuring and Improving Pay for Performance: Board Oversight of Executive Pay*. O'Byrne gives directors key concepts and measures to help them manage executive pay. The responsibility of the board is to ensure that the company's executive pay program achieves the three basic objectives of executive pay: (i) providing strong incentives to increase shareholder value, (ii) retaining key talent, and (iii) limiting the cost of executive pay to levels that will maximize the wealth of existing shareholders. To do this, the board needs meaningful measures of incentive strength, that is, pay sensitivity to performance, and the pay premium at industry average performance.

The measures commonly used for board oversight of executive pay—percent of pay at risk and competitive position—are, O'Byryne maintains, very poor proxies for incentive strength and the pay premium at industry average performance. A competitive position target (e.g., fiftieth-percentile target pay regardless of past performance) creates a systematic "performance penalty." Superior performance—a rising stock price—is penalized with fewer shares because fewer shares are needed to deliver target dollar pay, and poor performance—a declining stock price—is rewarded with more shares because more shares are needed to deliver target dollar pay. Even with a high percentage of pay at risk, a competitive position target undermines the link between cumulative pay and cumulative performance.

In his chapter, O'Byrne shows that there is a simple, but very informative, analysis that uses relative pay and relative performance to quantify incentive strength, alignment of relative pay and relative performance, and the pay premium at industry average performance. The analysis can be used to benchmark incentive strength, alignment, and performance adjusted cost. It can also be used to understand the pay design needed to provide a perfect correlation of relative pay and relative performance and why several widely accepted pay practices undermine pay for performance.

In Chapter 40, *Designing Performance for Long-Term Value: Aligning Business Strategy, Management Structure, and Incentive Design*, **Mark Van Clieaf**, a partner with Organizational Capital Group, addresses the controversial and unsolved governance problem of the oversight of executive pay for performance, offering tangible reforms. How should performance and success be measured in public companies? Why are total shareholder returns and earnings per share not the optimal performance metrics for management incentives to align with long-term shareholder value? What key performance metrics should management be measured on to align the business strategy and value drivers of both the current and future value of the enterprise?

Over 75 percent of public companies are missing essential performance metrics to measure capital efficiency (return on invested capital, return on assets) and innovation (new products, new markets, new business models—including Net Zero greenhouse gas business models that align with the Paris Agreement on climate change), which together are required to drive long-term shareholder value. Van Clieaf identifies opportunities and action plans for more effective corporate governance that enhance performance measurement and incentive design to better align with enterprise value drivers and the integration with management structure design and pay for performance.

Lastly, to conclude this part, the important role of the human resource function within the company is thoroughly explored. **Jay A. Conger**, Henry Kravis Chaired Professor of Leadership Studies at Claremont McKenna College, and **Edward E. Lawler III**, distinguished professor of Business and director of the Center for Effective Organizations in the Marshall School of Business of the University of Southern California, write Chapter 41, *Mind the Gap: How Human Resources Can Be More Integral to the Corporate Boardroom Agenda*. When it comes to human capital issues, corporate boards have focused narrowly on two human capital topics: executive compensation and succession. Surprisingly, they rarely consider overall workforce and talent management issues when weighing the strategic choices facing their organizations. Even the most senior human resources leader, the chief human resources officer (CHRO), rarely plays more than an advisory role to the board. As a result, their voice has limited input into issues facing boardrooms like talent readiness, change management, corporate governance practices, and board effectiveness.

With such limited attention to human capital, what are the potential costs to boards and their corporations? This chapter argues that they are very high. The most visible and pronounced shows itself in CEO turnover. While CEO succession is a primary focus of boards, the executive pipelines of talent in many companies are remarkably shallow. There are simply too few internal candidates to choose from. In large part, Conger and Lawler attribute this critical shortage of talent to lack of understanding on the part of boards of talent strategies and processes. But there are additional potential costs. Since the CHRO is not a strategic partner with the board, investments in talent management fall to the discretion of the standing CEO who may or may not have a concern about the quality and depth of his or her talent bench.

To remedy this critical gap in human resource expertise and perspectives, the authors outline several steps that boards need to undertake. These include: (i) ensuring the presence of the CHRO or a director with HR expertise at every board meeting, (ii) establishing a human capital scorecard for the board, (iii) holding education sessions for the board on human capital management, (iv) establishing a human capital board committee, and (v) developing greater "boardroom presence" in CHROs themselves.

