

September 4, 2018

Special Checklist for 2019 Annual Meeting

As the Fall notice period for proxy resolutions and dissident director nominations approaches, in addition to the usual checklist for the annual meeting, it is important to keep in mind that hostile takeover approaches and activist demands backed by a threatened proxy fight are not abating. Therefore, it would be wise to review and implement the following checklist:

1. Has the composition of the board been reviewed in light of the standards as to age, tenure, gender, diversity and expertise recommended by BlackRock, State Street, Vanguard and other major shareholders?
2. Are shareholder letters, annual reports and other disclosure documents being prepared with the transparency standards of the indexers and other major shareholders in mind? Particular attention needs to be paid to “purpose,” ESG and “tone at the top” and to cyber and other risk management issues.
3. Are there any lurking compliance or ethical issues that might become public? Is there a plan to deal with them?
4. Have engagement meetings been scheduled with the major shareholders?
5. Have investor days and similar events been scheduled opportunistically in relation to notice dates, earnings announcement dates and the proxy soliciting period?
6. If there is an activist in the company’s stock, has a relationship been established?
7. Has there been a recent meeting of the board at which there were presentations by the raider-activist-defense team and a thorough review of any vulnerabilities? Is there an up-to-date playbook?
8. Have all negative analyst reports and portfolio manager complaints been considered in the board’s review of strategy and operations?
9. Are the directors, and particularly the lead independent director or non-executive chairman, equipped to engage with the major shareholders about strategy generally and any negative reports?

Martin Lipton

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