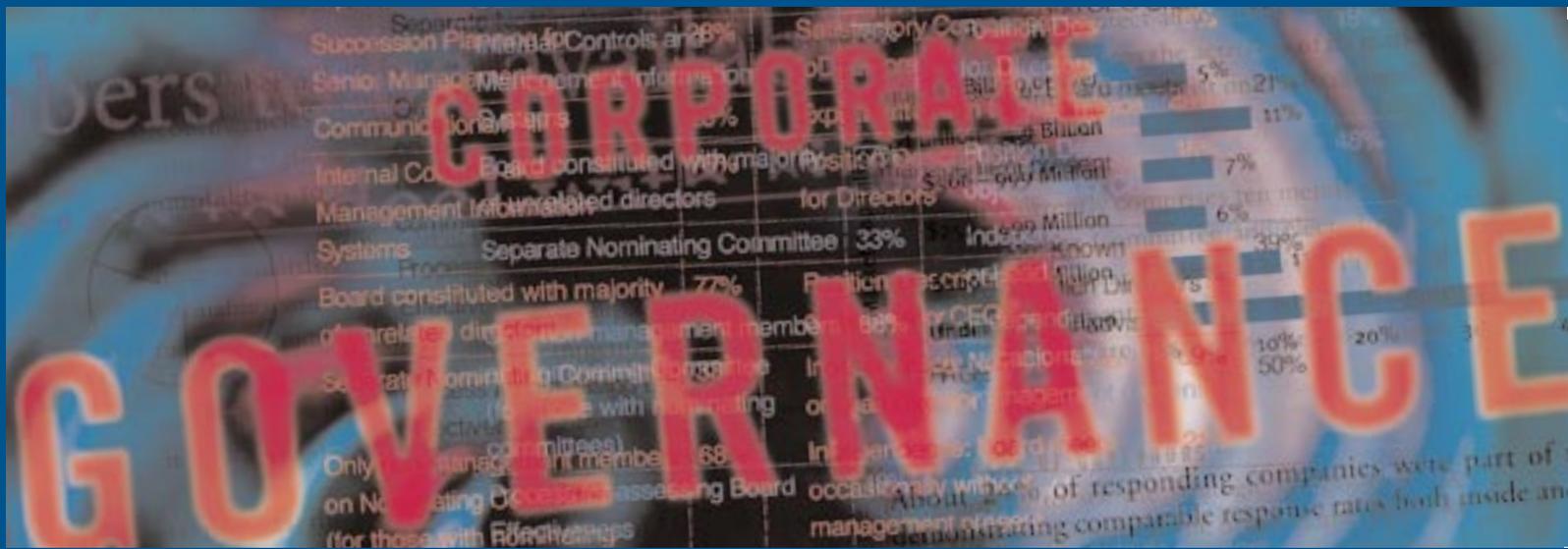


Report on Corporate Governance, 1999
Five Years to the *Dey*



Report on Corporate Governance, 1999

Five years to the *Dey*

CO-CHAIRS LETTER

Good corporate governance is an essential part of well-managed, successful business enterprises that deliver value to shareholders. Practices that better protect investor interests can only strengthen our capital markets.

Five years ago, the Toronto Stock Exchange published *“Where Were The Directors?”*, a landmark study on corporate governance. Since then, standards of corporate governance have improved in boardrooms across Canada.

Under the leadership of Peter J. Dey QC, a prominent lawyer and one-time chairman of the Ontario Securities Commission, the TSE’s Corporate Governance Committee report heralded a new era of increased attention to the responsibilities of Canadian boards as stewards of shareholder value.

The TSE adopted the Committee’s 14 recommendations as best practice guidelines for listed companies. Recognizing that there is no *“one size fits all”* solution, the TSE does not require compliance with the guidelines – but every year companies must disclose and explain any differences between their corporate governance practices and the guidelines.

The Committee also recommended that *“a successor committee... monitor developments in corporate governance, and evaluate the continued relevance of our recommendations.”* To that end, the TSE and the Institute of Corporate Directors (ICD) undertook this Five Years to the *Dey* survey of the current state of corporate governance among TSE-listed companies.

The research findings present a complex picture. On one hand, it is clear that most corporations take the TSE guidelines seriously. Many of the largest companies that account for the greatest proportion of Canadian equity investment are leaders in corporate governance. A number of the TSE guidelines are now broadly accepted business practices. On the other hand, important areas remain where general practice falls short of the guidelines’ intent. We see real opportunities for the TSE and ICD to help foster sound practices.

Several initiatives are underway:

Evaluation of boards and directors: Boards often lack formal processes for evaluating their own effectiveness. To help boards assess their performance, the ICD is designing a scorecard that companies can adapt to their specific needs.

Disclosure: To help investors easily assess compliance with TSE governance guidelines, the TSE intends to prescribe a standard table format for annual corporate governance reporting.

Training: The impending retirement of many among the current generation of directors suggests that newer board members will have less access to experienced peers. Today, roughly half the companies have no formal orientation programs or reference materials for new board members. The ICD is developing a comprehensive educational program with the TSE's support.

Risk management: Many boards – particularly in the gold and precious minerals sector – have no formal processes to evaluate risk. Later this year, the TSE will pilot a seminar on risk management for mining and exploration companies.

We would be remiss if we failed to acknowledge the substantial contribution of Dr. Ruth M. Corbin to *Five Years to the Dey*. Dr. Corbin not only orchestrated the survey through Decision Resources Inc., her highly regarded research consulting firm, but also contributed considerable personal insight to our interpretation of the results.

Most importantly, we must acknowledge the 635 Chief Executive Officers and other senior executives whose candid comments provided a clear picture of corporate governance today, the challenges and opportunities.

We remain convinced that investors are best served by a flexible approach that relies on voluntary adherence to the guidelines and respects differences among companies – as long as divergent practices are disclosed and explained to investors. In the words of one survey participant, “*corporate governance is a continuing learning experience*”. We are encouraged by the progress to date. Looking ahead, TSE and ICD are committed to fostering further improvement through leadership and practical support.



Barbara Stymiest
Chair
Toronto Stock Exchange



Marcelo D. Mackinlay
Chairman
Institute of Corporate Directors

CORPORATE GOVERNANCE REPORT

COMMITTEE MEMBERS, 1999

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Background and Study Methodology

Escalating interest in corporate governance of Canada's public companies is one of the most pronounced business trends of the past five years. Five years ago, the Toronto Stock Exchange (TSE) issued guidelines for improved corporate governance in Canada. Consider the dramatic scenes played out since then. Heightened shareholder activism at annual meetings of major corporations. Spectacular corporate failures in the mining sector, the entertainment sector and the electronics sector, to name but three. Resolution of the Federal Government's own lawsuit against directors and officers of the Northland Bank. The proliferation of consulting services on corporate governance. And the fastest growth in history of ordinary investors risking their savings in shares of publicly-traded companies.

How much progress has been made in the quality of governance in the past five years? The question of progress is addressed in this report, consistent with a recommendation in TSE's 1994 report, *"that a successor committee... monitor developments in corporate governance, and evaluate the continued relevance of our recommendations"*.

Under the direction of the Toronto Stock Exchange and the Institute of Corporate Directors (ICD), Decision Resources Inc. was commissioned to produce a governance scorecard for corporate Canada, its advisors, and policy-makers. Decision Resources Inc. is an international business research and consulting company, with a specialty practice in corporate performance measurement.

The objective of the commissioned research was to assess the extent to which corporate governance of public companies does reflect the TSE guidelines, and to identify opportunities for the TSE and ICD to support sound practices. The principal component of the research was a survey of Chief Executive Officers (who are frequently the chairs of their boards), that addressed the topics covered in the TSE's corporate governance guidelines.

* *"Where Were the Directors?" Guidelines for Improved Corporate Governance in Canada.* Report of the Toronto Stock Exchange Committee on Corporate Governance in Canada. December, 1994.