Part IV F: Legal and Governance Responsibilities of Directors

We now visit the legal and governance responsibilities of directors. I have asked the three authors to speak to criminal and regulatory liability of directors, the role of an effective corporate secretary to the board, and proper subsidiary governance, which are three important areas for directors currently.

To begin, **Norm Keith**, partner in the Toronto law firm of Fasken, authors Chapter 42, *Board Risk and Responsibility Under Regulatory and Criminal*

Law. Regulatory and business crime law and enforcement is often new to many directors. A hallmark of regulatory and business crime enforcement is a criminal prosecution. The prospect that directors could face serious charges, a public trial, and even go to jail for the contravention of a large number of safety, AML, anti-bribery, environmental, securities, anti-corruption, product security, tax, and financial standards is not typically dealt with in director recruitment, onboarding, or ongoing director training. This belief is false and mistaken.

Certainly, the Westray Mine Disaster is a classic example of reaction of politicians and their proclivity to pass new laws, whether required or not, to deal with the apparent moral panic. Establishing a positive duty in the *Criminal Code*, under Section 217.1, in effect creating a new criminal offense of occupational health and safety criminal negligence for directors, managers, and organizations is the net result of the legislative reaction to the Westray Mine Disaster.

Deferred Prosecution Agreements (DPAs) are now in vogue and available in most major western liberal democracies. DPAs are a reasonable and effective way to resolve allegations of regulatory or criminal conduct by persons, without the need to register a formal conviction and have the consequential regulatory or criminal penalties. Canadian DPAs are relatively new and called Remediation Agreements. They are not, however, available to individual defendants.

Keith argues in Chapter 42 that the importance of understanding and ensuring a high level of personal due diligence by senior management and corporate directors is critical. The consequences to them personally, as well as to the organization which they are responsible to govern, are critical. Such awareness, knowledge, and commitment by directors will inevitably lead to better questions being asked of senior management, better management systems of legal standards, and considerably lower risk of legal liability for directors and the organizations which they govern.

Our second topic in this part is the important governance role of the company secretary. **Douglas K. Chia**, president of Soundboard Governance LLC, fellow at the Rutgers Center for Corporate Law and Governance, and senior fellow for The Conference Board, authors Chapter 43, *Riding Between the Cars: The Position of Corporate Secretary*. The importance of the corporate secretary in corporate governance is one that many are not aware of. Like the job of the public company director, the job of the corporate secretary has become more complex as shareholders and other stakeholders have heightened their expectations for the role the board of director plays in overseeing management.

Once seen as a corporate officer appointment with few critical responsibilities beyond the "care and feeding" of the company's directors and serving as a scribe at board meetings, the corporate secretary has evolved into a key focal point within a public company and the internal gear-hub of corporate governance. In this chapter, the author—a seasoned former corporate secretary—explains the role of the corporate secretary, starting with the legal origins, and the evolution and expansion of the job through the Sarbanes-Oxley and Dodd-Frank eras. Chia explains the corporate secretary's role in shareholder engagement and potential conflicts that can place a corporate secretary in precarious situations. The author also discusses the future of the role of the corporate secretary.

Thomas C. Sears, a retired Canadian Bank executive who headed international subsidiaries for over 15 years, weighs in to conclude this part with Chapter 44, *Ensuring Good Governance and Business Success in International Subsidiaries*. Experienced business leaders know the risks they face in expanding their business lines into different countries. Will the new market accept products that may have proven highly successful in your home and even other countries?

For example, why did McDonald's fail in Barbados? Why did Disney almost fail and needed a reboot in Europe? Local cultures did not accept the product on offer. Why did the world's oldest merchant bank go bankrupt due to activities in their Singapore subsidiary? How did ENRON get away with cooking their books through their Cayman subsidiary and local board? These were failures of governance. When expanding internationally, how do you balance the need for business success with the board's requirement for good governance and controls? Can these seemingly contradictory strategic needs live in harmony? Sears shows how to do both in this important chapter on effective subsidiary governance.

Part V: Shareholder Engagement and Board Accountability

We are joined in this part by a mixture of academic and practitioner authors, including those with deep experience as institutional and retail shareholders in interacting with boards of directors.

