THE BOARD OF DIRECTORS AS A COMPETITIVE ADVANTAGE

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Abstract: The Board of Directors is an integral part in the analysis of a company and its compliance with the requirements of corporate governance. Over time, under the influence of several financial scandals (Lehman Brothers, Washington Mutual, WorldCom, Enron, General Motors, CIT Group), the composition of the board has evolved from a job given to a young talented amateur to a job that requires seriousness, experience, dedication. Moreover the board is seen as becoming a competitive advantage. That is why this paper analyzes the Board of Directors not only from the compliance point of view, but also taking in consideration its contribution to the development of the company, through vision, strategy and innovation.

Keywords: Board of Directors, Corporate Governance, competitive advantage, value creation, performance.

Introduction

Strongly connected to the corporate governance analysis are the debates about the role of the Board of Directors (BoD). This governing body is elected by the shareholders to ensure the safety of their investment, that the future decisions of the management will guarantee a continuous development of the company, that the short and long term objectives are taken following a fair analysis of the company and they do not depend on the will of the management to gain bonuses. Many studies review the Board of Directors analyzing provisions and legal constraints: size, remuneration, evaluation of its activity, the role of the board’s chairman, if the Chief Executive Officer (CEO) fills in also the place of the chairman of the board (Ionașcu et al, 2011; Ștefănescu, 2011; Brown and Caylor, 2004; Hopt and Leyens, 2004; Chtourou, Bedard and Courteau, 2001).

When we think at the BoD responsibilities first we have to discuss its role of monitoring, of surveillance of the risk level adopted by the company, or the analysis of the decisions taken by the management. The literature that debates this subject (Nadler, 2004; Leblanc and Gillies, 2005; Hassed, 2012; McCahery and Vermeulen, 2013; Whitehead, 2013), has developed in the last years a new side of the analysis underlining that the BoD should be more than “an eye” for the shareholders and support for the management, and that is very important to become a competitive advantage, giving support, defining the future strategy of the company, through informal advice given to the management, by knowing the field in which the company activates.

So we are entitled to ask these questions:

- What is the role of the BoD?
- Which is the most effective mix of directors?

- Which are the BoD responsibilities that could lead to good governance?

Current practice and arguments towards new standards

If the role of the BoD stands for more than supervising and limiting the deviations committed by the management and maximizing the company's value for the shareholders, how is a board that will be a competitive advantage put together?

When summarizing debates on this subject it seems that we need independent members that have to come with a professional experience that will help the company to promote the profitable activities and to develop the fields that show signs for an above average evolution. The board has to protect the interest of all the shareholders, including the minorities, but also of all the interested parties, avoiding thus the embezzlement of assets of any kind.

McCahery and Vermeulen (2013) researching on the diversity importance in a company, found important differences between companies in terms of age, diversity of the members and their experience in the activity developed by the firm. Their work shows that the shareholders who activated in the venture capital market play an important role as independent members in administration boards based on their accumulated experience. The authors mentioned above use as an object of study "Apple", a company with a worldwide reputation, that had Steve Jobs as a CEO, that has managed, using among others the experience and the knowledge of BoD members, to make Apple the brand that is today. For Jobs it was more important to know the industry and the company's products than being independent and having appropriate qualities for monitoring risks. In the process of making the BoD a competitive advantage, Jobs used as criteria the experience in the IT field, the passion for the Apple products and loyalty. After Jobs returned to Apple in 1997 and regained quite fast the control over the company business, lost in 1985, the BoD had the following composition: Mr. Woolard - Chairman and ex CEO of Dupont[1], Mr. Chang – executive manager at Hughes Electronics[2], Mr. Ellison – with software experience and co-founder of Oracle[3], Mr. York - ex CFO with experience in reorganizing in Chrysler[4] and IBM[5], Mr. Campbell – CEO of Intuit[6] and vice-president of the Sales Department of Apple, and also Steve Jobs himself. Under the traditional role model of corporate governance, the BoD evolved towards the fulfillment of a monitoring role, independent from the CEO and the executive management. Under the Apple model, the BoD exists like an extension of the management, giving expertise and experience where and when is needed.

