

Shaping Board And Committee Calendars

by Joseph P. Kubarek

As board work becomes more demanding, effective corporate board agendas and schedule management grow more crucial. A well-planned annual board and committee calendar can help directors make required decisions, receive the materials they need, and become a smoothly operating governance team.

The demands put on directors of public companies are increasing exponentially. After the corporate scandals that led to the enactment of Sarbanes-Oxley, the focus was squarely on the board's financial oversight role, with a particular focus on the audit committee. Now, the focus has turned to the compensation committee, with shareholder groups questioning executive pay. The SEC has also proposed sweeping amendments to executive compensation disclosure rules to make the disclosure more transparent, and there is the publicity and investigations on the backdating of options.

An annual calendar is a basic tool needed by every board. It ensures that the tasks required of a board and its committees are accomplished in a timely, effective manner.

Given the number and complexity of decisions that need to be made by a public company board and its committees, even a board comprised of quality people with the right skills needs the appropriate structure and governance procedures to be an effective governing body. Proper decision making by directors requires that they have timely access to correct and complete information. They also require adequate time to review, analyze and, if necessary, ask questions about that information.

Lacking this oversight structure, it is difficult, if not impossible, for directors to perform the oversight functions that Congress, the SEC, the stock

exchanges and the investment community now expect of them.

A very basic tool that every board needs is an annual calendar that details the date by which the board and its committees must accomplish each action required of it. The calendar also shows the steps that directors must take to make an informed judgment by the due date. A calendar can ensure that the legal, financial and other tasks required of a board and its committees are accomplished in a timely, effective manner. A calendar can help establish the priority of actions that must be considered by the board. It provides focus and is a driving force toward quality corporate governance.

The calendar should include all regularly scheduled meetings of the full board and the committees for the year, including executive sessions. It should also include the dates when management and/or advisors will deliver board materials for each of those meetings. Generally, written materials should be delivered reasonably in advance of the meetings to allow directors sufficient time to review the materials. When appropriate, however, work plans and agendas can be incorporated into the calendar.

Setting a meeting date on the calendar allows for prior planning by directors and helps ensure attendance at the meetings. This is important because a director's failure to attend at least 75 percent of board and committee meetings requires public disclosure by the company. Once a date is set on the calendar, it should not be rescheduled unless extraordinary circumstances require moving the date. A director should make all efforts to honor the dates.

In addition to these regularly scheduled meetings, the calendar could also include a longer, extended meeting or retreat. Prior planning of a board retreat is

Joseph P. Kubarek is a partner in the business and corporate practice group of *Jaekle Fleischmann & Mugel, LLP*. He can be reached at jkubarek@jaeckle.com [www.jaekle.com]

essential for maximum participation by the directors and for effective planning of the agenda. Generally, the duration of a retreat is longer than a regular meeting. Therefore, the usual time constraints are less important.

A board retreat is useful for strategic planning purposes and an effective time to include board education seminars. A retreat is also valuable when it includes some time for directors to build relationships with each other through social events. Relationship building among directors can improve communication at all board and committee meetings and is a positive way to grow and strengthen the governance of a company.

Continuous improvement and education can be readily worked into the board calendar by having meetings at locations where the company has major assets. Tours of company facilities and broader exposure to the management team can help to better familiarize directors with the company's business.

An effective calendar addresses both broad principles of governance and a schedule of specific tasks. It can be extremely detailed, or minimal.

Each major committee of the board (audit, compensation, corporate governance/nominating) should make a list of each action that it must take, date required for the action, and when it would like to receive supporting materials. The information can then be combined into a master board calendar.

An effective calendar will address both broad principles of corporate governance and a schedule of specific tasks and requirements applicable to the business. Depending on the type of industry and ownership structure, a calendar may be extremely detailed and complex, or minimal and streamlined.

If extraordinary situations arise, the calendar should be modified to reflect the company's current needs. Such situations could include, among others, charter amendments, unique financing arrangements and disposition of major assets.

Some companies on the cutting edge of technology

and corporate governance best practices electronically provide their board with the information needed. This can take the form of a secure section on the company's website or a separate extranet site that only directors and their assistants can access.

These sites include information such as historical board and committee minutes, drafts of pending press releases and SEC filings, and regular updates on operations from management. Whatever form the information takes, it is still essential for the board to have a calendar to let the directors know what they need to do and when.

Meetings of the audit committee should be scheduled well in advance of the release of earnings information to allow for adequate committee input.