We begin with **Stephen Davis**, associate director of the Harvard Law School Programs on Corporate Governance and Institutional Investors, and a senior fellow at the Program on Corporate Governance, who sets out Chapter 45, *The Rise of Investor Stewardship*. Davis correctly argues that pressure is rising on institutional investors worldwide to replace long-entrenched shareholder habits of complacency, favoritism to corporate management, and passivity, with a new discipline of "stewardship"—that is, a culture of engagement, independent voting, and attention to environmental, social, and governance factors.

This chapter describes this unprecedented phenomenon, which has led the world's largest mutual funds to invest substantially more in stewardship. It also spotlights how the emergence of stewardship carries far-reaching implications for corporate directors. For one, stewardship has driven institutional investors to be far more open to activist challenges to portfolio companies. For another, investors are far more likely to vote against management on pay, director elections, and shareholder resolutions. These trends put the corporate board under a microscope, giving rise to a need for new strategies to protect director reputations, status, and impact. Davis explores shareholder stewardship thoroughly.

Next, we are joined by an author who has led engagement with directors on behalf of institutional shareholders. **Stephen Erlichman**, barrister and solicitor, and past executive director, Canadian Coalition for Good Governance, authors Chapter 46, *Director/Shareholder Meetings*.

In this chapter, the author (i) provides reasons why directors and institutional shareholders should proactively carry out private engagement meetings; (ii) sets out public commentary about director/shareholder engagement in various jurisdictions, so that directors can understand the "lay of the land"; (iii) in order that directors can understand how collective engagements can function, describes how the Canadian Coalition for Good Governance (where Erlichman was the executive director for seven years) carries out director/shareholder engagements; and (iv) provides his thoughts on carrying out director/shareholder engagements, informed by the author's prior role where he led over 85 private engagement meetings with directors, as well as by the author's role advising companies and institutional investors as a practicing corporate/securities lawyer at major law firms in the United States and Canada over the past 35 years; and (v) sets out some concluding thoughts.

Next, to address the important topic of dual-class shares, we are joined by **Anita I. Anand**, J. R. Kimber Chair in Investor Protection and Corporate Governance and academic director, Centre for the Legal Profession and Program on Ethics in Law and Business, Faculty of Law, University of Toronto, who authored Chapter 47, *Dual-Class Share Firms in Developed Market Economies*. A dual-class share (DCS) structure involves the issuance of two or more different classes of shares whereby one class has substantial voting rights while the other class has fewer voting rights relative to the shares held. There has been a proliferation of firms adopting a DCS structure.

This chapter analyzes the benefits and detriments of DCS structures. Anand argues that DCSs encourage managerial entrenchment and insulation, which can disadvantage the interests of the subordinate shareholders who lack meaningful voting rights. The chapter presents solutions to improve the governance of DCS firms, such as mandatory sunset provisions, disclosure relating to shareholder votes, and buyout protections. Given that DCS structures fall within a legal regime that is mandated to protect investors' interest, this analysis of DCS is timely.

Carol Nolan Drake, founder and CEO, Carlow Consulting, LLC, and former chief external affairs officer and corporate governance manager, Ohio Public Employees Retirement System, authors Chapter 48, *For Directors: The Long-Term Relationship Between Directors, Companies, and Institutional Investors*. While many large-cap company board members serving as chairpersons, lead directors, or chairs of the Compensation, Nominating/Governance and/or Audit Committees have had contact with institutional investors, there are still directors who have not had the benefit of these conversations. They may be directors at smaller cap companies or newly appointed directors. Their time is coming, though.

These directors will be approached by institutional investors who will want to discuss diversity on the board and within the company, board refreshment and evaluations, ESG, human capital management, and the recent "profit vs. purpose" debate. Building off of Erlichman, this chapter will help directors gain insights into why the institutional investor has contacted you and how their long-term investment strategy can benefit the company.

Institutional investors have ownership in thousands of companies. If you are fortunate enough to be contacted, it means that they chose to talk with you for a reason. They are an early warning system, offering insights and observations. They want to get on your calendar before serious issues arise. And as long-term investors, they might be able to help the company survive a proxy battle, or resist an activist's short-term effort to break the company apart or force a merger/acquisition. They can be one of your strongest allies.

When an institutional investor contacts you, do not worry, Nolan Drake maintains—it is a good thing. By the end of this chapter, the author's goal is for directors to understand the role they play in the markets, their point of view, and how you *both* can maximize this mutual relationship for the company's long-term growth.

Last, but certainly not least, we turn to retail shareholders and their impact on governance. Our expert here is **James McRitchie**, founder and publisher of *Corporate Governance* (CorpGov.net) and shareholder advocate. McRitchie authors Chapter 49, *Proxy Scorecards Will Empower Investors*.