Chief Executive Officers of 1,250 TSE-listed companies were invited to participate - more than 95% of issuers listed on the TSE. Issuers that were not operating companies, such as investment trusts, were excluded. Invitations and survey forms were sent by mail or courier in November 1998. Recipients were requested to return their completed questionnaires directly to Decision Resources Inc.

The 635 replies constituted a response rate of approximately 51%. Among the respondents, 15 gave reasons why they were unable to fill out the questionnaire as provided, including such situations as being too newly listed to have any established board practices in place, or being engaged in take-over proceedings. The overall response rate is two to three times the national response rate for participation in business surveys, and ensures that the survey results are within 3% of the results that would have been obtained had all TSE-listed companies participated. Briefly put, the results have a high degree of reliability.

Summary Findings

1. Overall report card for corporate Canada has scores from very low to very high.

Progress has been made toward achievement of all TSE guidelines. The highest levels of compliance appear to be in controlling board size, participation in strategic planning for the corporation, and in the achievement of a majority of unrelated directors. The lowest levels of compliance appear to be in formalizing the roles and measuring the performance of the board. A best-estimate scorecard on all criteria appears below. The percentages represent the proportions of companies whose survey responses were consistent with the standards of the TSE guidelines.

Progress has been made toward achievement of all TSE guidelines.

TSE Guideline Scorecard	% Adoption
Board size suitable for individual accountability	95%
Strategic planning involvement	79%
Board constituted with majority of unrelated directors	77%
Internal controls and management information systems	76%
Satisfactory compensation to directors	76%
Independence: Non-CEO Chair or lead director	69%
Only non-management members on nominating committee (for those with nominating committees)	68%
Risk management systems in place	60%
Orientation for new directors	49%
Explicit attention to governance	48%
Position descriptions and objectives for CEO	48%
Independence: Known procedure by which directors can retain outside advisors	39%
Separate nominating committee	33%
Succession planning for senior management	28%
Communications policy	25%
Process for assessing director effectiveness, other than ad hoc discussions with chair	24%
Independence: Board meets occasionally without management present	21%
Position descriptions for directors	18%
Process for assessing board effectiveness	18%

2. Adherence to the guidelines varies with size and sector.

The TSE guidelines are not mandatory rules. Some companies, have discovered that the guidelines have not always proven useful, relevant, or feasible. Small cap and mining companies are notably less likely to adopt several of the guidelines.

“One size does not fit all.”

“Corporate governance requirements can become overly burdensome for smaller companies. The problems related to the board of a chartered bank are quite different for an intermediate mining company.”

“In smaller companies, the board is so close to the company that some issues become irrelevant – such as formally approving communications or risk management policies...Directors know more about what is going on than in big corporations which might have formal processes.”

3. Corporate governance has limited formalization.

The TSE guidelines advocated that boards either assume express responsibility for developing the corporation’s approach to governance or assign this responsibility to a board committee. CEO attitudes range between enthusiasm and skepticism.

CEO attitudes range between enthusiasm and skepticism.

About half of companies responding to the survey have little or no formalization of corporate governance on their agendas. Their views are reflected in the following sample comments.

“Too much academic importance attached to the notion of corporate governance.”

“Corporate governance has gone from being ignored to being overexposed, with the emphasis on form over substance.”

At the other extreme are companies who believe that formalization helps a lot in board operations.

“Most directors appreciate the guidelines. While they aren’t mandatory, they serve as a useful tool for directors and give them a measure of authority when asking for reforms, better dissemination of information, and better organized committees.”

4. Limited achievement of board independence.

TSE guidelines emphasize the importance of board independence to ensure that shareholder interests take precedence in all significant decisions.

The survey results flash certain warning signals. Almost 40% of boards are chaired by the CEO with no independent lead director. In half the cases, the board does not approve CEO position description or objectives. Only one in five boards meets at least twice a year without management present. The existence of “related” directors on audit committees and nominating committees can present conflicts of interest.

5. “We’re okay” confidence reflected in open-ended appointments and absence of formal evaluations.

A majority of boards have no formal process for evaluating their own effectiveness. Moreover, in over half the cases, board appointments are open-ended rather than for set terms. This led at least one CFO, responding on behalf of his company, to comment on the risk (in his view) of *“incompetent boards perpetuating themselves.”*

A majority of boards have no formal process for evaluating their own effectiveness.

6. Limited director orientation but no indication of dissatisfaction.

Most boards have no formal orientation program for new directors, preferring recruits to learn as they go. Little support is demonstrated for external education programs. Either the need is not recognized or such programs have failed to date to prove their value.

7. Limited indication that liability issues and compensation are limiting the director pool.

Speculation sometimes arises that liability risk and restrained compensation may discourage qualified candidates from accepting directorships. In fact, most respondents believe that today’s compensation structure for directors is satisfactory, with perhaps a slight leaning towards more stock options. If there are difficulties finding new directors, the problems seem to reflect a shortage of desirable candidates, rather than reluctance on the part of potential nominees.

Most respondents believe that today’s compensation structure for directors was satisfactory.

8. CEOs see other issues that need attention.

Certain respondents volunteered the wish for guidelines, or at least progress reports, on other issues including:

- Diversity of the board with respect to gender and race.
- Level of preparedness for internationalization of markets; guidelines for geographically diversified companies.
- How to prevent a long-standing board from perpetuating its own entrenched weakness, if there is no catalyst for change.

Survey Results by Topic

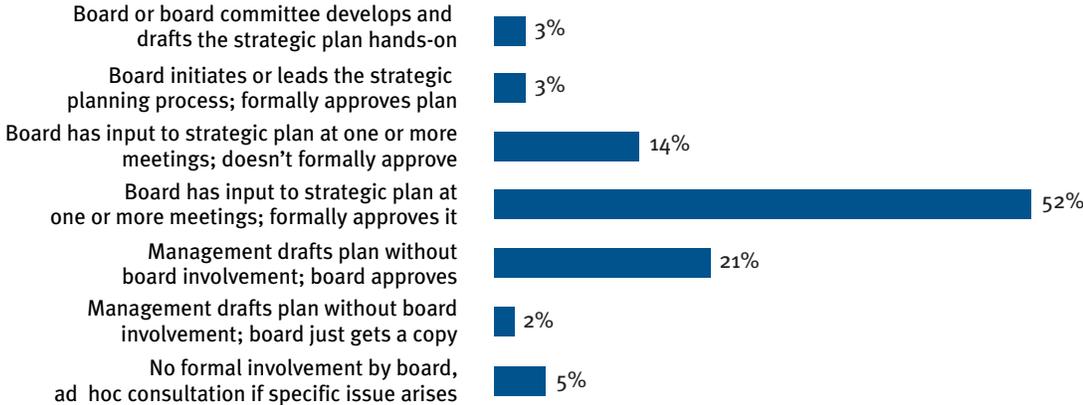
Board Involvement in Strategic Planning

According to TSE guidelines, the board of directors of every corporation should “explicitly assume responsibility for the stewardship of the corporation and, as part of the overall stewardship responsibility, should assume responsibility for the adoption of a strategic planning process. However, process implementation is expected to come from management”. The guidelines recommend unequivocally that directors’ responsibilities not include any part of day-to-day management.

Progress on strategic plan accountability is relatively high. In about 80% of cases, the board fulfills the role, at minimum, of approving a strategic plan for the corporation. In two-thirds of the cases, the board provides input to the strategic plan. There is little indication of boards being too involved in operations: in fewer than 6% of cases does the board assume hands-on responsibility for planning activities.

Progress on strategic plan accountability is relatively high.

Please choose the statement which best describes the board’s involvement in your corporation’s strategic planning process.