The BoD like a competitive advantage might be a surprising concept for some people, because most consider that the ability of the company to have a superior performance than of the competitors can come from the quality of their products, low production costs, the ability to deliver their products on time, new technological processes, adaptability to the changes that

[1] **Dupont** – with over 200 years of experience the company brings innovation through products and inventions in domains as agriculture, nutrition, electronics, safety and protection, constructions, transportation and clothing.
[2] **Hughes Electronics** – manufacturer of electronic assemblies and bare printed circuit boards.
[3] **Oracle** – software solutions for business and hardware systems.
[4] **Chrysler** – manufacturer of automobiles.
[5] **IBM** – manufacturer of high tech in software and hardware.
[6] **Intuit** – American software company that develops financial and tax preparation software and related services for small businesses, accountants and individuals.

happen in the market. But a well prepared BoD could fulfill its responsibilities so well that it could be the difference between a company and its competitors.

For a company to enjoy the positive effects of this kind of board, constant training should be taken into consideration. The board as a unit must prove experience in the company's field of work, understand the life cycle of the company, which are the major risks that the company is facing, what are the inconsistencies in the financial reports, and we shouldn't forget about the communication skills so that its decisions reach the management and employees undistorted and with a clear message. A board already at work needs a periodic evaluation of their competence and obtained performance to identify the necessity of professional development or different criteria that a new member should fulfill. The process of members' selection on specific criteria is a long term process that can fail if it does not start from the will of having a competent board but only from the will of following the requirements coming from the legislators or from the interested parties.

The current norms for corporate governance, which most of times are overregulated, tend to put their accent on monitoring and risk management. In this way a new impediment surfaces on the path of transforming the board into a competitive advantage – it is too busy following the compliance requirements, making it hard to concentrate its efforts on other fields of interest. To guarantee that legal requirements are fulfilled, the companies tend to bring to the board lawyers, governance and financial experts, forgetting about persons with strategy defining expertise. But most recommended is for the company to be able to see the big picture, to think about expanding the business and not only about guarding their assets by creating a board that has only a police role.

Another subject of interest is the non - executive director and the qualities it should hold for giving the team value. Whitehead (2013) points five absolutely necessary skills that a non - executive director should possess: intellectual approach, independence, integrity, communication skills and the will to get involved. Over the years the non – executive director evolved from a job filled in by a lucky talented amateur that had the proper studies or had the proper social connections, to a profession that requires responsibility, which is seen in the risk associated with the job.

Nadler (2004) concentrates his attention on the transformation process suffered by the board over time, evolving from a reminiscence of a gentlemen's club, characterized by ceremony and uniformity, to a job that suggests passion that makes the general director work efficient without making him omnipotent. The best results come from solidary boards, which activate as a dedicated and involved team.

The recruitment companies aren't looking for an independent director that could only fulfill the job description by skills and experience, but also for someone that is going to adapt and be a good contribution in the board's structure. Whitehead (2013) gives example of 10 questions that anyone willing to fulfill the job should ask himself/herself:

1. What do I have to offer?
2. How do I find the right board? (Patience is a virtue, as it may take some time.)
3. How dedicated do I have to be? (You have to be strict and discuss with experts, read books, expand the area of expertise, read previous minutes of meetings.)
4. Do I have enough time for this kind of commitment?

5. Can I bring my contribution? (Find out if you can bring value that is going to make a big difference.)
6. Am I going to learn? (Be curious and open minded.)
7. Will it be entertaining?
8. How much time will I have to spend? (One of the pitfalls is underestimating the time you will spend for this kind of job.)
9. Is my employer going to support me?
10. Can I expect a training period?