According to McRitchie, real-time disclosure of corporate proxy votes in a sortable format will lead to competition among funds, based not only on historic costs and returns, but on values expressed in vigorously debated proxy scorecards. Inflows into socially responsible investments (SRI) and environment, social, and governance (ESG) funds demonstrate that investors care about the impact of their investments, as well as monetary return. The Business Roundtable is moving in the same direction with new concerns about the impact of corporations on all stakeholders. Yet, most funds do not fully consider investor values when voting their proxies.

Internet sites and phone applications will revolutionize how information is shared by investors and companies, the author predicts, allowing much wider participation in ESG issues. As funds begin to learn their customers' full spectrum of values and compete around issues of concern, investors will have advocates. Directors will have constituents. Corporations will foster democracy and innovation. A retired regulator, former board member, and activist, McRitchie concludes this part by providing insider knowledge of how individuals can work together, transforming companies to serve society as well as shareholders.

Part VI: Not-for-Profit Governance

We now turn to not-for-profit governance more closely, including the legal and governance environment (Chapter 50), red flags and best practices for not-for-profit boards (Chapter 51), and fundraising by directors (Chapter 52).

We are joined first by **Donald J. Bourgeois**, barrister and solicitor, author of Chapter 50, *Charitable and Not-for-Profit Organization Governance*. The role of a director in a charitable or not-for-profit organization is not fundamentally different from the role of directors in business corporations. "Good governance" remains "good governance" regardless of where the director fulfills his or her obligations.

But the context for "good governance" and the "what" and "how" directors do their job is different. An equally important difference is the "why." The public expectations on charitable and not-for-profit organizations and how they achieve their objectives creates nuances and complexities for directors that are not as readily apparent for directors in businesses.

Don Bourgeois reviews these differences, their effect on the role of directors, and the tools available to directors to fulfill their fiduciary and trustee-like duties.

Adam Quinton, board member, adjunct professor, and start-up investor and advisor, authors Chapter 51, *The Best of Boards, the Worst of Boards: The Not-for-Profit Experience*. With immense scale and reach into the lives (and wallets) of millions of citizens, the good governance of Not for Profits (NFPs) is crucial to ensuring their ongoing impact and public support. The legal construct as well as the roles and responsibilities of the board of an NFP bear many similarities to those of their for-profit cousins, including the duties of care and loyalty. However, there are significant differences.

Most important is the overarching importance of the board's *fiduciary duty* because NFPs are custodians of contributed funds. NFPs present a set of unique tensions and dilemmas that can bring out the best, and sadly also the worst, of the governance issues and challenges that any board can face. Quinton argues that the high-performing NFP board goes beyond checking governance boxes to anticipating future boxes that may need to be created and addressed. Specifically, high-performing NFP boards can be evaluated by several characteristics: values and culture, composition, structures, and processes. Of course, in addition, they are composed of high-performing individuals.

And the worst of not-for-profit boards? This chapter concludes that many of the factors that contribute to bad NFP board outcomes stem from their being too comfortable, too easy going, and reluctant to sanction members who are doing their board work for passion and not hard compensation.

To conclude this part on not-for-profit governance, we canvass the important role of fundraising governance. **Stephanie Cory**, philanthropy and governance consultant, authors Chapter 52, *Fundraising Best Practices for Not-for-Profit Boards of Directors*.

How should a board of directors best participate in fundraising? This chapter addresses the role of the board and the role of individual board members in fundraising. The board is charged with identifying what resources are needed and establishing policies for how these resources will be acquired. The board should also determine how each board member is expected to participate in fundraising, which is typically to contribute financially, help develop a fundraising plan, and support the organization's solicitation efforts. This chapter discusses best practices that can be applied to organizations of all sizes and maturity levels.

Learn why it is important for your board to play an active leadership role in fundraising. In order for an organization to succeed in fundraising, its culture needs to support it. Learn how to build a culture of philanthropy at your organization and how to establish board giving expectations that are appropriate for your organization. Learn what role the board plays in overseeing fundraising to ensure appropriate planning and adherence to ethical standards. Determine if a development committee is appropriate for your organization, and what role it will play in fundraising. Learn about the fundraising cycle and how all board members can be engaged without necessarily making solicitations. With exercises, real-life examples, and sample documents provided in this chapter, Cory will prepare not-for-profit directors to fulfill their fundraising duties.

