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The Board Chair as Nomination Committee Chair

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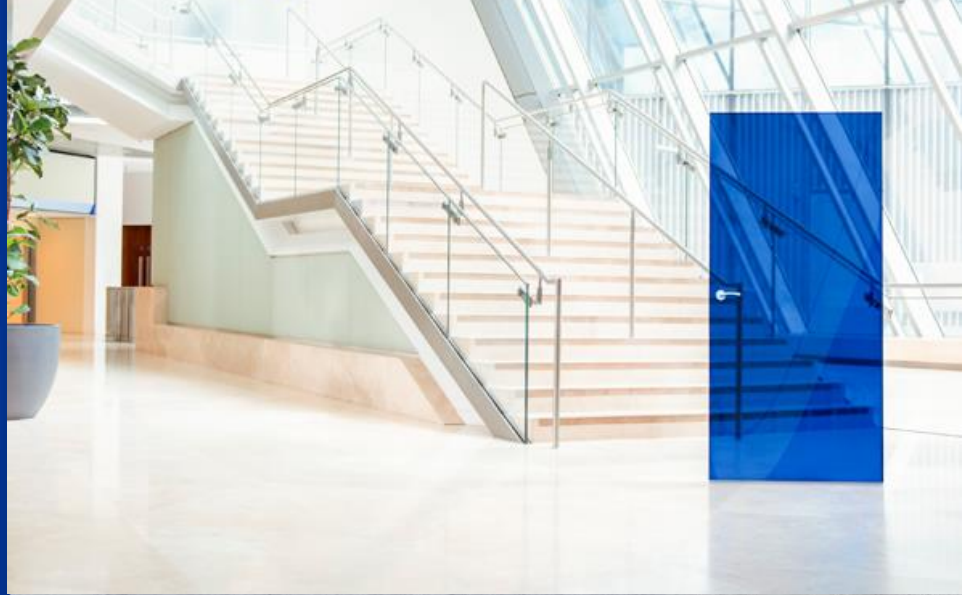

The Board Chair as Nomination Committee Chair: A Double-Edged Sword?

Changes or gaps in corporate governance can have unintended consequences says Jenny Simnett, doctoral researcher at Henley Business School investigating the strategic value from nomination committees in UK listed companies. A double-edged sword is one which has both good and bad consequences in that it can cut both ways. Having the board chair as the nomination committee chair has both pros and cons which are discussed here in the context of the anticipated role of the new Audit, Reporting and Governance Authority".

The UK Corporate Governance Code (2018) prohibits the board chair in UK listed companies from chairing either the audit or the remuneration committee. Interestingly, there is no such veto for nomination committee. Today, over 80% of the FTSE 350 companies have their board chair also as the nomination committee chair. Speaking to board chairs and board directors, views are often polarised either in favour or against. But the decision is rarely strategic and more often one of efficiency, consideration of the board chair's time management or just follows in the footsteps of previous board chairs.

Nomination committees can be relatively one-dimensional, focussed purely on the recruitment and selection of new non-executive and executive directors. There is some inherent management of tenure and succession planning but this committee may only kick into action when there is a sudden or looming gap in board composition. Some companies have broadened the remit of their nomination committees into diversity, board effectiveness and evaluation, succession planning, talent management, director induction and ongoing performance development.

Many board chairs fill this committee chair role as they are explicitly accountable for the shape, composition and performance of the board and the executive team. The board chair has to lead any challenge of the CEO and is also accountable to the shareholders. Setting of the tone comes from the board chair in creating a reality of trust, openness and receptivity. It can be argued that the board chair has the broadest and best world view of the business, therefore is the best informed of the board. The board chair as nomination committee chair enables visibility of the next tiers of management for talent development and succession planning. There is also an economy of effort as committee report backs may be shorter and communication between the nomination committee and the board is easier.

With no additional committee chair there is only one leadership and chairing style. The board chair may use their influence with no dilution and can propose a way forward if deadlock occurs on nomination committee recommendations to the board. In fact, if the board chair is not the nomination committee chair, then this could lead to an abdication of responsibility in building a high-performing board. Directors often point out that a board chair welcomes the additional task of chairing nomination committee in addition to providing oversight of strategy and culture so this committee chair role forms part of their role specification and remuneration.

However, the board chair as nomination committee chair relies on the personal integrity of the board chair not to unduly influence or force their own agenda and choices. Robust non-executive directors are required to exercise their independence properly and be willing to challenge the board chair. The board chair as nomination committee chair is claimed to only work when there is a strong and proactive senior independent director in place.

On the flip side, many observers and practitioners feel that this is a governance shortcut which compromises the independence of the nomination committee in shaping the board and hiring key directors such as the CEO. It is an economy or efficiency with a real potential cost and downside. There is an irony that nomination committee owns and drives independence through board composition but independence and objectivity may be at risk of compromise, even if board chairs argue that this duality is an economy of effort. It creates a greater overlap with the board so can effectively disempower the independent decision making of the nomination committee.

The increasing activity in the nomination committee space driven by the 2018 Code justifies a separate nomination committee chair who can prevent overburdening of the board chair.

A board chair may be overly expedient so that the nomination committee agenda gets minimised or underdone. Combined with a tendency towards hiring 'chair's picks', there may be risk of skewing outcomes. A separate nomination committee chair avoids any sensitive 'head-on' issues between the chair and CEO. It allows more time to be given to the range of nomination committee activities. The nomination committee chair role can be utilised as a training ground for a potential successor to board chair. In terms of external stakeholders, the most influential of proxy agencies, ISS, does not support the board chair as nomination committee chair.

It is debatable whether a board chair as nomination committee chair produces more strategic outcomes. Collaboration between the board chair and nomination committee chair is still critical. The Financial Reporting Council (FRC) has publicised its intention to open a consultation and review of the 2018 Code during the latter half of 2022. With the continuing drive towards greater independence and diversity of thought on boards, should this double-edged sword be part of the future agenda for change?

Jenny Simnett is interim vice chair and chair of nomination and remuneration committee at Tower Hamlets Community Housing in London. She is also a doctoral researcher at Henley Business School investigating strategic value from nomination committees in UK listed companies.

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