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Providing senior management, boards of directors, and audit committees with concise information on governance-related topics.

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Reimagining the Corporate Board

It is often the case that the significance of individual events takes time to become clear in the long arc of history. In that sense, the summer of 2019 may eventually be viewed as momentous in the context of corporate governance. Two events — one a state supreme court ruling and the other a significant shift in focus from a powerful business group — could help rewrite how modern corporate boards operate.

Understanding the implications of these events, especially when combined with dynamic social, technological, and economic trends, will be crucial in helping organizations navigate through the 2020s and beyond. For board members who are under increasing shareholder and regulatory pressure to provide effective oversight on a growing list of thorny governance issues, these changes will necessitate ready access to relevant information that is timely, accurate, and complete.

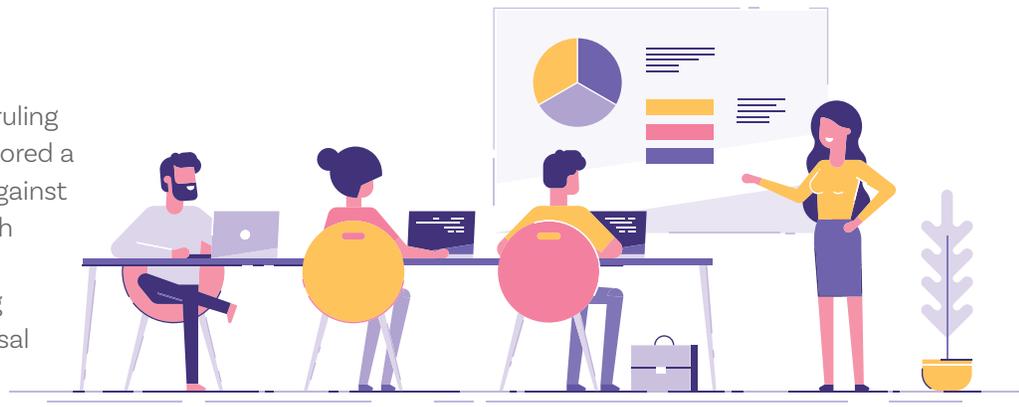
Blue Bell Blues

The Delaware Supreme Court issued a ruling in *Marchand v. Barnhill* in June that restored a previously dismissed investor lawsuit against the board of Blue Bell Creameries, which stemmed from a 2015 listeria outbreak at the ice cream maker. While the ruling simply overturned a lower court dismissal

of the case, the findings in *Marchand* affirmed that in certain circumstances, ignorance about poor risk management is not a defense against board liability.

In overturning the decision, the court concluded the board failed to establish a committee to monitor food safety or devote time during meetings to discuss food safety compliance. Of significance is the court's opinion that "in Blue Bell's case, food safety was essential and mission critical."

While the Blue Bell board has not been found liable (at the time of this writing, the suit continues to wend its way through the Delaware courts), the *Marchand* ruling affirms that boards have a duty to provide proper oversight, particularly in areas viewed as mission critical to their organizations.



About The IIA

The Institute of Internal Auditors Inc. (IIA) is a global professional association with more than 200,000 members in more than 170 countries and territories. The IIA serves as the internal audit profession's chief advocate, international standard-setter, and principal researcher and educator.

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Business Roundtable Bombshell

While legal pundits and corporate counsels were still weighing the significance of the Marchand ruling, the influential CEO group Business Roundtable announced in September a significant shift in its fundamental philosophy that promises to change the way corporations – and the boards that serve them – operate.

A new [Statement on the Purpose of a Corporation](#) stunned many by articulating an expanded view of corporate social responsibility. For more than two decades, the purpose of a corporation was crystal clear according to the Business Roundtable: boosting shareholder returns. The debate now focuses on just how far the new Business Roundtable statement steers corporations away from the long-held notion of shareholder supremacy espoused by economist Milton Friedman, who won the 1976 Nobel Memorial Prize in Economic Sciences.