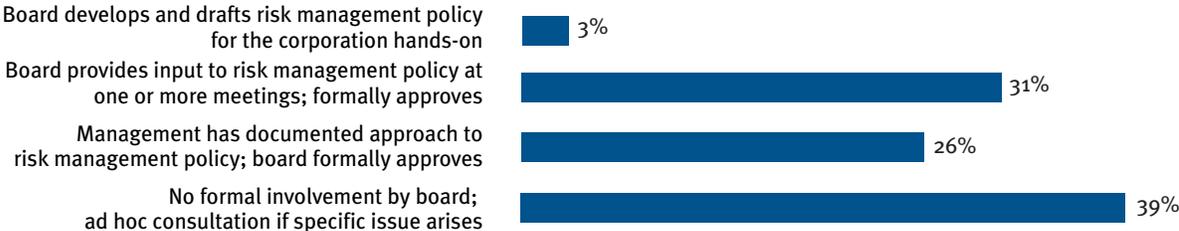


Risk Management

TSE guidelines advocate that boards assume responsibility for *“the identification of the principal risks of the corporation’s business, ensuring the implementation of appropriate systems to manage these risks.”*

Risk management appears to be one of the less developed governance activities. Thirty-nine percent of participating companies have no formal process. This percentage rises to 55% in the gold and precious minerals sector. The remainder of boards differ in the extent to which directors themselves take active involvement in policy development.

Please choose the statement which best describes the board’s participation in setting risk management policy for the corporation.



Respondents were also asked to describe the most significant examples of risk analysis conducted by their boards in the past year. The following areas were identified by at least 10% of companies.

Actively reviewed plans and discussed issues as a matter of process	27%
<ul style="list-style-type: none"> • <i>“Risk analysis constitutes part of the strategic plans of each function annually presented to the board.”</i> • <i>“As part of the strategic planning process, the board reviewed risk in gold exploration, at a time of depressed gold prices and uncertain market outlook. It endorsed management’s new plan which [reallocated resources].”</i> 	
Y2K	15%
<ul style="list-style-type: none"> • <i>“Y2K preparedness is an agenda item at every meeting.”</i> • <i>“Audit, finance and risk committee has held regular meetings with head of Y2K program, has reviewed progress reports and time-line studies, and reports progress at each subsequent board meeting.”</i> 	
Hedging decisions, often with respect to commodity prices	15%
<ul style="list-style-type: none"> • <i>“Board reviewed, advised and contributed to development of company policy regarding hedging strategy for foreign exchange risk.”</i> • <i>“Hedging oil and gas. Board analysed strategy, set limits for management and satisfied itself as to the credit worthiness of all parties involved.”</i> 	
Risk policy, processes and tactics	15%
<ul style="list-style-type: none"> • <i>“A new consolidated approach to risk management was initiated this year and reviewed with the audit committee.”</i> • <i>“A risk framework was the primary vehicle to assess risk across the [corporation] including systemic, operating, reputational, competitive, regulatory, credit, market, liquidity, technology and people risks.”</i> 	
Mergers and acquisitions	14%
<ul style="list-style-type: none"> • <i>“On a recent takeover, the board was fully apprised of the risks involved, received presentations from outside advisors and from in-house risk management personnel, reviewed and considered this information, discussed its implications, and took an informed decision.”</i> • <i>“The board was heavily involved in the analysis of pros and cons of our merger with another mining company.”</i> 	

Succession Planning

TSE guidelines state that boards should assume responsibility for succession planning for senior management of the corporation.

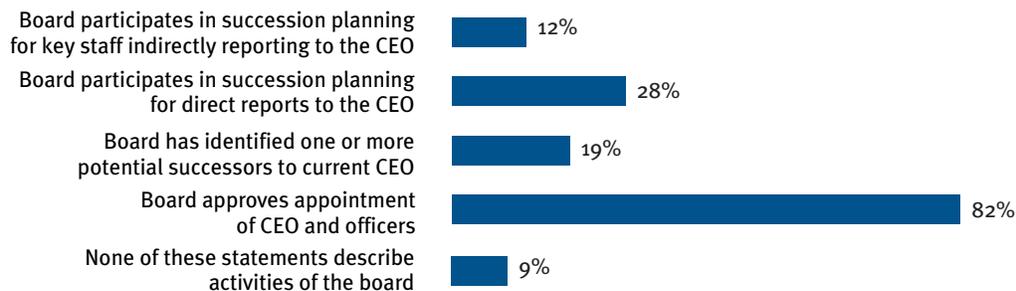
In one respect, there is consistency in how this responsibility is addressed: in more than 80% of cases, the board approves the appointment of the CEO and officers. It is plausible that most of the remainder have inherited their management from pre-listing days.

In more than 80% of cases, the board approves the appointment of the CEO and officers.

There is wider discrepancy in how other aspects of succession planning are addressed. In only one in five cases has the board identified at least one potential successor to the CEO. This percentage varies directly with the size of the company. TSE 300 companies are more than twice as likely as others to engage in succession planning. Curiously, boards are more likely to plan for the succession of executives reporting directly to the CEO than for the CEO himself or herself. A small portion go further to participate in succession planning for key staff indirectly reporting to the CEO.

TSE 300 companies are more than twice as likely as others to engage in succession planning.

Which of the following statements best describe the succession planning process for your company?



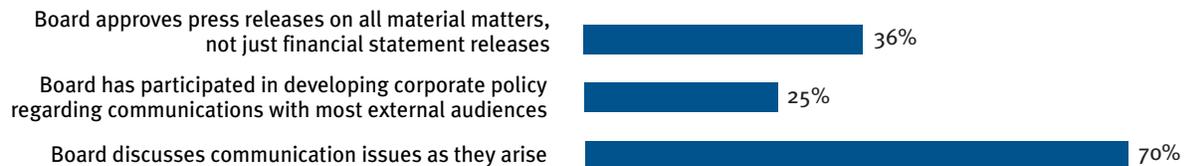
Communications Policy

The TSE guidelines recommend that a board assumes responsibility for a policy to *“enable the corporation to communicate effectively with its shareholders, other stakeholders and the public generally...[and to] accommodate feedback from shareholders”*.

Participation in ad hoc communication issues is high, but more systematic involvement in process and policy is less evident. Only about one in three public company boards approves news releases on all material matters (not just financial statement releases), and only one in four boards gives formal attention to policy development for corporate communications.

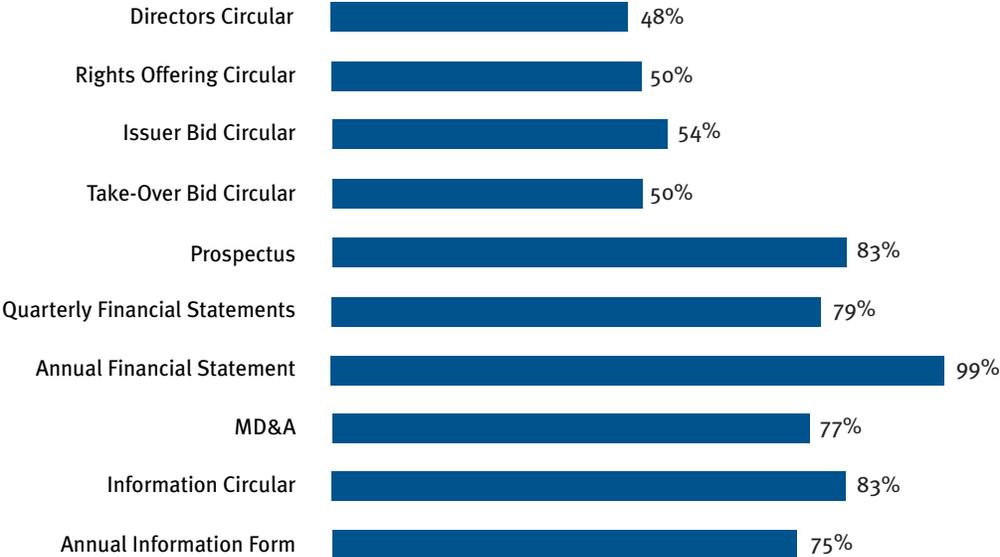
Only one in four boards gives formal attention to policy development for corporate communications.