Part VII: Small and Medium Company Governance

We now turn our attention to small and medium company governance. We are joined by four authors from Finland, the United States, and Canada. Chapter 53 homes in on the governance or small and medium-sized entities, and Chapter 54 sets out the governance differences between private and public company governance. Canada and a number of U.S. states have recently legalized cannabis, and Chapter 55 speaks to the governance of cannabis companies, which can be private or publicly traded but are small or medium-sized nonetheless.

Jo Iwasaki, investor relations at Helsinki Capital Partners, authors Chapter 53, *Governance of Small and Medium-Sized Entities*. This chapter reviews existing studies on and frameworks for SME governance. Notwithstanding the known importance in national economies, the small- and medium-sized entities (SME) sector is often outside the scope of governance debates. This is primarily due to their size and noninvolvement in capital markets.

However, this is not to say that governance has less relevance for SMEs. Aside from aspects of established governance frameworks linked to the agent-principal problem, the importance of long-term vision and strategy, internal control, and reputation and ethical culture are applicable to all companies. Iwasaki adeptly lays out best governance principles and practices of small and medium-sized companies.

Next, **Carol Nolan Drake**, founder and CEO, Carlaw Consulting, and **Sally J. Curley**, CEO of Curley Global IR, co-author Chapter 54, *Private versus Public Company Governance: Top-13 Questions for Board Members to Consider*. Today's entrepreneurs are admired for their ingenuity and extraordinary work ethic as they bring ideas to life through distinct corporate ventures.

While the concept of corporate governance is not new, formal, good governance is relatively new in the context of history. Most states initially allowed free incorporation and required only a simple registration. Each state developed its own set of corporation laws as more sophisticated corporate entities were needed. Over the decades, the U.S. Congress passed major pieces of legislation to address securities regulation, capital formation, and the necessary regulatory frameworks.

In this chapter, Nolan Drake and Curley explore the differences and similarities between private and public companies, governance models, the opportunities each offers, and the challenges they face. They address good governance practices that are important for a board of directors as well as the C-suite. The authors examine the distinct roles of the private and public company boards of directors and CEOs, as well as the consideration given to taking a company public versus growing it privately. Finally, this chapter discusses emerging governance trends that are relevant for both private and public companies.

The authors interviewed a number of founders, CEOs, venture capitalists, as well as private and public company board members. The interviewees discussed the serious time commitment necessary to keep private companies afloat and financially on track, and they, too, worry about reputational risk, competition, relationships with investors, attracting capital, and shaky public markets, more so when a private company becomes public.

The authors hope that this chapter provides insight into governance best practices and will be a guide should a private company desire to merge with or transform into a public company.

Lastly, to conclude this part on small and medium company governance, **Steve Chan**, vice president of Corporate Affairs and corporate secretary at The Supreme Cannabis Company, authors Chapter 55, *Cannabis Governance: Advice for Current and Prospective Directors in This Emerging Industry*.

The emerging cannabis industry represents one of the most exciting and promising growth sectors in recent memory—a "green rush" that is estimated to be US$10–$12 billion today and expected to grow to US$100–$140 billion by 2029. As with any nascent industry, it faces challenges and more recently some high-profile scandals have been a black-eye to the space.

This chapter provides prospective and current corporate directors of cannabis companies some practical advice and insights to consider on how to oversee and govern in this new industry.

Part VIII: Global Corporate Governance

To conclude this part and the *Handbook*, we now focus our attention on global governance, including, in no particular order, governance within Australia, India, Singapore, the United States and UK (Chapter 56), Asia-Pacific (Chapter 57), China (Chapter 58), Russia (Chapter 59), the Caribbean Region (Chapter 60), and South Africa (Chapter 61).

Hari Panday, president and CEO, Pan Vest Capital Corporations, and professional director and board chair, authors Chapter 56, *Cross-Border Corporate Governance*. The tide of globalization today has taken a shape that has taken several decades to evolve. Let the truth be known—this activity stretches well beyond sale of goods and services. Further, foreign operations are no longer limited to bilateral arrangements (i.e., between just two countries). They have taken many forms, involving multiple countries as trading and political blocs, for example, European Union, North America Free-Trade Agreement (NAFTA), now reshaping as the new United States–Mexico–Canada Agreement (USMCA), the Association of Southeast Asian Nations (ASEAN), MERCOSUR—a customs union between Brazil, Argentina, Uruguay, Paraguay, and Venezuela, and Pacific Alliance—a regional trade agreement between Chile, Colombia, Mexico, and Peru.