The board's major committees and the board as a whole have unique calendar requirements.

□ *The Audit Committee Calendar.* The members of the audit committee now have a very full calendar. The Sarbanes-Oxley Act, SEC rules, and stock exchange listing standards put many additional burdens on committee members. Meetings of the audit committee should be scheduled well in advance of the release of earnings to allow for adequate committee input and time to revise the release if necessary.

On an annual basis, the audit committee will have the following major responsibilities:

- Select the independent accountants who will perform the financial audit and set their fee.
- Assess the auditor's independence.
- Obtain a report from the independent accountants describing various issues regarding the annual audit.
- Approve any permissible non-audit services to be rendered by the independent accountants.
- Review and discuss with management and the auditors the Form 10-K and other published documents (like press releases) containing the company's financial statements.
- Recommend to the full board whether the audited financial statements should be included in the

Audit Committee Calendar

Sarbanes-Oxley And SEC Rules Add Burden

Audit Committee Responsibilities And Duties	Scheduled Meetings	
	1st Quarter	3rd Quarter
Review charter	✓	
Review annual financial statements—discuss with management, auditors	✓	
Consider internal controls and financial risks	✓	✓
Recommend appointment of auditors		✓
Approve audit fees		✓
Discuss auditor independence	✓	✓
Review auditor plan		✓
Discuss year-end results, SAS 61 report	✓	
Discuss quality of accounting principles	*	*
Perform other activities as appropriate	*	✓
Maintain minutes and report to board	✓	✓
Provide summary of committee actions to board	*	*

✓ Recommended timing * As needed

Form 10-K.

- Prepare a report to be included in the company's proxy statement.
 - Review the company's disclosures under "Management's Discussion and Analysis of Financial Condition and Results of Operations."
 - Conduct committee self-evaluation.
- On a quarterly basis, the audit committee will also have the following responsibilities:
- Review and approve internal audit reports.
 - Review the quarterly financial statements and earnings press release.
 - Review Form 10-Q, especially the MD&A.
 - Discuss the Form 10-Q and the financial statements with management and auditors.

Preparing a calendar for your compensation committee helps assure that members are not overwhelmed (or under-prepared) for their new tasks.

□ *The Compensation Committee Calendar.* The revised SEC rules regarding compensation disclosure (finalized in July 2006) will bring significant changes to the disclosure public companies are expected to make in proxy materials on executive pay.

With the increased scrutiny on compensation, committees need to be prepared. Preparing a calendar for the compensation committee can help members with this process by ensuring that they are not overwhelmed (or under-prepared) when the next proxy season is upon them.

The compensation committee calendar should include the following major responsibilities:

- Evaluate the company's operating style and business context.
- Analyze the company's long-range compensation strategies.
- Review the company's current pay practices, policies and overall compensation philosophy.
- Analyze the effectiveness of the company's pay as it supports its business objectives.

Compensation Committee Calendar

Prepare For Increased Scrutiny

Compensation Committee Responsibilities And Duties	Scheduled Meetings	
	1st Quarter	4th Quarter
Review executive compensation strategy and current compensation/benefit programs		✓
Review regulatory compliance on compensation matters		✓
Review and recommend to board the pay for directors, including annual stipend, meeting, committee and <i>per diem</i> fees and related matters		✓
Review chairman and president/CEO succession plans	*	*
Review and approve corporate and individual goals relevant to compensation of the president/CEO	✓	✓
Determine and approve pay of the president/CEO; consider company performance and individual performance against previously established goals	✓	
Review with the president/CEO the performance of executive officers	✓	
Monitor the performance and compensation of executive officers	✓	
Review executive officer succession plans		*
Review the charter		✓
Establish schedule of meetings for the year		✓
Maintain minutes and report to full board	✓	✓
Provide summary of committee actions to board	*	*

✓ Recommended timing * As needed

□ Prepare the new “Compensation Discussion and Analysis” (CD&A) section of the proxy material and the supporting tabular disclosure (if the SEC’s proposed compensation rules are adopted, this report will replace the current compensation committee report in the proxy statement).

□ Determine appropriate performance measures and peer review groups for examining competitiveness.

□ Review the pay structure of the executive officers both as it relates to external market competitiveness and internal pay equity.

□ Generate and review pay “tally sheets” for each executive officer.

□ Review company policy on perquisites.

□ Review the company’s current severance and change-in-control arrangements.

□ Set meetings with executive officers to discuss current compensation levels, current achievements and future goals.