Please check all statements which describe the board’s involvement in communications with shareholders.



Most boards approve a variety of corporate communication documents. When specific corporate communication documents were named, a majority of respondents indicated that the board does approve them in almost all cases. For example, virtually all boards (99%) approve their annual financial statements before public release. Prospectuses (83%), information circulars (83%) and annual information forms (75%) are also consistently approved by the board before being disclosed to the public.

Which of the following documents, if any, does the board approve before it is released?



Internal Control and Management Information Systems

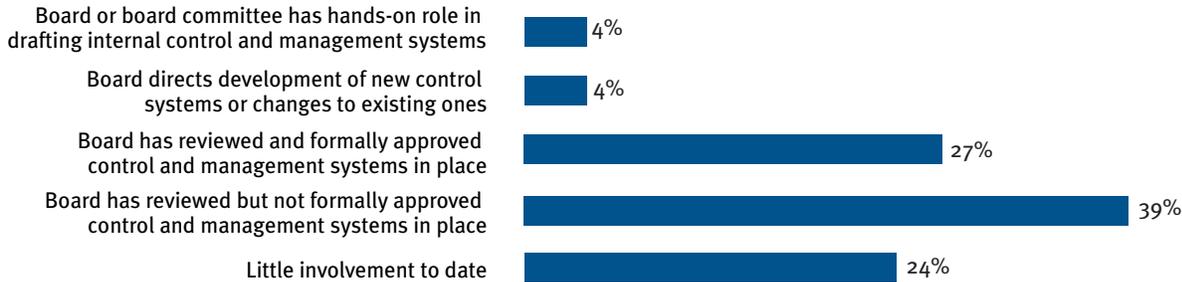
The TSE guidelines recommend that the board assume responsibility for the integrity of the corporation’s internal control and management information systems.

The definition of “*internal control and management information systems*” in the 1994 report was wide-ranging. It included: criteria for tracking the implementation of corporate strategy; audit systems to inform the board of the integrity of financial data and regulatory compliance; and management of other important areas of corporate conduct. Directors were urged to “*focus on the machinery upon which the board must rely to discharge its other responsibilities.*” It is possible that corporations may be unaware of, or find ambiguous, the broad definition of internal control and management information systems. This is borne out by the diverse responses, and by the several question marks and marginal notes written in by respondents to the survey.

25% of boards have little, if any, involvement in internal control and management information systems.

Survey results show that one in four boards has little, if any, involvement in internal control and management information systems. Only one in four has formalized approval processes in this area.

Please identify the extent to which the board is involved in internal control and management systems.



Related and Unrelated Directors

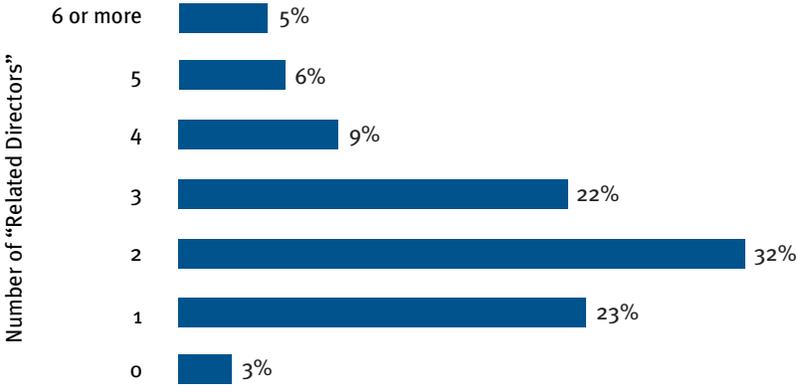
An ‘unrelated director’ as defined in TSE guidelines as *“a director who is independent of management and is free from any interest and any business or other relationship which could, or could reasonably be perceived to materially interfere with the director’s ability to act with a view to the best interests of the corporation, other than interests and relationships arising from shareholding”*. A ‘related director’ is *“a director who is not an unrelated director”*.

According to the guidelines, boards should be constituted with a majority of unrelated directors.

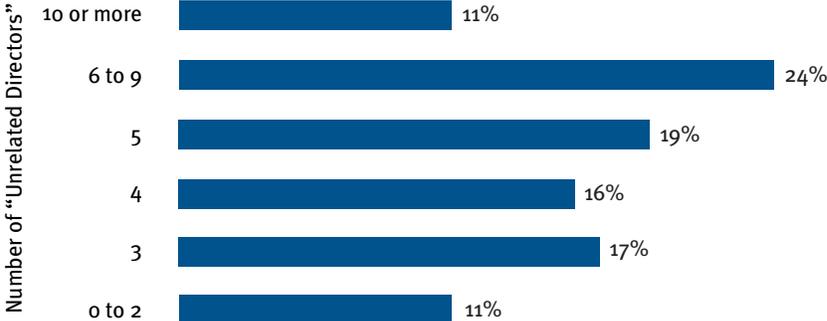
The guidelines appear to be reflected in practice. In 77% of companies, the unrelated directors constitute the majority. The average number of related directors per board is 2.6, versus 5.5 unrelated directors.

The average number of related directors per board is 2.6, versus 5.5 unrelated directors.

Related Directors



Unrelated Directors



Responding companies were asked to describe one or more situations where a director may have a limited business relationship to the company, but can still be identified as “unrelated”. The following situations were provided as examples. Some may be open to debate as to whether they are truly materially unrelated relationships.

Five percent of respondents volunteered that whatever business relationships may exist, safeguards are in place to preserve independence. On the other hand, one participant wrote that tolerance of “limited business relationships” with independent directors should be regarded as a warning signal.

Limited business relationships by “unrelated” directors (n=292)

Legal counsel <i>e.g., “Lawyer that supplies legal services to the company, but does not have more than twenty-five percent of the company’s legal work”</i>	32%
Limited service supplier <i>e.g., “In the past three years, a very small and limited consulting role by two directors. Emphasize VERY SMALL.”</i>	24%
Past employment or business involvement <i>e.g., “One of the unrelated directors was president of the corporation four years ago.”</i>	17%
Director’s company does business/has relationship with our company <i>e.g., “The president of the company that supplies our computer systems is on our board.”</i>	16%
Finance or banking through directors company <i>e.g., “One director is an officer of the company’s investment banker.”</i>	15%
Director or Director’s company is (major) shareholder. <i>e.g., “Two board members are employed by major shareholder who owns 52% of the company.”</i>	13%
Loan customer/shares facilities/other miscellaneous <i>e.g., “One director manages real estate investing operation and has office facilities with the company.”</i>	6%
There are safeguards to preserve independence <i>e.g., “One director provides [professional services], however services are provided at the direction of the board as opposed to management.”</i>	5%

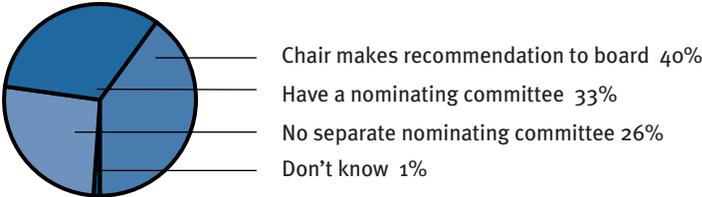
Selection of New Board Members

TSE guidelines provide that nominees to the board be proposed through a committee composed exclusively of non-management directors, a majority of whom are unrelated.

A minority of boards have adopted this recommendation. In 40% of cases, the Chair chooses the nominee and seeks board approval. Only one third of boards have separate nominating committees. In the remaining cases, either the board as a whole operates as the nominating committee or some other process is followed.

Only about one third of boards have separate nominating committees.

