DIRECTOR ACCOUNTABILITY

Directors are facing unprecedented scrutiny following many high-profile cases that were uncovered by the Hayne Royal Commission, AUSTRAC, the media or were self-reported. Many executives have either resigned, been terminated or have had their pay cut as a result.

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Investors and proxy advisors also expect that non-executive directors are held to account for perceived failures. Investors are dissenting at the AGMs of issuers where these failures occurred, but personal accountability is also being assigned to individuals and they are being targeted by investors at other organisations where they hold board positions.

Following the Hayne Royal Commission, directors are expected to have a greater grasp on company culture including the setting, monitoring and articulation of it. As non-executives, directors may have limited ability to influence culture, but this expectation highlights the ever-expanding role of directors.

Average support for issuer-endorsed directors in 2019 was 95.3%, slightly down on the 95.5% support in 2018.

Public controversies aside, investors and proxy advisors continue to assess the structure of boards, including independence and diversity, and vote against individuals based on the composition of the entire board. The workloads of individual directors are also assessed to ensure they are not 'overcommitted'.

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As part of the campaign for greater accountability, annual director elections are being sought by ACSI and State Street Global Advisors, among others. Already the norm in the US and UK, this would see directors face the ballot box at each AGM instead of the usual three-year term.

Data source: CGI Glass Lewis

Proponents for annual elections say this promotes greater accountability including ensuring chairs of nomination and remuneration committees can be held to account for a lack of diversity or misaligned pay outcomes. Detractors say directors could be punished for short term 'failures' which may prove successful over the medium to long-term.

Average support for issuer-endorsed directors in 2019 was 95.3%, slightly down on the 95.5% support in 2018. Excluding withdrawn elections, there were 42 director elections that attracted more than 20.0% of votes against in 2019, including one endorsed director who failed to be re-elected. This is broadly in line with 2018 when 45 directors received more than 20.0% against.

What you can do:

- Assess the independence of your board.
  Are the interests of all shareholders protected?
- How diverse is your board?
  Think ethnicity, gender, age, skills, geography
- Consider the tenure of directors.
  Is director succession going to plan? Have you disclosed your succession plan to the market?
- The ASX Corporate Governance Council recommends issuers disclose a board skills matrix, which is an opportunity for you to demonstrate the skills of your board and articulate succession planning

Jamie Cameron has several years of experience in shareholder engagement, client advisory services and campaign management across a wide range of corporate activities including M&A, proxy fights, annual meetings and capital raisings.

Jamie has supported numerous ASX300 companies and has worked on some of the most complex M&A deals in Australia in recent years.

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This article was originally published in Computershare and Georgeson's comprehensive report - ***2020 AGM Intelligence: the driving forces behind AGM outcomes.***

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