□ Meet with independent consultants to discuss strategies and recommendations for determining executive and director pay.

□ Determine and approve the compensation for the CEO.

□ Make director pay recommendations.

□ Review procedures to ensure that interactions among consultants, officers and directors are documented for disclosure purposes.

□ Adopt disclosure controls to ensure that all disclosure can be supported or documented.

□ Conduct committee self-evaluation.

An additional calendar item, especially important because of the proposed rules regarding compensa-

Governance/Nominating Committee Calendar Plan Of Work

Governance/Nominating Committee Responsibilities And Duties	Scheduled Meetings	
	Spring	Fall
Annually evaluate the number of the directors on the board	✓	
Annually review the size and charter of board committees	✓	
Identify individuals believed to be qualified to become board members	✓	✓
Recommend nominees to stand for election or re-election as directors at the annual meeting	✓	
Recommend to the board members for respective committees including one member identified to serve as committee chair	✓	
Recommend to the board a slate of officers to be approved by the full board	✓	
Review director retirement and tenure policies		*
Review the charter	✓	
Address any other governance issues that may arise	✓	✓
Establish schedule of meetings for the year	✓	
Maintain minutes and report to the board	✓	✓
Provide summary of committee actions to board	*	*

✓ Recommended timing * As needed

tion, is to review the committee charter. Determine whether it continues to be appropriate and effective given the new disclosure rules.

The nominating or governance committee should evaluate any questionnaires used for board evaluations, self-evaluations, director independence and committee qualifications.

The Nominating/Corporate Governance Committee Calendar should include the following major responsibilities:

- Evaluate forms and questionnaires used for board evaluations, director independence and committee qualifications.
- Approve committee charters for recommendation to the full board.
- Develop a policy for director candidates.

- Approve standing resolutions on delegation of authority and information flow.
- Recommend slate of director nominees.
- Review the independence of each director.
- Review and recommend changes to the corporate governance guidelines.
- Review the company’s code of ethics and any requested waivers.
- Conduct committee self-evaluation.

A calendar detailing when, where, how and by whom tasks are to be accomplished is vital.

Calendar for meetings of the board as a whole. Matters that the full board should address annually include the following:

- Regularly review reports regarding business, operating results and financial condition.

- Nominations of directors.
- Analyze board member evaluations and committee self-evaluations.
- Review senior officer evaluations and pay.
- Review officer appointments and strategies for talent development and succession (considering both routine and emergency scenarios).
- Analyze board compensation.
- Annual review of the company's code of ethics and corporate governance guidelines.
- Review the corporate compliance program, including the company's insider trading policy and conflicts policy.
- Review and update board and executive personnel policies.
- Review the risks and liability of directors and officers and related insurance coverages, indemnification provisions and policies regarding the advancement of expenses.
- Strategic planning to produce goals, review the company's mission and strategies, evaluate any issues and analyze the competition.
- Review committee reports, and discuss any points that should be considered outside the presence of management.
- Provide the opportunity to discuss any matter that a non-executive director would prefer not to discuss in the presence of management.
- Assess the current takeover environment and defenses.
- Hold annual shareholder meeting.
- Analyze investor and corporate communications and perceptions.
- Review committee membership, especially any independence and qualification requirements.
- Determine audit committee "financial expert" qualifications.
- Review and approve the "Compensation Dis-

cussion and Analysis," and approve pay awards and awards recommendations.

- Review SEC filings and certification compliance.
- Address board orientation and training and the policy on continued board member development.
- Tour company facilities.

Annually, the board and each committee should review the calendar with management and outside advisors.

As you can see, a calendar detailing when, where, how and by whom certain tasks must be accomplished is vital. Otherwise, the risk is great that directors will have to make rushed decisions, or will lack appropriate information.

Accomplishing everything listed here, in addition to addressing the ongoing challenges of overseeing a business, will require significant planning. Do your board and committee calendars include dates for management and/or advisors to submit information? Have you and your fellow directors reviewed the calendar recently?

Annually, the board and each committee should review the calendar with management and outside advisors to determine whether scheduling or time allotments need to be altered, or whether legal or regulatory changes make it necessary to modify the calendar.

A board that finds itself regularly or even occasionally faced with a lack of appropriate information for a meeting, or that regularly tables agenda items, will significantly benefit from an action calendar. Planning board processes and scheduling events to effect good governance are basic steps, but critical to building the foundation for an effective board. ■

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