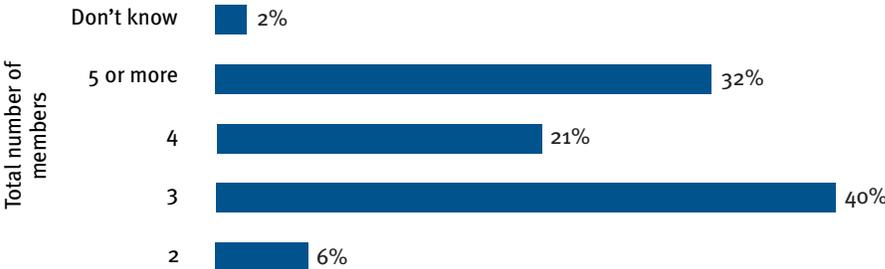
Selection of New Board Members



Nominating committees typically have between three and five members. A majority of companies have neither management members on the nominating committee (68%) nor non-management related directors (72%).

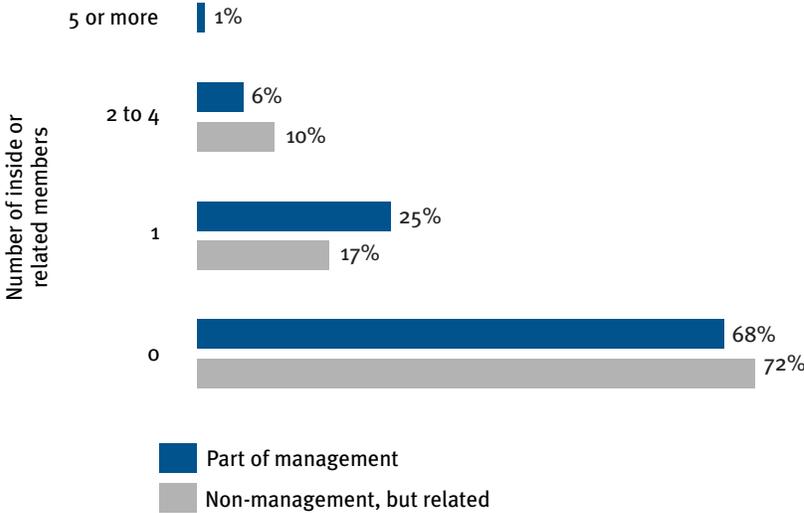
Nominating committee size

Base: Boards with nominating committees



Nominating committee make-up

Base: Boards with nominating committees



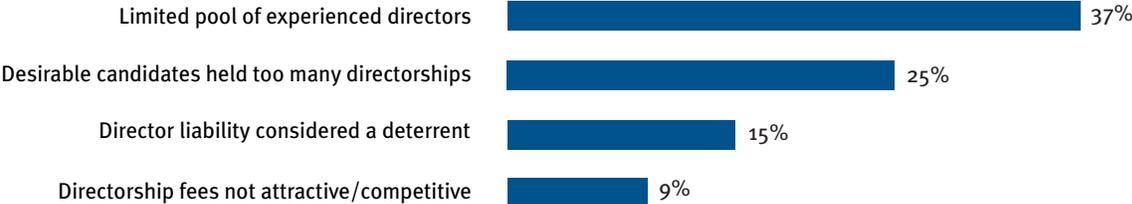
Recruitment of Directors

Speculation sometimes arises that liability risk and restrained compensation will reduce the attraction of board appointments to those whose services might be most in demand. The survey results do not support this hypothesis.

Respondents were asked to select statements that described difficulties their boards may have encountered while recruiting new directors. The largest group of responses dealt with the scarcity of acceptable candidates, or the fact that desirable candidates held too many directorships. Much less frequent were beliefs that compensation levels or liability concerns were deterring candidates. That is, according to participants in the survey, there are no major obstacles to attracting qualified candidates to board appointments.

There are no major obstacles to attracting qualified candidates to board appointments.

Recruitment of Directors



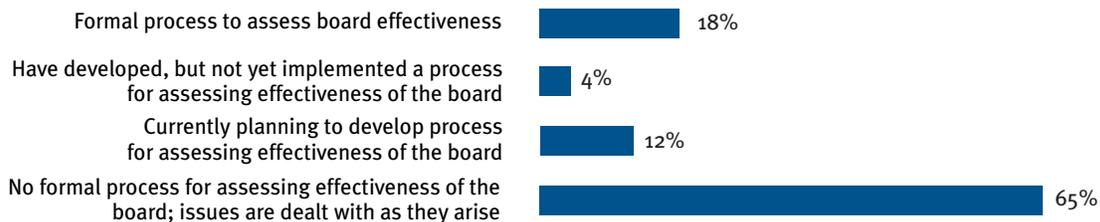
Assessing Board and Director Effectiveness

According to TSE guidelines, “every board of directors should implement a process for assessing the effectiveness of the board as a whole, the committees of the board, and the contribution of individual directors”.

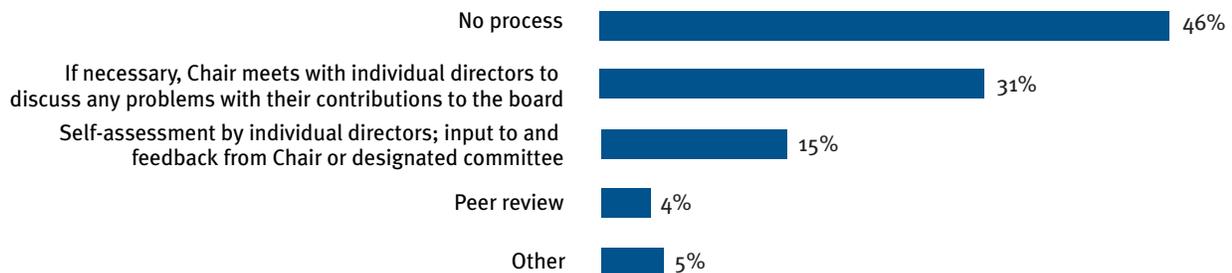
Fewer than 20% of companies have any formal process for assessing board effectiveness - although almost all companies have ad hoc procedures or plans to adopt a more formal approach. Similarly, fewer than 20% have a process to assess the contribution of individual members. These findings reflect a recurrent theme of the study: most boards have been slow to formalize roles, policies, and evaluation methods. One CEO observed: “*Directors have ‘spotted’ the issue of director assessment, but it will take a few years for them to grapple with this.*”

Fewer than 20% of companies have any formal process for assessing board effectiveness.

Nature of process for board evaluation



Assessing board members



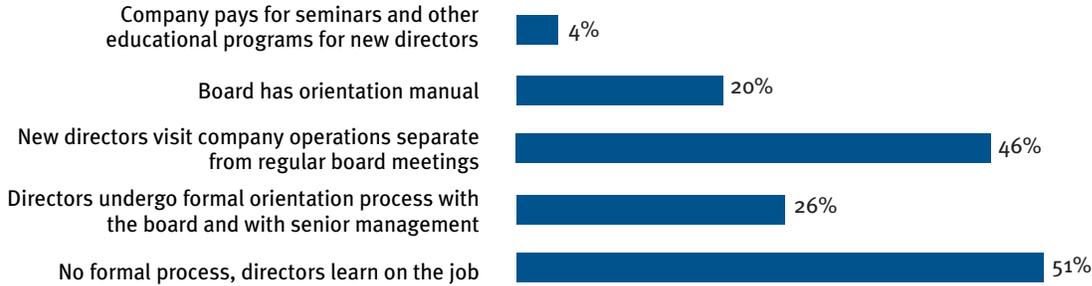
Orientation for New Board Members

According to TSE guidelines *“every corporation, as an integral element of the process for appointing new directors, should provide an orientation and education program for new recruits to the board”*.

Only a quarter of corporate boards have a formal orientation process for new directors. Most expect new directors to learn on the job. In about half the cases, directors visit company operations to gain a better understanding of the business. These visits may be ad hoc or be part of a formal process. Only in rare cases (4%), does the company pay for seminars and other director education programs.

Most expect new directors to learn on the job.

