

Trends shaping the corporate governance landscape

 By Ricci Hackner

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In today's rapidly evolving business landscape, amid prevalent corruption and public distrust, maintaining strong, transparent corporate governance is vital. Firms adopting best corporate governance practices not only meet stakeholder expectations but also ensure enduring sustainability and success. This article delves into some current trends shaping corporate governance in South Africa.



Ricci Hackner, Knowledge and Learning Lawyer: Corporate, Bowmans

Globalisation

Shareholders are increasingly demanding adherence to international corporate governance standards, regardless of local laws, emphasising the need for companies to align with global best practices.

Retention of skills

In compliance with King IV, boards must recruit capable members with an appropriate blend of skills and expertise, while implementing transparent nomination processes. There is, however, a shortage of crucial skills in SA, exacerbated by immigration and visa application impediments, especially those for critical skills.

A presidency-initiated report highlights skills scarcity as the economy's second major threat, following the ongoing energy crisis. These challenges complicate talent recruitment and attraction. Securing essential expertise has evolved into a crucial skill for CEOs amid these challenges.

Executive transitions

The corporate sector has seen a conspicuous C-suite exodus, leading to the appointment of acting CEOs or interim boards. These resignations can be attributed to concerns around governance, accountability and shareholder activism, particularly targeting underperforming companies and advocating for changes in leadership. Succession plans remain fundamental.

Diverse leadership

Diverse corporate leadership remains pivotal for ensuring relevance and sustainability. Research indicates that it bolsters shareholder returns and increases firm profitability. Notwithstanding this, there were notably very few female executive appointments this year and some companies lack female representation altogether. Although incremental progress has been made, the challenges in attaining board diversity persist, emphasising the necessity of sustained efforts for meaningful transformation, which will take time.



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The role of corporates in driving policy

The debate over corporate involvement in policymaking remains contentious. Companies have faced criticism for taking stances or staying silent on global issues, from conflicts to LGBTQ rights and politics. Notably, an Edelman Trust Barometer survey in February revealed that while only 22% of South Africans trust the government, a significant 62% trust the business sector, indicating its substantial influence.

Executives are increasingly vocal about their views on government policies. Public-private partnerships are increasing, with over 124 CEOs pledging to assist in revitalising SA's economy. The significant impact of social and political factors on corporate decision-making and the expanding societal role of corporations transcending mere economic objectives is considerable.

Conflicts of interest

Conflict of interest management remains pivotal, and we are seeing companies prioritising the thorough resolution of perceived conflicts of interest among directors, leading to their removal when necessary.

'Independent' directors face criticism when providing consulting services to the company, raising impartiality concerns. While King IV guidelines do not prohibit these services, it recommends that such services are occasional and inconsequential.

Demand grows for full disclosure of past colleague relationships by directors, emphasising transparency, especially if these relationships could impact objectivity, compensation, or career progression.

Balancing influential CEOs with strong corporate governance is a global trend. Independent boards, particularly within group structures, are crucial. The absence of independent oversight can lead to unethical conduct, while stifling dissent and principled decision-making within subsidiaries.



Futureproofing

It is imperative for boards to keep abreast of the nascent laws governing the artificial intelligence (AI) boom as the incorporation of AI into business models becomes standard.

The supervision and management of systems have become indispensable, especially considering the surge in cybercrime and leaked information.

It has also become increasingly important for companies to manage social media and control the narratives relating to them effectively. Social media platforms have become a powerful tool for stakeholders to express their concerns and hold companies accountable.

The 'superstar' CEO trend has emerged, placing top executives as the embodiment of their companies, and increasing the importance of executive behaviour. A leader's character is now as vital as their skills, as preserving a company's reputation is as crucial as mitigating financial risks. Boards need to rigorously scrutinise various aspects of personal conduct, including workplace interactions (such as bullying and sexual harassment).

Remuneration

Understanding the remuneration landscape is increasingly critical, as evidenced by significant shareholder votes against remuneration policies and their implementation.

There is a growing dissatisfaction with the level of discretion granted to boards and management in determining variable pay components of executive packages and the 'vertical pay gap' with extreme disparities between the highest and lowest paid workers.

Recent parliamentary debates focused primarily on proposed amendments to the Companies Act pertaining to remuneration. We are seeing increased pressure from activist shareholders for companies to disclose and justify their pay policies.

Environmental considerations

Companies are being pressed to hasten their transition toward cleaner energy sources, while being held accountable for their pledges in the wake of the green revolution.

Anti-corruption

The corporate sector has intensified its efforts to combat corruption. Supporting and facilitating whistleblowers is trending.

ABOUT RICCI HACKNER

Ricci Hackner is a knowledge lawyer based in Bowmans' Johannesburg office. She specialises in mergers and acquisitions as well as general corporate and commercial matters. In her role as a knowledge lawyer, she works with Bowmans' Corporate Department focussing on asset development, thought leadership and current awareness, technical legal training, and client value added services. Ricci has BCom and LLB degrees (awarded cum laude) from the University of the Witwatersrand.
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