



## Spotlight on Boards: Spring 2022 Update

David M. Silk, Sebastian V. Niles and Carmen X. W. Lu, Wachtell, Lipton and Rosen & Katz

The ever-evolving challenges facing corporate boards prompt periodic updates to a snapshot of what is expected from the board of directors of a public company—not just the legal rules, or the principles published by institutional investors and various corporate and investor associations, but also the aspirational “best practices” that have come to have equivalent influence on board and company behavior.

The war in Ukraine and broader geopolitical implications, the coronavirus pandemic and ongoing efforts to return to a “new normal,” as well as other trends and technologies which have been accelerating the pace of disruption, are raising a host of challenges that companies must successfully navigate. As boards of directors seek to provide effective oversight and guidance, their mandate is being further shaped by the wide embrace of ESG, stakeholder governance and the focus on sustainable long-term investment strategies. In this environment, directors need to grapple with the practical implications of this new paradigm, such as adjusting existing board functioning to reflect stakeholder governance, defining corporate “purpose,” integrating ESG considerations into business strategy and delivering sustainable value to all stakeholders. Directors are also facing questions about what, if any, modifications should be made to communications and engagement efforts with shareholders and other stakeholders. In addition, recent events have heightened the emphasis on effective and adaptive crisis management and shone a light on the role of all market participants in combatting social and racial inequality.

The legal rules as to directors’ duties have not changed. What have changed considerably, however, are the expectations of investors and other stakeholders for (1) greater transparency, (2) deeper board engagement and oversight, (3) greater opportunity to engage with directors and (4) responsible investor stewardship to further long-term, sustainable value creation.

### Boards should:

- Maintain a working partnership with the CEO and management and serve as a resource for management in charting the appropriate course for the corporation;
- Set the “tone at the top” to create a corporate culture that not only gives priority to ethical standards, professionalism, integrity and compliance in setting and implementing both operating and strategic goals, but that also is a reflection of, and a foundation for, the corporation’s purpose;
- Choose the CEO, monitor the CEO’s and management’s performance and develop and keep current a succession plan that takes into account the objectives and challenges that the corporation faces;
- Oversee corporate strategy (including purpose, culture and vision) and the communication of that strategy to investors, recognizing that investors want to be assured about not just current risks and problems, but also threats to long-term strategy from global, political, climate, social, economic and technological developments;
- Oversee and understand the corporation’s risk profile, as well as its management of short-, medium- and long-term risks, including climate-related risks, and how risk is taken into account in the corporation’s business decision-making and strategic planning, and...

[Leer más](#)