The global footprint for multinational companies has become central to their corporate strategy and advantage. Concurrently, a new set of demands have surfaced, especially, for the board of directors and the chief executive officers with respect to their enterprise-wide oversight and leadership, and operational and risk management. Corporate boards, the C-suites, and risk managers in such entities are paying attention to the governance demands in a holistic way, sometimes under the cover of geopolitical risks.

Cross-border governance requires a new lens, talent pool, knowledge, and skillset. Flow of capital, interconnectivity of capital markets, rising cooperation among regulators and enforcement agencies, and serious breaches in numerous foreign operations now demand that the parent company board of directors can no longer leave cross-border governance on the far side of their boardroom table. The issues have become multiple times more complex.

In this chapter, Panday examines a combination of emerging and developed economies. These countries have also shown how they are proactively reshaping their governance framework for a sustained growth trajectory under normal international business climate influencing multiple locales while withstanding catastrophic events.

John Zinkin, managing director of Zinkin Ettinger Sdn Berhad, authors Chapter 57, *Corporate Governance in Asia-Pacific*. As economic power moves east and "Anglosphere" sources of capital become less important, global investors need to reconsider whether the basic assumptions of Anglosphere corporate governance are appropriate in Asia-Pacific markets, given there are three market models: Anglosphere Australia; "hybrid" Hong Kong, Malaysia, and Singapore; and "controlled" for the rest.

Investors must judge each capital market on its own merits, including whether the corporate governance "ecosystem" supports/weakens its regulators. Australia needs an overhaul of its banking system and a national anti-corruption agency. Hong Kong and Singapore have introduced dual-class shares and Korea is considering following suit, undermining the "fairness principle." Malaysia's new government needs to make headway against the corruption and cronyism of the previous government. Taiwan and Thailand are making progress, but press freedoms are under pressure. India's banking governance needs overhauling. Japan needs to have hard law reform rather than just relying on soft law. China's increased emphasis on Communist Party control at all levels is a cause for concern. Corporate governance reform is a low priority for both Indonesia and the Philippines.

There has been remarkable improvement in regulatory approaches to corporate governance since the Asian Financial Crisis of 1998. However, the *fairness principle* is threatened by jurisdictions introducing dual-class shares to compete with the United States for IPOs. That said, the fairness principle may matter less because, unlike in the United States and the UK with their dispersed shareholders, controlling shareholders are the norm and behave like owners, with skin in the game. Research by Credit Suisse shows controlled companies deliver superior long-term returns as a result. Perhaps Asian entrepreneurs' approach to long-term value creation is best reflected by the following:

> "Customers should be number 1, employees number 2, and then only your shareholders come at number 3."
>
> —*Jack Ma, founder of Alibaba*

We then turn to corporate governance within China and the role of the government. **David H. Zhu**, associate professor of Management and Entrepreneurship, W. P. Carey School of Business, Arizona State University; **Wei'An Li**, professor of Management and Governance, China Academy of Corporate Governance/Business School, Nankai University; and **Yaowei Zhang**, associate professor of Management and Governance, China Academy of Corporate Governance/Business School, Nankai University, author Chapter 58, *Boards of Directors of Chinese Companies*.

This chapter discusses boards of state-owned and private firms in China. The authors start by discussing the importance of boards and documenting the evolution of the Chinese board governance system over time. They then discuss regulations and practices related to the boards of state-owned firms in China, especially enterprises solely funded by the state. In addition, the authors discuss the boards of private firms in China, evaluating the relationship governance model of these firms and highlighting the challenges of their executive successions.

Zhu, Li, and Zhang then provide an overview of the Nankai Corporate Governance Evaluation System, which is the first and most influential corporate governance index in China. Using 16 years of data on the Nankai Board Governance index, the authors present evidence on how board governance of Chinese firms has changed over time. They conclude Chapter 58 by offering suggestions on how to improve the Chinese board governance system in the future.

We then turn to corporate governance within Russia and the challenges that have been faced, as well as a historical perspective. **Alexander A. Filatov**, IoD Chartered Director and Independent Director Association in Russia cofounder, authors Chapter 59, *The Russian Corporate Governance Story*.

