

## **10 Questions Every Director Should Be Asking – November 1, 2016**

On Tuesday, November 1<sup>st</sup>, NACD Southern California hosted a lunch program at The California Club in downtown Los Angeles entitled "10 Questions Every Director Should Be Asking." This event featured a panel of 10 speakers comprised of chapter sponsors and experienced directors, all leading experts in their respective fields. Each speaker posed a critical question that *all* directors should be asking in the current environment.

Chris Mitchell, Chairman of NACD Southern California, guided the panel discussion. Following are the questions posed by each panelist along with key discussion takeaways. The event concluded with an opportunity for open Q&A with the panelists.

### **Dan Wetzel – Managing Director, Pearl Meyer**

1. Is your company's compensation program the right one?
  - There currently exists a great amount of homogeneity among compensation programs, regardless of company structure or the type of organization.
  - When developing compensation programs, boards need to consider the business strategy of the company along with the needs and perceptions of the individuals who ultimately drive success for the organization.

### **Danny Le – Partner, KPMG**

2. How do we know we've done enough in cyber security?
  - Cyber security is not simply the responsibility of the CIO or Chief Security Officer. The front office, back office, middle office, and everyone in between has a responsibility to be the first line of defense from a security attack.
  - Plans need to be in place to conduct regular audits by a management team, along with utilizing external auditors and advisors. Board members need to be aware of the current conventions on cyber security to stay up to date on threats and vulnerabilities to the organization.

### **John Kim – Managing Consultant, RGP**

3. M&A Post-Merger: Now that you did the right deal, how do you do the deal right?
  - Post-merger, to realize the true value of the purchase price, companies need to develop integration methodology, a playbook, to reduce negative synergies associated with the deal.
  - Having the right methodology in place that's repeatable, scalable, and customizable can help facilitate integration of the back-end execution side with the corporate development side to better capture the value of the deal.

### **Robyn Bew – Director of Strategic Content Development, NACD**

4. What impact do sustainability trends have on the work of the board?
  - Social responsibility is no longer just about PR and marketing or philanthropy. Companies are recognizing this is about brand, growth, innovation, retention of talent, and long-term performance and need to measure this against how sustainability affects the organization's resource decisions and views of key stakeholders.
  - Directors need to be questioning if the company is producing investor-grade information about sustainability and other non-financial metrics, and following

the extent in which investors are starting to reward companies who are being more transparent in their reporting and governing structures.

**Doug Thomson – Partner, Crowe Horwath (Assurance Group)**

5. What financial reporting controls and procedures does management have in place that encompass the selection, dollar aggregation, consistency of the calculation, and regulatory compliance of non-GAAP measures?
- The SEC is placing extra scrutiny on where companies are coming up with the data on non-GAAP disclosures. How is the data being collected and selected? Is it consistent period-to-period? Are peers looking at and disclosing the same information?
  - The SEC is looking for consistency across industries and directors need to be challenging management on how they are collecting data and what is or isn't being used, along with how the non-GAAP disclosures are lining up to GAAP financials.

**Dan Clivner – Partner, Sidley Austin**

6. Delaware Law and Directors' Responsibilities: What are the first steps I should take or consider when confronted with a takeover or merger proposal?
- A takeover proposal can be very disruptive to employees, customers, and suppliers, and the importance of confidentiality of information is essential to avoid violations in security laws and agreements with the counterparty. The board is responsible to evaluate the best interests of the company, including use of independent, outside advisors.
  - A particular person or channel needs to be appointed to manage communications and public statements; directors need to prepare in advance to put plans in place, and exercise extra caution in the boardroom with regards to comments and note-taking that may be used in future litigation.

**Andy Knox – Managing Director, Chelsea Partners**

7. Board Composition and Succession: Is your board, as currently comprised, capable of developing and supporting a rapidly evolving strategy that will be needed to both succeed, and in some industries, survive?
- Millennials are fundamentally reshaping the world we live in and business we participate in and will comprise half of the world's workforce by 2020.
  - When considering succession of human capital and current board composition, directors need to reflect on the skill sets and experience for the board, including risk management and compliance, deep knowledge of the global world including Asia/Pacific and India, technology experience and cyber security, and the changing world of social media.

**Moira Conlon – Founder and President, Financial Profiles**

8. What is the latest on shareholder engagement?
- With the rapidly changing landscape of activism, boards are increasingly being called upon to engage directly with investors and need to be aware that even the smallest of public companies are not immune from activist investing. Boards need protocol and processes in place around board-shareholder engagement.
  - Board members need to be proactively educated and trained to have confidence in dealing with Wall Street issues, along with having firsthand knowledge where

your company stands compared to the peer group, as well as knowing where vulnerabilities exist within the shareholder base.

**Chris Mitchell – Vice Chairman, Marshall & Stevens Chairman, NACD So Cal Board**

9. Growth and Innovation: In 3-5 years, what percentages of our revenues are expected to come from legacy sources versus new sources?

- Currently faced with an environment of low productivity growth, slowed business investment, and significantly increased regulatory environments, board members need to consider what role they are taking as individuals in board strategy sessions on these topics.
- Board members need to be engaged in conversations on how capital allocations and investment decisions are going to be making a difference for the organization 3-5 years from now, along with questioning where M&A and R&D may fit into the company's future.

**Larry Taylor – Chairman, The Creighton Group Interim Programs Chair, NACD So Cal Board**

10. Know the Tone at the Bottom: Board directors should ask themselves, are they sure independent, non-financial information at the bottom of the organization reaches the boardroom, thus avoiding the pitfalls of asymmetric non-financial information flow and the negative tone at the bottom?

- In organizations, it is clear that there is information that flows from the boardroom down to the bottom of the organization, but what kind of information is at the bottom, and is it flowing to the boardroom?
- Too often, many companies assume that the tone set at the top will be mirrored at the bottom. What can the board do to facilitate the flow of information and better educate and foster the culture of the organization?