Another important benchmark in the board's work is the fear of overlooking a compliance requirement. In this way the board members will evolve towards a "check the box" vision, without having the slightest interest of seeing the bigger picture, and going beyond the description of the job and the supervisory authority. Taking as example big financial scandals and the losses they brought (Lehman Brothers, Washington Mutual, WorldCom, Enron, General Motors, CIT Group) the regulatory bodies focused their attention on improving the legal provisions of the corporate governance, or we can even say making them stricter. Even though the new rules as for example "comply or explain" have increased the shareholders protection, it has also seen many directors focusing their work on conforming to the rules and leaving performance on the second place.

The companies can now benefit from a new board with added value. The road that leads to success is found when the adding value board transforms into a competitive advantage, and works alongside with other strengths given by other sectors of the company. The adding value board assumes the strategic direction of the organization, knows its responsibilities and how they differ from the ones of the CEO's, has long - term plan of succession and a chairman capable of leading and managing conflicts. The president must let everyone share their opinion, but in the same time he has to know when to stop a debate so he can take proper decisions in a timely manner. An adding value board can easily find the weak points in a business strategy, discuss internal and external risks, bring valuable connections with interested parties or even with government representatives. Also they could add credibility to the company and take an active part in the innovative challenges of the organization.

A board that becomes a competitive advantage has all the characteristics of a value creating board, but also holds communication skills and is able to obtain a maximum gain from its member's interaction. Nadler (2004) mentions that good governance lies in the creation of a good work relation between board and management, in the social dynamic of the interaction between the board members and in the competence, integrity and the constructive commitment of every single director.

Leblanc and Gillies (2005) show three major factors that make the difference between a board that is a competitive advantage and the one that brings added value:

- the way the board works and the process of decision making.
- "the human factor" in the decision making process.
- the compatibility of the directors and how they interact with the team in the decision making process.

Hassed (2012) believes that the board that has managed to be a competitive advantage has a superior decisional process because the members of the board respect everyone's opinions, they openly present their ideas without having a hidden agenda, they bring to the table new and challenging subjects, that could lead the way to innovation.

The way to a competitive board has to go first through a process that creates value. To get to a value creating board there is a long and hard way to go that requires competence, integrity and a constructive involvement of every director.

Whitehead (2013) comes with an interesting proposal that could lead to obtaining a board that will have both conformity and strategy as tasks. His idea is to separate the role of surveillance from the one of building a strategy. In this situation we get two boards, each one with different tasks - one with compliance and the other dealing with commercial challenges. Even though it sounds good in theory, this separation could lead to a dilution and a fragmentation of the leading board and of the responsibilities that follow. It's a possibility that a unitary board, well informed and structured, can have better chances of succeeding than two individual ones.

Nadler (2004) believes that a high-performing board as like a dynamic team must be competent, coordinated, and collegial and has to have a well-defined objective. He considers that such entities don't just evolve but they need to be built using a very clean cut pattern.

The entity has to possess a well-defined plan of succession especially because there is a slight possibility that unexpected events may occur and the director might not rise to the challenge. Also the administration board must always be refreshed, for example in the UK an independent director cannot fill the position for more than 9 years; if the company decides that his presence is valuable than he must go through a re-election process.

The discussions about the structure, composition and administrative board practice must unfold taking in consideration the growth potential and value creation of a company and not only the agency problems. Because of numerous fastidious claims coming from the market, it's time to implement a new research approach over corporate governance that redirects the role of a company's board towards the consolidation of the decision making process of the management, future growth and value creation. The board must evolve and expand in parallel with the organizational needs of a company at any given time.

Conclusion

Assuming that the members of the board are dedicated to the company, visionary leaders, predicting future events, they can investigate the decisional process of the management, can identify opportunities and interact with governs, companies, investors and other interested parties, might hold knowledge about the development of the company product, sales strategy and discovery of new talents.

In order to have a well-balanced board, a company should take into consideration other criteria of selection beside the traditional ones such as independence, integrity, competence, confidence, a good judgment, a good financial state. In these difficult times, it's preferable to search for a BoD oriented towards the product and the market, capable of asking the right questions at the proper time, question that usually are difficult and technical.

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