Board orientation practices

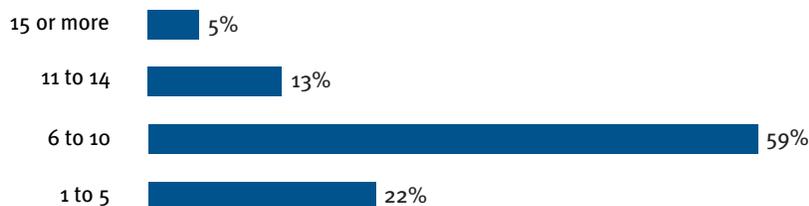


Board Size

Most boards have six to ten members. This is comfortably below the maximum threshold advocated by the TSE. *“There is a general view... that as the number of directors on a board increases beyond a particular threshold (approximately 20*), the effectiveness of the board decreases.”* At the time, the TSE committee felt *“more imagination and energy could be expended by corporations with large boards to reduce their numbers”*.

Most boards have six to ten members. This is comfortably below the maximum threshold advocated by the TSE.

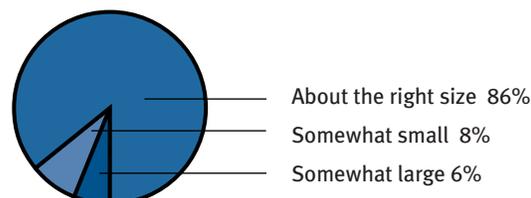
Board size



One of the concerns expressed about large board sizes in the TSE report was a perceived loss of accountability by individual directors. Concern was also expressed that boards may be too small to discharge their many responsibilities. The data show that boards outside the middle range are more likely to be smaller than larger. Twenty-two percent of boards have five or fewer members.

Most participants are satisfied with the sizes of their boards.

Would you say your board is somewhat small to be optimally effective, somewhat large to be optimally effective, or about the right size?



* The scorecard on page 3 uses the top category of 15 or more as beyond the spirit of the TSE guideline.

Director Compensation

According to TSE guidelines, *“boards should review the adequacy and form of the compensation of directors and ensure the compensation realistically reflects the responsibilities and risk involved in being an effective director”*.

The guideline leans toward a remuneration level that reflects a high degree of responsibility and expected commitment. If directors are paid a token amount, the authors of the TSE report observed, there may be a tendency to think the job is not important.

Most respondents to the survey believe that the components of their current director compensation are appropriate. That said, more than 29% of respondents believe stock options should play a greater role in director compensation.

Most respondents to the survey believe that the components of their current director compensation are appropriate.

The remuneration components evaluated in the survey are listed in the table below, together with the percentages of respondents who believe that that component should be modified (higher or lower) or stay the same.

Compensation component	Should be higher (%)	Should stay same (%)	Should be lower (%)	Don't know/No answer (%)
Annual retainer fee – board	13	77	2	8
Annual retainer fee – committee	9	75	1	15
Compensation per board meeting in-person	10	79	1	9
Compensation per board meeting by phone	6	77	6	11
Compensation for committee meetings	9	79	1	11
Stock options	21	67	3	9

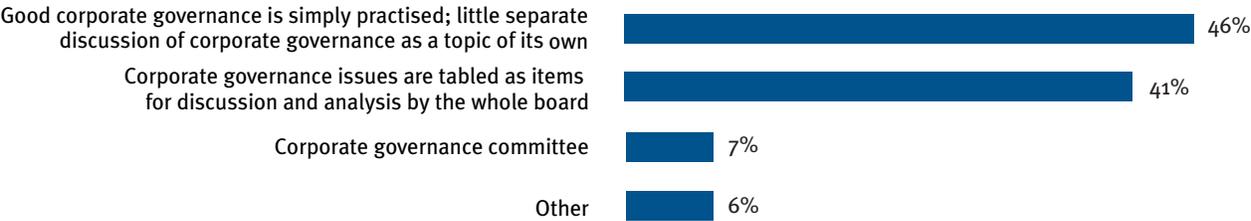
Explicit Attention to Governance

The TSE advocates that boards assume express responsibility for developing the corporation’s approach to governance issues or that this be assigned to a committee of the board.

Only about half of listed companies have explicit processes to address corporate governance issues. Forty-six percent of participants state that *“good corporate governance is simply practiced, with little separate discussion”*. Forty-one percent state that *“corporate governance issues are tabled as items for discussion and analysis by the whole board”*. Just 7% of corporations have a committee with the mandate to address corporate governance issues.

Forty-six percent of participants state that *“good corporate governance is simply practiced, with little separate discussion”*.

How is corporate governance treated by the board?



This result indicates limited acceptance by boards of the proposition that corporate governance should be a topic for explicit scrutiny and process. As one CEO submitted, *“Do not try to establish rigid rules! Most governance issues are a matter of common sense and sound business judgement”*.

Perspectives on Corporate Governance

The previous section demonstrates wide variance in attitudes toward corporate governance. These views are reflected in comments volunteered by respondents in marginal notes or in comments at the end of the survey.

Six major themes emerged in these verbatim comments.

1. Too much emphasis on and formalization of corporate governance.

“The Dey Report was somewhat unrealistic for [us]. We have never experienced a shareholder complaint regarding our corporate governance.”

“Too much academic importance attached to the notion of corporate governance. Boards don’t and should not run companies.”

“Corporate governance has gone from being ignored to being overexposed, with the emphasis on form over substance.”

“Overkill of corporate governance.”

“Have seen little evidence that investors have a driving interest in corporate governance practices with respect to our company and industry. Feel corporate governance practices should be viewed more subjectively. TSE seems to feel there is an objective standard all companies should strive to achieve, various portions of which may not be practical for all companies.”

“Do not try to establish rigid rules! Most governance issues are a matter of common sense and sound business judgment.”

“Corporate governance is essentially a matter of common sense and integrity. Formal policies help to focus the functions of the board but they are not a substitute.”

2. Avoid temptation for more regulation of governance.

“The TSE should hold directors and officers accountable, but not over-regulate for the lowest common denominator. Prosecute the bottom feeders but stay out of the way of well-managed companies.”

“Corporate governance guidelines should be only guidelines. They do not always fit every company or its board.”

“I believe that good governance should be an issue between shareholders and directors...More regulations between boards and management results only in larger legal fees and more boiler-plate!”

“To the extent that new corporate governance rules are adopted I hope the TSE and ICD keep in mind that the mining industry is under severe financial pressure. New rules and regulations on corporate governance should not be a penalty to the mining industry.”

“Corporate governance guidelines should be just that — good, well-performing ethical companies do not need yet another set of bureaucratic rules to succumb to — there is a cost to shareholder value with too much, too specific detailed regulation — we opt for integrity, strong business ethics and common business sense in our use of corporate governance guidelines.”

“Corporate governance is essentially a matter of common sense and integrity.”

3. TSE should exercise a moral imperative, if not policy imperative, to improve corporate governance.

“Keep the pressure on requiring companies to make declarative statements on corporate governance in MD&A. I suggest they be placed on Web pages.”

“Based on the number of blatant cases of late, it is obvious that some improvements are required in corporate governance, audit committee vigilance and in auditors’ tendencies to rely solely on GAAP rather than prudent policy... In view of recent abuses, has the time arrived to replace self-regulation with policy mandates?”

“TSE should ask all listed companies to complete report on corporate governance annually, and require report to be signed by chairman of the board.”

“I would suggest a published scorecard of best practices among corporations as a disclosure item.”

4. The guidelines don't always make sense for small companies.

“Much of corporate governance is applicable to large corporations. Small corporations although attempting to respond correctly to responsible corporate governance have difficulty doing so cost effectively.”

“Various topics should remain as recommendations only and not mandatory, i.e. there are currently too many committees recommended for every company to abide by, especially smaller companies.”

“Governance procedures for small cap corporations cannot for a number of practical reasons be precisely the same as for larger corporations.”

“It should be recognized that smaller companies with small independent boards can have high standards of stewardship and control with a minimum of committees and written procedures.”

“Much of what is formalized as good corporate governance policy is applicable to large companies only. Small companies are much less formal but contact between directors is probably more constant and ‘hands-on.’”