To be sure, the corporate social responsibility movement has seen steady growth, including among hedge funds and investor groups that tie their investments to environmental, social, and governance (ESG) practices. However, the new Business Roundtable statement raises the concept of corporate social responsibility to a new level. It elevates customers, employees, suppliers, and communities to the same level as shareholders. It suggests the ideals of corporate social responsibility are essential, and that they should be incorporated into the core mission, vision, and values of organizations.

What This Means to Boards

In the grand scheme of corporate governance, these two developments might seem inconsequential, indeed, even random and unrelated. But taken with other factors that influence the success and failures of organizations, they cannot be ignored. These developments, along with complex and dynamic influences in the social, economic, and technological arenas, could signal a fundamental operational change to board models designed in an era of 1970s American global market supremacy.

What this means for boards will vary significantly depending on a number of factors, including their organizations' approaches to executive management, proactive board oversight, information gathering, and support for risk assurance that is independent of management. The common element that will assure boards manage this evolution can be summed up in one word, and it is not information; it's knowledge.

Board directors have clearly signalled the need to strengthen their understanding of risk and opportunities affecting company performance. The National Association of Corporate Directors (NACD) [2018–2019 Public Company Governance Survey](#) found boards are spending twice as much time reviewing



information from management as from external sources, “revealing a heavy dependence on management views and analysis in fulfilling their oversight duties.”

But the same survey suggests a growing number of board members aren’t satisfied with that information. More than half (53 percent) indicated that the quality of information from management must improve, “suggesting the board needs better, not more, information from management.”

What’s more, a new survey suggests a troubling



misalignment on how boards and executive management perceive risk management capabilities. The IIA’s recently published report, [*OnRisk 2020: A Guide to Understanding, Aligning, and Optimizing Risk*](#), found

boards consistently view their organizations’ capability to manage risks higher than executive management, and they generally perceive higher levels of maturity of risk management practices.

“This finding suggests boards may be failing to critically question information brought to them by executive management due to either receiving insufficient information or having limited competencies to personally understand and evaluate risks,” according to the OnRisk 2020 report.

Even more troubling is that the same OnRisk 2020 report found little concern from boards or executive management about the quality of information going to the board. “Senior leaders and board members display confidence in the capability of organizations to provide complete, accurate, and timely information to boards to perform their duties,” according to the report. “... In light of the findings on board overconfidence in risk management capability, misalignment in this area may be woefully underrepresented.”

Achieving the Seemingly Impossible

In any era, myriad factors can influence the success or failure of any organization. However, in the coming decade, there are a handful of distinct, technology-driven risks that will impact every organization, from

small nonprofit charities to the biggest corporations on the planet. Boards must evolve in their roles to address these factors.

CYBERSECURITY: Cyber risks will continue to be ubiquitous, mutable, and unrelenting. Boards must understand and possibly evolve their roles in assuring the organization’s approach to cybersecurity is agile and strategic.

ACTION ITEMS: Set expectations that executive management must provide regular updates on emerging cyber risks and the actions planned to address them. Hold management accountable for being transparent about vulnerabilities. Ensure the board has independent assurance on information relating to significant cyber-related risks.

DATA ANALYTICS: The advent of new and more powerful information-gathering tools could easily overwhelm organizations with the volume of data these tools collect.

ACTION ITEMS: Set expectations that executive management will communicate how data is collected, managed, protected, and leveraged, including discussions about the ethics of data collection and usage. Seek independent assurance on data interpretation, especially as it relates to data used in strategic planning.

TALENT MANAGEMENT: The influence of new technology, particularly artificial intelligence that promises to remove the human element from repetitive work, will force a fundamental shift in how work gets done. The challenge will move away from identifying a critical mass of people to accomplish a task toward hiring people who can leverage technology to accomplish those tasks efficiently and effectively.

ACTION ITEM: Boards will need to push for talent acquisition and retention strategies that are sophisticated and flexible enough to adapt to demands created by rapidly changing technologies.



