

# The winds of change in board governance

More changes expected as boards and regulators respond to external events, international best practices, and shifts in social attitudes. **BY HO YEW KEE**

CORPORATE governance is about the set of systems, rules and processes that ensure the interests of stakeholders are aligned in a transparent way. Within the corporate ecosystem, the board of directors is primarily responsible for the governance of the company. Board governance can, however, change under three potential circumstances.

## Responses to scandals

First, external events, such as major corporate scandals or market upheavals, can lead to strengthening of governance rules to avert future occurrences.

For example, the collapse of oil giant Enron prompted the Sarbanes-Oxley Act of 2002, leading US regulators to mandate strict reforms to existing securities regulations. Likewise, tougher penalties were imposed by regulators across the region, in the aftermath of the Asian Financial Crisis in 1997.

## International governance standards

Second, changes can be brought about by best practices encoded into rules or codes of governance, arising from international best practices or standards. The Code of Corporate Governance (CG Code) in Singapore was last revised in 2018 to take into account the broader changes in the regulatory environment and corporate practices. For example, since the CG Code was first introduced in 2003, there has been a broad shift in board independence.

It is generally accepted interna-



tionally that an independent board strengthens the governance of a company. Board independence ensures that the board undertakes decisions in the best interests of the company. This fosters trust and transparency that the board is discharging its fiduciary responsibilities. It provides assurance that the board is not beholden to a specific group of stakeholders or individuals.

The latest findings from the

Singapore Directorship Report published by the Singapore Institute of Directors shows a general trend towards greater board independence since the first edition of the report in 2014. This is borne out on several fronts.

A measure of board independence is the presence of an independent chairman and the proportion of independent directors on the board. And the latest report indicates that the proportion of pub-

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licly listed companies with independent chairmen has increased to 30.8 per cent in 2021, from 18.4 per cent in 2014. Additionally, there is a general shift towards the separation of CEO and chairman, with 75.1 per cent of companies reporting different individuals serving as board chairman and CEO (as compared to 67.1 per cent in 2014).

Overall, the percentage of independent directors on boards has increased to 54.5 per cent in 2021, up from 47.5 per cent in 2014. The percentage of firms with half or more independent directors on their boards has grown steadily since 2014, with 77.7 per cent in 2021, up from 54.5 per cent in 2014. Boards with at least two-thirds of independent directors have increased to 18.5 per cent in 2021, from 10.0 per cent in 2014.

These shifts could be due to a change in Provision 2.2 of the CG Code which from the 2018 edition now provides that "independent directors make up a majority of the board where the chairman is not independent". Director independence has been the focus of other regulatory changes. For example, the Singapore Exchange is rolling out the so-called nine-year rule

from Jan 1, 2022, where an independent director who has been a member of the board for more than nine years has to seek two-tier shareholder approval to continue as an independent director.

## Societal standards

Third, changes in corporate governance can evolve through time, as companies adapt to broad shifts in the environment and societal attitudes. Gender diversity on boards is a case in point. With women representing half the talent pool, it is a stark reality that less than one in 10 board directors were women in 2014 (9.7 per cent). While the proportion of women directors on Singapore corporate boards has increased to 13.4 per cent in 2021, this reflects a continuing imbalance in corporate leadership.

Evolutionary progression requires significant amounts of patience, as the glacial rate of increase in board gender diversity (0.53 per cent per year) shows. At this rate, 30 per cent representation of women directors on boards will only be achieved by 2052. For the top 100 listed companies by market capitalisation, women directors comprise 17.2 per cent of boards. This indicates that larger companies could be slightly more receptive to increase in board gender diversity.

Issues surrounding gender diversity are not confined to the boardroom, and unconscious bias cannot be addressed by regulation alone. Similarly, as the impact of climate change and digital transformation becomes more urgent, corporate governance will have to adapt to reflect trends in these landscapes.

The increasing focus on environmental, social and governance (ESG) matters has also prompted the establishment of at least eight board-level sustainability committees among larger-cap companies in 2021. With SGX proposing mandatory climate-related financial disclosures and reporting, the drive towards greater board-led focus on ESG issues will continue.

The arrival of special purpose acquisition company (SPAC) listings will also introduce new challenges to the role and composition of directors. Watch this space as changes are expected in board governance as boards and regulators consider the challenges. The winds of change in board governance will continue to shape the regulatory landscape.

The writer is a member of the Singapore Directorship Report 2021 working committee at the Singapore Institute of Directors.