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White Paper

The Modern Dilemma
Balancing Short- and Long-Term Business Pressures

In collaboration with Baker McKenzie

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Foreword

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The leadership challenge of balancing short- and long-term business pressures, and doing so in an ethical way in which both the company and its stakeholders can thrive, is a challenge that is well known to all business leaders. To address this challenge, in 2016 the International Business Council (IBC) of the World Economic Forum initiated the *CEOs' Modern Dilemma* series. The discussions in this series were inspired by the World Economic Forum *Compact for Responsive and Responsible Leadership*, presented by Klaus Schwab, Founder and Executive Chairman of the World Economic Forum, in Davos-Klosters in January 2017 and signed by more than 130 global business leaders. The IBC and Forum Community of Chairpersons (CoC) have worked on the governance, leadership, reporting and financial market aspects of this challenge and have considered the roles of both CEOs and Chairpersons through the *CEOs' and Chairpersons' Modern Dilemma* series.

Since the launch of this series, the challenges facing long-term oriented, responsible leaders – financial market pressure, competitive and technological disruption, and the ethical responsibilities of business – have further increased. But during this period, IBC and CoC members have shared their experiences and best practices in navigating specific aspects of the *Dilemma*, from reporting and governance to building investor relationships. It is our hope that we have collectively advanced our leadership acumen more quickly than the challenges we must confront have evolved so that we can live up to our commitment to responsive and responsible leadership.

The case studies from Hitachi, PepsiCo, the Royal Bank of Canada and Royal Philips, prepared in partnership with and accompanied by analysis from Baker McKenzie and the Forum's Investors team, demonstrate how IBC and CoC members are using the governance, communications and leadership tools at their disposal to strike the right balance in their leadership practices. The industries, geographies and challenges represented in these case studies are diverse, but the adept use of governance, investor and stakeholder relationships to balance short- and long-term pressure permeates through all of them.

These case studies join a strong and growing body of work initiated by the IBC and CoC on the topic of long-term, responsible leadership, including the already mentioned *Compact for Responsive and Responsible Leadership*, the Active Investor Stewardship project led by the Forum's Investors team and the Sustainable Leadership Monitor led by Thomson Reuters.

The multistakeholder nature of the Forum platform is uniquely suited to advance the projects related to the *Modern Dilemma*. With this in mind, I would like to thank the many IBC and CoC members and guests, including corporate leaders, investors and international stock exchange representatives, who contributed to this series, and encourage continued engagement on this topic through the Forum's Investors team, platform and other projects.

Preface

Beatriz Araujo, Partner and Head, Corporate Governance, Baker McKenzie, United Kingdom

Maha Eltobgy, Head of Investors and Infrastructure, Member of the Executive Committee, World Economic Forum

Adam Robbins, Practice Lead, Long-Term Investing Initiative, World Economic Forum

The multistakeholder and dialogue-driven nature of the Forum's platform leads work undertaken by the World Economic Forum System Initiative on Shaping the Future of Long-Term Investing, Infrastructure and Development not only to examine the strategies investors use to generate financial returns, but also to consider holistically how investors interact with the society around them. How do investors' capital allocation decisions shape economic growth and societal outcomes? How do changes in investor practices impact their stakeholders, and the stakeholders of the assets in which they invest? Importantly, the goal is not just to answer these questions, but to use the Forum's platform to steer global outcomes.

Responses to these questions, as part of the International Business Council (IBC) and Community of Chairpersons (CoC) *Modern Dilemma* discussion series, have transpired from engaging conversations with and valuable guidance from many members of both groups. This White Paper outlines the insights gained from our discussions with four corporate leaders who lead or have led companies that are household names and worth a combined $325 billion: Hiroaki Nakanishi of Hitachi, Indra Nooyi of PepsiCo, David McKay of Royal Bank of Canada (RBC), and Frans van Houten of Royal Philips. These leaders represent diverse industries, geographies and corporate structures, but several common themes emerged from the discussions with them.

First, financial markets are not monolithic. Rather than bowing to the pressures of "the market" or quarterly reporting requirements, the leaders revealed the varying reporting expectations of their investor base. They built relationships with their capital providers, and clearly communicated their aims for both the duration and level of investment returns. In doing so, they sought investor input to strengthen their strategies and the resolve to implement them.