The specifics of corporate governance in Russia are associated with the lack of dispersed shareholding. Filatov contends that all companies, both state owned and private, have a controlling shareholder who makes all decisions. The board of directors as a governing body functions in many cases formally, approving the decisions of the owner. At the same time, the Russian Corporate Governance Code formally meets best international standards for protecting interests of minority shareholders and information disclosure.

The issue is with law enforcement and the work of the judicial system, decisions of which in many cases are influenced by telephone law from political leadership and by corruption. Recent Western sanctions caused reaction from the Russian government, which resulted in imposing restrictions on information disclosure by the companies included in the sanctions lists, and hiding information on their procurements. There is a decreased level of transparency of major state-owned companies.

Filatov depicts the genesis and development of corporate governance in Russia from inception to its current state observed through the eyes of a corporate board director who practically participated and contributed to it.

We now move the countries of the Caribbean region and call on our resident governance expert, **Ronaele Dathorne-Bayrd**, Regional Corporate Services leader, PwC in the Caribbean, and partner, Tax and Legal Services, PwC East Caribbean, who authors Chapter 60, *CARICOM (Caribbean Community) Governance*.

The countries of CARICOM face many challenges to economic development, but they are also overflowing with the potential to make their mark on the global landscape, with the diversity, strength, and talents of their people being their greatest assets. These small independent nations stand to benefit tremendously from greater private and public sector focus on governance that seeks to acknowledge all stakeholders, supporting the economic, social, and environmental effectiveness of their companies. The region has made some progress in this area, but much more may be accomplished toward supporting the sustainable growth of the region's companies and economies.

Lastly, we journey from the Caribbean to South Africa, where **Parmi Natesan**, CEO of the Institute of Directors in Southern Africa, and **Prieur Du Plessis**, chair of the Institute of Directors in Southern Africa and of Plexus Holdings, author Chapter 61, *King IV: Taking Corporate Governance to the Next Level*. The King Reports, in the view of the editor, have been among the best governance codes ever produced anywhere in the world, so these authors were specially invited to this edition to comment on the fourth King report, entitled "King IV."

The King Committee's fourth *Report on Corporate Governance for South Africa 2016* introduces important conceptual changes designed to make corporate governance both more effective and more flexible. This chapter takes a highly practical approach, indicating how the changes respond to challenges experienced in the implementation of the preceding King Codes. It will make it much easier to implement King IV by making the thinking behind it clear. It will also be useful for anybody who wants to understand how to move from a compliance mindset to embed corporate governance into the organizational DNA.

The chapter falls into two distinct parts: The first unpacks the most significant foundational changes introduced in King IV while the second identifies specific content or technical changes/shifts.

Important foundational innovations include the primacy of ethical leadership to corporate governance, a focus on conduct and outcomes, and how the "apply and explain" reporting regime and the principle of proportionality contribute toward making corporate governance more effective, and yet easier to implement. Greater flexibility and effectiveness are also supported by the rigorous distinction between principles and practices, and the reduction in the number of both. King IV also offers concrete, practical guidance on how to apply the Code to different types of organizations.

This chapter concludes with the second section of the chapter outlining the major technical changes prompted by these conceptual changes. Topics covered include integrated reporting, composition of governing bodies, delegation, remuneration and performance evaluations, among others. It also explains King IV's approach to risk, and the reason it separates technology and information within the governance context.

Conclusion: Future of Board Governance and Unresolved Issues

These 61 chapters offer an impressive array of new information on current issues and best practices in the area of board governance. This is the second edition of the first book of its kind to publish such a comprehensive and deep array of topics and coverage.

Corporate governance continues to evolve at a rapid pace. Some of the current topics that I anticipate will evolve and are in need of greater attention of readers include:

- Climate change and sustainability governance, and more broadly, certain political inaction and the maturity of nonfinancial risk management and assurance;
- The rapid development of information technology and company size, including Facebook, Twitter, and Amazon, and addressing issues of disruption to business models, state-sponsored interference and cyber breaches, safety, security, privacy, and terrorism;
- Addressing the governance of pay for performance, undue risk taking, and wealth inequality;
- The challenges of board composition, diversity, and demographic and generational change; and
- The need for stakeholder accountability, balanced with long-term investment, innovation, and value creation.

I hope you find the second edition of this *Handbook* a valuable resource in your own education and development. All chapters are written by leading global subject matter experts. I welcome your comments and suggestions. For teaching materials or resources, please feel free to contact me as well.

Thank you.

Richard Leblanc, PhD

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