“Separating board and management in monitoring process is impracticable in small resource companies.”

“One size does not fit all. Issues of corporate governance for a small, tightly focussed company are different than they are for a large cap, diverse company.”

“Junior exploration companies don't have the money for expensive, time consuming and heavily regulated procedures. The cost of accounting, reporting, lawyers, trust companies, etc. are heavy and further strict governance rules would only add to costs.”

“Plans for corporate governance regulation must take into account the ‘working boards’ of small companies.”

“Many aspects not applicable to low market cap non-positive cash flow (exploration) companies.”

“In the interests of efficiency and practicality, the corporate governance structure for smaller companies (under \$100 million market cap) should be less formal, less costly, and less demanding on management’s time. This approach reflects the fact that the resources of smaller companies are usually dedicated to fewer, or even single projects, which require less director oversight, at least after the project, or projects, are in commercial operation.”

“In smaller companies, the board is so close to the company that some issues become irrelevant — such as formally approving communications or risk management policies... Directors know more about what is going on than in big corporations which might have formal processes.”

“Corporate governance requirements can become overly burdensome for smaller companies. The problems related to the board of a chartered bank are quite different for an intermediate mining company.”

5. We believe in the codification of corporate governance (and we’re striving to improve).

“Increasing directors’ knowledge of their responsibilities is essential.”

“Corporate governance is a continuing learning experience.”

“Most directors appreciate the guidelines. While they aren’t mandatory, they serve as a useful tool for directors and give them a measure of authority when asking for reform, better dissemination of information, better organized committees, etc.”

“This is a company in transition... A number of operating changes have been implemented. [Governance matters such as] board make-up and duties will follow.”

“Development of the corporate governance manual and committee has clarified and improved the processes within our organization.”

“Corporate governance practices are not a lot of fun, but important. We endorse the TSE’s lead in this area and believe the work of our corporate governance committee is valuable to the future of our company.”

“Board regularly examines trends in corporate governance from around the world. The company also has an active International Advisory Board which advises the board and senior management.”

“Company and committee are committed to the issue of corporate governance.”

“Our corporate governance is continuing to evolve. Our objective is full compliance with the guidelines for improved corporate governance contained in the TSE 1994 report.”

“[Our company] has just become a public corporation and is just beginning to address many of the issues raised by the questionnaire. Clearly, many of its answers will be different one year from today.”

“Corporate governance is taken very seriously and is a common phrase/consideration at this company. The 1994 report is readily available and utilized. I am impressed by the understanding displayed by the executive of the board’s role.”

6. Difficult to formalize without support from the top.

“The Chairman is also the CEO and a major shareholder, and has not taken the lead. Good corporate governance is practiced, it’s just not formalized.”

“Corporate governance sounds good on paper, but is difficult to implement... without the support of the president/CEO.”

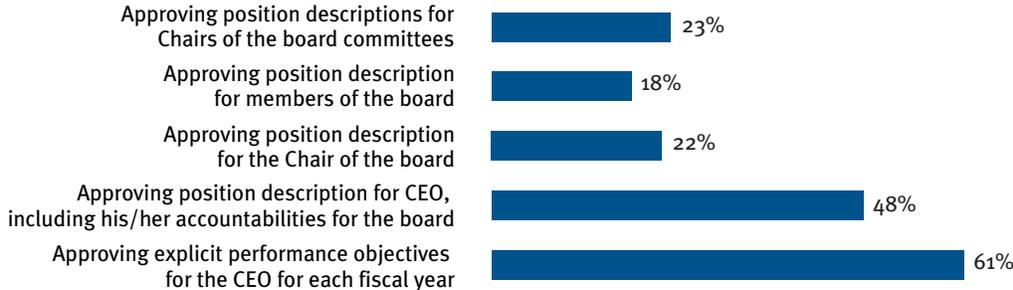
Position Descriptions for the Board and CEO and Setting of CEO Objectives

According to TSE guidelines, *“the board of directors, together with the CEO, should develop position descriptions for the board and for the CEO, involving the definition of the limits to management’s responsibilities. In addition, the board should approve or develop the corporate objectives which the CEO is responsible for meeting.”*

Just under two-thirds of corporate boards set or approve objectives for the CEO. While this is a clear majority, it may be lower than expected. Less frequent is board involvement in approving the position description for the CEO. Position descriptions for various board roles are drafted in only about one in five cases.

Just under two-thirds of corporate boards set or approve objectives for the CEO.

In which of the activities listed does the board explicitly take part?



Board Structure and Independence

According to TSE guidelines, “every board of directors should have in place appropriate structures and procedures to ensure that the board can function independently of management. An appropriate structure would be to (i) appoint a chair of the board who is not a member of management with responsibility to ensure the board discharges its responsibilities or (ii) adopt alternate means such as assigning this responsibility to a committee of the board or to a director, sometimes referred to as the ‘lead director’. Appropriate procedures may involve the board meeting on a regular basis without management present or may involve expressly assigning the responsibility for administering the board’s relationship to management to a committee of the board.”

A majority of boards have a Chair who is other than the CEO. However, limited other opportunities are taken to explicitly demonstrate independence of the board from management. For example, in only 39% of cases do procedures allow directors to engage outside advisors at the corporation’s expense. In only 21% of cases does the board meet at least twice a year without management present. And in only one in eight cases is there an outside lead director. Presumably, if the Chair is an outside director, there may be no need for a lead director. However, paradoxically, lead directors are more common on boards where the chair is already separate from the CEO.

A majority of boards have a Chair who is other than the CEO.

In only 21% of cases does the board meet at least twice a year without management present.

Which of the listed statements apply to your board?
Indicate all that apply. (n=613)

Chair is not CEO	57%
An explicit procedure, known to all board members allows directors to engage outside advisors at the corporation’s expense	39%
Last year the board held two or more of meetings without management present	21%
An outside director (not the Chair) is lead director.	12%

Balancing Independence with Board/Management Relationships

As media headlines show, board members can sometimes have too much confidence in management and miss warning signals about impending crises. Respondents were asked to identify the signs a board should watch for.

Despite well-documented crises, some CEOs found the question presumptuous. One CEO responded *“We have no experience in this matter”*. Wrote another, *“This statement is ridiculous! If board members simply do their jobs, ask questions, understand the company, and seek answers, they would not be in this position.”*

Comments from all responding companies are summarized below. The most frequent comments concerned director passivity.

Warning signals

Directors too passive/Management acting too independently	49%
<ul style="list-style-type: none"> • <i>“It is a danger signal when board meetings are too short, because management is ‘handling everything’. Board meetings should facilitate extensive discussion about company affairs and not be rushed.”</i> • <i>“Failure to demand full disclosure on areas of risk—assuming that all will be fine because it has been in the past.”</i> • <i>“Management presents reports, financial reports and ‘proposed’ transactions as a fait accompli to outside board members.”</i> 	
Continually missed targets/Negative market outlook	26%
<ul style="list-style-type: none"> • <i>“Too many ‘surprise’ situations, not anticipated by management.”</i> • <i>“Missed milestones, significant budget variances, negative analysts’ reports, stock not performing with industry averages.”</i> 	

Warning signals

Management unresponsive/Misses deadlines/Misleads	21%
<ul style="list-style-type: none">• “[Management’s] failure to reply to specific requests on a timely basis.”• “Management being closed-mouthed on contentious issues... resenting or pushing back on board when a director is acting properly.”	
Specific crises	2%
<ul style="list-style-type: none">• “Abundance of crises and unexplained losses.”	
Aggressive accounting/Limited access to auditors	8%
<ul style="list-style-type: none">• “Growing inclination to ‘creative’ accounting and financial engineering with the benign blessing of auditors.”• “No direct communication with the internal and external auditors.”• “Aggressive accounting practices, especially with [inappropriate] capitalization of items.”	
Board too distant from staff and staff problems	7%
<ul style="list-style-type: none">• “Most information is from CEO without consultation with various members of senior management.”• “Too much management turnover.”	
Significant debt and expense issues	7%
<ul style="list-style-type: none">• “Dwindling treasury, reduced market capitalization.”• “Unusual cash drain.”	
Too much familiarity/Socializing/Personal relationships	6%
<ul style="list-style-type: none">• “Long term cozy or friendship relationships with senior management.”	
Too few truly independent directors	4%
<ul style="list-style-type: none">• “Outside directors have business which rely on revenue from the company. Outside directors are related (family) to senior management.”	