Second, the investor ecosystem is changing rapidly, which affects how leaders make decisions. The investment value chain is increasingly convoluted, holding periods are shortening, and ownership structures are becoming more dispersed. The leaders interviewed were all too familiar with the complexities of this changing landscape and have developed insights about their investors as well as demonstrated foresight on how automation, quantitative models and other technologies will shape the evolution of the global financial system. They articulated not only the pressures they face, but the changes their corporations will undergo.

Third, leaders do not lead in isolation but through and with the teams they have built. They thrive by building teams and, just as importantly, they deftly navigate the risk, governance and other boundaries surrounding their leadership abilities. Effective leaders understand the role of the board related to governance and risk management, and do not view processes as burdensome constraints but use the structures as a compass that keeps strategy on course in times of disruptive change.

Finally, all of these considerations are embedded within complex governance and regulatory systems. The nature of the corporation, the way it is regulated and the relationships between governments, society and business are changing. Regulation, both in the home country and across borders, is complex and difficult for globally operating companies to navigate. Regulation can be a driver as well as an impediment for boards striving to pursue strategies aimed at balancing the short-term and long-term interests of the companies they serve. Consequently, the subsequent analysis is devoted to these topics, which contextualizes the interviewee perspectives in this paper.

We thank the interviewees and their teams as well as Baker McKenzie for their expertise and steadfast dedication to this work.

Key findings

An overview of key governance and corporate/investor relation challenges and legal background (Beatriz Araujo, Baker McKenzie, January 2019)

Introduction

Over the past year, the World Economic Forum's Investors team, in conjunction with Baker McKenzie, interviewed a number of chief executives, IBC Chairpersons and Community of Chairperson (CoC) members, and surveyed legal requirements in a number of countries to understand reporting requirements and other legal requirements that might influence the dilemmas confronting CEOs. This examination of reporting requirements primarily concerned the shift from quarterly to six-monthly reporting and whether less frequent reporting focused on longer-term viability. To complement this, a number of regulatory drivers were assessed to examine whether they might address or assist efforts to balance decision-making related to a company's short-term and long-term interests in the boardroom.

Reflections arising from the research

The conclusions regarding the modern dilemma that CEOs and boardroom leaders face, and their ability to balance the short term with the long term as part of decision-making, can be summarized as follows:

1. Quarterly reporting, where it is still obligatory (such as in India, Japan and the United States), is not in itself the reason for short-termism; many other factors are at play.

2. There is an asymmetry in the directors' and the shareholders' legal duties towards the companies they serve or hold shares in, respectively. Until these duties are aligned through regulation or other means, it is difficult to see how diverging interests can be made to coalesce, while maintaining the common vision of keeping the best interests of the company at heart.

3. Corporate governance has been, and continues to be, on a journey that includes shifts in the balance of power and accountability between the various actors, including boards, management, shareholders, investors and other stakeholders.

1. Quarterly reporting as the enemy of long-termism

Over the past 12 months, interviews with a number of chairs of boards and CEOs were conducted to establish whether the obligation to report to the market on a quarterly basis inevitably pushes them to favour short-term results over longer-term sustainable value creation. The view that emerged is that quarterly reporting is either an inconvenience, a necessary evil, or both.

Leaders described quarterly reporting as an inconvenience because of the time, effort and costs associated with it. This inconvenience becomes an unnecessary distraction when there is nothing substantial to report in the short term; it is a necessary evil for companies when results can vary substantially from quarter to quarter and they feel the need to keep markets informed. Some companies commented that, although the requirement for quarterly reporting had been lifted in their jurisdiction (as was the case in the United Kingdom in 2014, for example), they could not move to six-monthly reporting because of the nature and expectations of their investor base. Others suggested that, if their competitors continued to report quarterly, they had to follow suit. The investor's perspective presented the notion of an "addiction" to rather than a need for quarterly financial information.

Many participants mentioned the need to improve the quality of engagement between boards, management and investors as an antidote to the imperfections of the reporting system. This not only places part of the onus on investors, but also considers how transparent and effective leaders can be at communicating more holistic corporate narratives. Leaders, at both the management and board levels, must become better storytellers about the company and its direction and must do a better job at making a case for a company's strategy and the level and duration of financial returns it will produce. By framing each quarter as a step in that longer-term story, stakeholders can not only foresee the expected destination, but also contextualize deviations from the expected path.

