Davis Polk

As Spencer Stuart Releases its Latest S&P 500 Board Index, How Does Your Board Compare?

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It's no longer a trendy topic, but instead has become routine, to recognize that investors are deeply interested in board composition. The **2017 Spencer Stuart Board Index** on S&P 500 boards provides a useful and detailed benchmark on some key practices.

Companies continue to add new directors, and many of them are sitting on their first boards. Slightly more than half, or 52%, of S&P 500 companies added one new independent director to their boards, for a total of 397 new directors, an increase of 15% from last year. About 45% of the new directors are serving on their first public company boards, with women or minorities making up more than half of those first-time directors, who also tend to be actively employed.

The new directors are less likely to be retired or active CEOs, presidents or COOs, as they represent only 36% of this population, compared to a 47% 10 years ago. One reason is that only 37% of active CEOs are serving on one or more outside public boards, while more than half did a decade earlier. Financial backgrounds continue to be the most sought after skills for new directors, as 29% come with that experience.

Board diversity inches forward slowly. At the same time that new directors are being added, retirement age and director age are increasing, leading to almost no overall change in board diversity. Women make up 22% of all directors, a one percent increase from the prior year. Minority directors represent 17% of directors at the top 200 S&P 500 companies (and less in the index overall), another single percentage increase from 2016. Most boards have two women directors, and about 27% of boards have three, while four boards have none.

Retirement age goes up, along with director ages. Investors have expressed concerns, as represented by the New York City Comptroller's latest iteration of the Board Accountability Project, that retirement age is the primary driver of board turnover rather than through director evaluation processes. Currently, 42% of S&P 500 companies have established board retirement at 75 or older (four companies set it at 80), compared with 11% ten years ago. For the first time, a majority of the 73% of boards with mandatory retirement age establish the policy at 73 years of age or higher.

The increase in retirement age has come up older directors, with an average age of 63.1, two years older than a decade ago. The median rose from 61 to 64. Nearly 20% of directors are 70 or older, and 39% of boards have directors averaging age 64.

Term limits remain rare, even as board tenure falls slightly. Tenure limits remain unpopular, with only 24 companies (5%) setting them, generally at 15 years or more. The average board tenure of independent directors is 8.2 years, compared to 8.3 years in 2016. Only 16% of boards have average tenure of more than 10 years. For individual directors, 36% have served for five years or less, 25% have served for six to 10 years, 21% for 11 to 15 years and 18% for 16 years or more.

More than half have separated the chair and CEO positions, but many are not independent chairs. For the first time, 51% of boards have separate chair and CEO roles, but only 28% of S&P 500 companies have an independent board chair, a one percent increase from 2016. Chairs at 21% of companies are former CEOs or current non-CEO executives.

Boards size and meetings remain the same, but some boards are getting bigger. Boards continue to average 10.8 members, about the same over the last 10 years. However, 18% of boards have 13 or more members, compared with 16% last year. At the same time, only 10% of boards have eight or fewer members. Boards met an average of 8.2 times a year, with the audit committee having about 8.6 meetings, compensation committees with 6 and nominating committees with 4.7.

Boards have an average of four committees, not just the required three. Nearly three-quarters of S&P 500 companies have more than three board committees, and a third have five or more. Beyond audit, nominating and compensation, the most common committees are executive and finance. Risk committees are prevalent at 11% of companies, compared to 3% of boards in 2007. Science and technology committees (10%) and environment, health and safety committees (9%) are increasing as well. While nine percent of companies have social and corporate responsibility committees, this represents a decrease compared to 12% in the prior year.

Policies governing directors sitting on other boards and resignation policies proliferate. More than three-quarters of S&P 500 boards limit their directors' other corporate boards. Of the 64% that set numerical limits, 49% establish it at four other boards and 36% at three. In addition, 41% restrict the number of audit committees on which their members may serve. As a result, independent directors at S&P 500 companies sit on 2.1 public company boards on average, which has not changed in five years.

Eighty-six percent require directors who experience a change in employment status or significant change in job responsibility to offer to resign. Surprisingly, only 36% have a policy requiring the CEO to resign when his or her employment ends. Boards retain the discretion to accept or decline all resignations.

Nearly all boards disclose performing annual evaluations, but the level of detail varies. More than half (54%) report conducting full board and committee evaluations, while a third of companies also disclose that their boards assess directors individually. Twelve companies stated that they engaged a third party for this purpose.

Board compensation mix shifts. Over the past five years, less boards are paying for meeting fees (14% in 2017 compared to 33% in 2012) while more are paying retainers to committee chairs or members. The use of stock options continue to decline, now at 13%. Independent chairs are paid a substantial premium, averaging $162,751. Average total compensation for directors is $288,909, a one percent increase from 2016. Audit committee chairs, and audit committee members, tend to be paid higher retainers than the other committee chairs or committee members.

If you have any questions regarding the matters covered in this publication, please reach out to any of the lawyers listed below or your usual Davis Polk contact.

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