Warning signals

Insufficient board procedures	4%
<ul style="list-style-type: none">• <i>“Management sets agenda for board meeting. Inadequate materials prepared for meeting, with inadequate time to review.”</i>	
Directors too favoured or involved financially	3%
<ul style="list-style-type: none">• <i>“Board member’s personal/portfolio investment in company is disproportionately large relative to other investments.”</i>• <i>“Extremely high salaries or stock options for management or board members... Sweetheart deals between the company and its directors or officers.”</i>	
Board too comfortable in its ways/Members on too many boards	2%
<ul style="list-style-type: none">• <i>“Within the Canadian context, I doubt very much if there are many boards whose outside directors are not close friends or business associates of the CEO. In my business, it is surprising how many outside directors sit on multiple boards of other companies. I do not understand how they avoid conflict of interest and misuse of confidential information.”</i>	
Other	22%
<ul style="list-style-type: none">• <i>“Hidden agendas”</i>• <i>“Management’s reluctance to engage third party input where situations may have a significant impact on the company.”</i>• <i>“Hire the right CEO and everything else falls into place. Hire the wrong CEO and you cannot have enough reports, checks or balances put in place.”</i>	

Audit

TSE guidelines suggest establishing a separate audit committee composed only of outside directors.

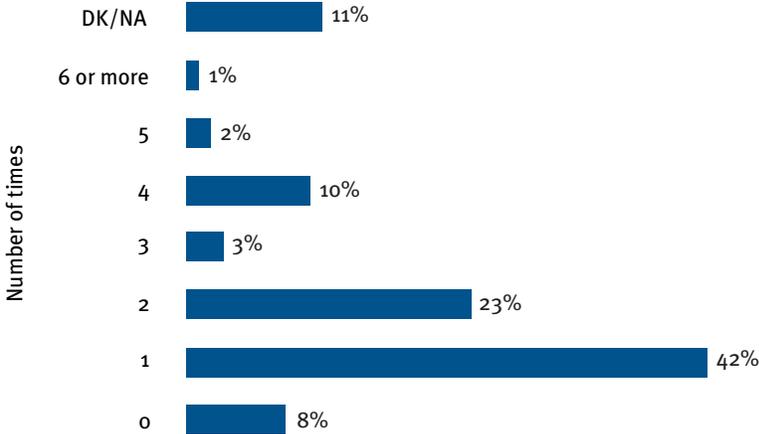
On audit matters, compliance with TSE guidelines is notably high: 94% of companies have an audit committee separate from the board as a whole. In at least 69% of cases, there are only outside directors on the audit committee. Non-compliance with this guideline may be of greater concern than it is in many other areas.

Audit Committee



Respondents were asked to identify how many times their audit committees met with outside auditors in the last fiscal year without management present. Only 8% had failed to meet at least once.

Frequency of audit meetings without management



Maximum Term for Directors

The TSE does not provide guidelines for maximum terms for directors. The 1994 report stated *“Our view is that a guideline to this effect is artificial and unnecessary.”* Anticipating that a committee would be appointed to assess performance of the board, the authors of the report believed that that committees could propose changes to the board composition *“which can result in the injection of a fresh approach to board decisions where appropriate”*.

Frequency of Policy



The survey asked about term limits and mandatory retirement ages. Four in ten companies have mandatory retirement ages, and one in ten has term limits for director appointments.

Where they exist, term limits are wide-ranging (one to 10 years). The majority (58%) of board term limits are for one year. Eighty-seven percent of responding companies ensure that term limits do not exceed three years.

Three-quarters of boards have established a mandatory retirement age of 70.

Mandatory retirement age	
Age	(%)
69 or younger	6
70	72
71 to 74	12
75	8
80	1

Company Characteristics

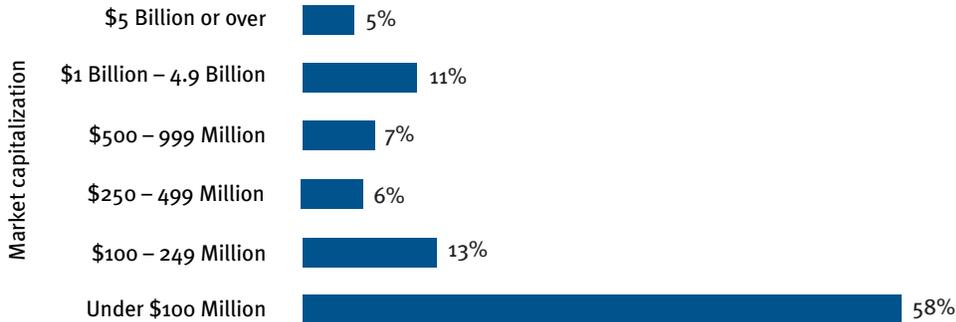
Companies participating in this research represent a wide range of industry sectors.

Industry Sector

Communications/media	6%
Conglomerate/holding company	3%
Consumer goods	5%
Financial services	7%
Gold and precious minerals	11%
Industrial products	9%
Merchandising	2%
Oil and gas	17%
Other metals and minerals	10%
Paper and forest products	2%
Pharmaceuticals/biotechnology/health care/medical	4%
Pipelines/utilities	2%
Real estate	3%
Service/food services incl. processing	2%
Technology/manufacturing/computer software	6%
Transportation and environmental services	5%
Other	4%

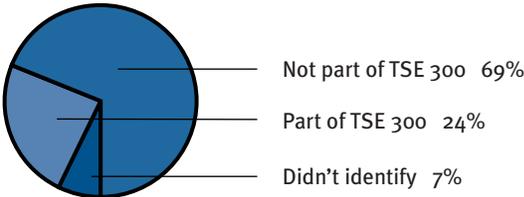
The following graph illustrates the equity market capitalization as of October 31, 1998 for each responding company.

Equity Market Capitalization



About 24% of responding companies were part of the TSE 300 index, demonstrating comparable response rates both inside and outside the index.

Response Rates



About the Author

Dr. Ruth M. Corbin is the President and C.E.O. of Decision Resources Inc., and Adjunct Professor in the Joseph L. Rotman School of Management at the University of Toronto. She was previously the Chief Operating Officer of the Angus Reid Group.

Dr. Corbin has served on the Boards of Directors of five international corporations with headquarters in Canada: Trimark Financial Corporation, Unihost Corporation, Alphanet Telecom Inc., MDS Inc. and Angus Reid Group. In 1999, she was appointed to the boards of the Royal Conservatory of Music and Toronto Hydro.

An editor of the *Journal of Forecasting* and the *Canadian Journal of Marketing Research*, Dr. Corbin has published on a wide range of marketing, research, business forecasting and statistical issues. A recognized authority on the analysis of markets, Dr. Corbin has appeared as an expert witness on business and marketing matters in the courts of Ontario General Division, British Columbia Supreme Court, Alberta Court of Queen's Bench and Quebec Superior Court, and various regulatory bodies and tribunals including the Canadian International Trade Tribunal, the Copyright Board of Canada, the Trade-Marks Opposition Board, the Ontario Municipal Board, Advertising Standards Canada, and the Fourth Triennial Provincial Judges' Remuneration Commission.

The Corporate Governance Survey was carried out by Decision Resources Inc. The company conducts market research and business analysis for Canadian and international companies, as well as for their boards and industry associations. It has a specialty practice in research for litigation, regulatory disputes, and corporate due diligence.

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