TECHNOLOGY: The unrelenting pace of technological change demands that boards become more astute and attuned to doing business in the digital age. Boards must evolve to attract members who are more tech savvy, diverse, and open to innovation, and who can bring creative insights.

ACTION ITEMS: Set expectations that discussions about new technology are balanced, addressing perceived benefits as well as potential negative impacts. Create opportunities to educate boards about new technology through outside experts. Learn to connect the dots between new technology and its influence on business processes, strategies, and risks.

Closing Thoughts

Each of these factors will play out against a backdrop of increased shareholder and regulatory pressure to prioritize long-term success that is sensitive to the use of natural resources, employee rights, impacts on communities, and vendor relationships while assuring sufficient returns to investors.

Boards must be knowledgeable not just about the risks that could derail organizational goals, but also about the organization's ability to manage those risks. That begins with building reliable information networks that include sources outside of the organization and a process to assure the information the board receives is accurate, complete, and timely.

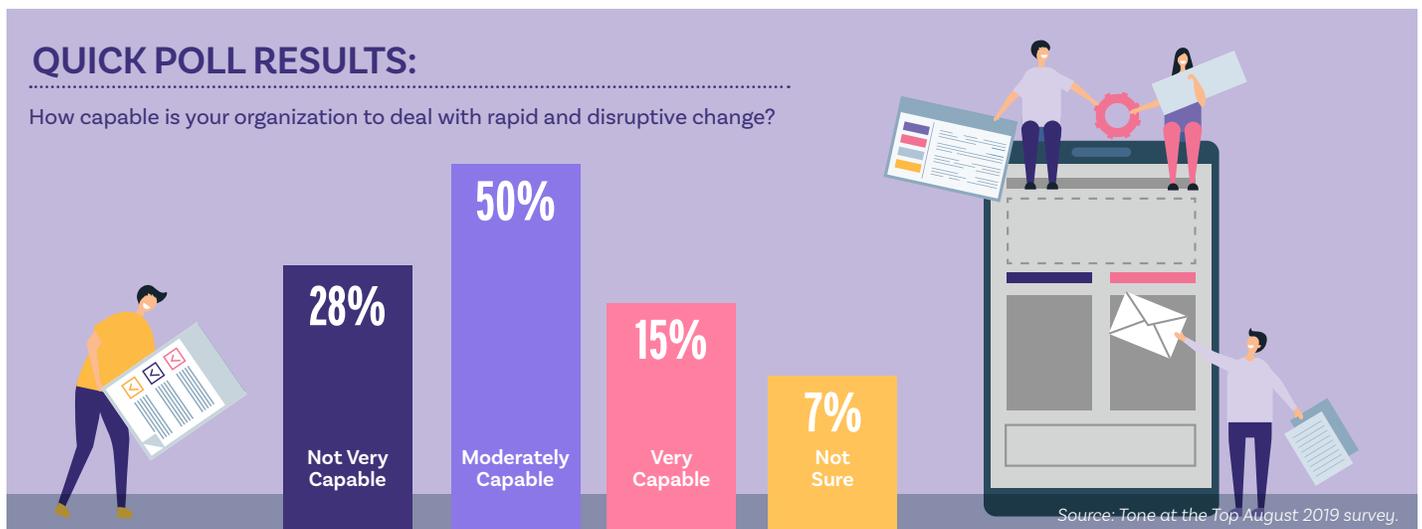


Quick Poll Question

What steps should your board take to improve the quality of information (timeliness, accuracy, completeness) coming from executive management?

- Hold executive management accountable when information shared with the board proves to be inaccurate, incomplete, or dated.
- Seek information about key risks from experts outside of the organization to supplement information provided by executive management.
- Seek independent confirmation of information provided by executive management from internal audit.
- No action is necessary. I am confident in the quality of information provided by executive management.

Visit www.theiia.org/toner to answer the question and learn how others are responding.



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