The resonance of these stories must be built on a deep understanding of the investor and the broader stakeholder base. Conversations should be focused on shareholder expectations for returns as well as on the company's strategic model, its long-term capital allocation plans, its corporate governance framework, its purpose, and how director and management incentives can be set to achieve the enterprise's long-term aims.

In short, a rebalancing in the relationship between directors and shareholders is needed so that both stewardship and governance are more company-centric. This should in turn promote greater long-termism. For such a rebalancing to occur, it is not simply a question of investors improving stewardship, but also one of leaders and investors continually improving the quality of engagement, as well as ensuring that companies have a robust corporate governance framework in place and incentives that are consistent with driving their short-term and long-term strategies.

To improve the quality of engagement, it is important that consistent metrics be developed to measure the success of long-term strategies. These should cover performance beyond a purely financial story, extending to matters such as the strength of purpose and values, the effectiveness of the corporate governance framework, the loyalty and quality of the workforce and its morale and performance, the capacity for innovation, the sustainability of the supply chain and so on. These metrics need to measure the company's position today and anticipate its desired state in the future.

2. The asymmetry of legal duties

Given the very different kinds of investors that now exist in the market (index trackers, activist hedge funds, private equity, etc.) and their varying investment horizons and return expectations, the interests of the company and those of its shareholder base are not always aligned. This can leave boards with the dilemma of how to fulfil their duties to the company (and do so for the benefit of all shareholders) while taking into account the impact of board decisions on all company stakeholders. The shareholder base's diverse expectations are an added complication when attempting effectively to balance the need for short-term results with the company's longer-term aspirations.

The legal research found that in the countries surveyed, no legal duty is imposed on shareholders to protect or act in the best interests of the companies they are invested in (as, conversely, such a duty is generally imposed on the directors of those companies). This lack of a consistent duty vis-à-vis companies and their stakeholders, coupled with shareholders' general lack of legal accountability in respect of how they interact with boards and use their votes, can result in an unbalanced relationship between shareholders and directors, especially regarding whether the focus should be solely on short-term profit generation or on the long-term prospects of the company. The next section examines how this asymmetry of legal duties has evolved over time.

3. A corporate governance journey

The evolution of corporate governance over the decades reveals an interesting progression, one perhaps most obvious in the United States, the home of the world's largest investors. In the 1930s, the theory of "management control" dominated; the shareholdings in public companies were very dispersed, so the members of management were effectively unfettered and ran companies for their benefit.

Management control was then challenged by theories of "shareholder primacy", driven by a number of factors that included the view that a company's sole purpose was to deliver profit to its shareholders (a theory taught in most business schools for decades). In a practical sense, this theory was reinforced in the past decade by the growing scale, concentration and sophistication of institutional investors. Indeed, a particular class of hedge fund has emerged in recent years with the specialized purpose of placing pressure on boards and management.

The concept that shareholders are just another category of stakeholder in a company has underpinned theories that management's or the board's primary objective is to maximize profits for shareholders. However, upon closer examination, this approach actually reinforces the fact that companies are separate entities, distinct from their shareholders. Shareholders do not own the business enterprise itself; shareholders own shares in companies and their rights are the rights attached to those shares (namely, a stake in the company's success – be it dividend or share value, or both). By having the right to appoint and remove directors, shareholders can hold boards to account. In doing so, however, institutional investors must be mindful of at least two issues: (i) their duties to their clients, the beneficial owners of the shares, and the mandate of those owners for long-term value creation; and (ii) directors' broader duties when making decisions regarding the management of the company's enterprise. It is important that they consider the likely consequences of their decisions on the long-term success of the company and also the interests of the company's stakeholders.

Arguably, as a consequence of this shareholder-centric era, combined with a proliferation of capital availability beyond the public equity markets, the numbers of public companies in the United States, the most mature and largest public market, have substantially declined over the last decade or so.

It appears now that a slow and gradual progression towards a new corporate governance approach is occurring, called "stakeholder capitalism". If shareholder primacy emerged in parallel with, and has been enabled by, the rising power of financial intermediaries – asset managers, hedge funds and proxy advisers in particular – the two ends of that chain – value creating corporations and the individuals and institutions that are the end beneficiaries of their activities – are reclaiming more influential positions. Increased dialogue across the investment value chain may be one mechanism of this shift. This is resulting from market pressure from beneficial owners and regulators, and indeed from employees and customers, requiring companies to take into account all of their stakeholders (including wider society and the community in which companies operate). In summary, environmental, social and governance (ESG) matters are emerging as a key consideration for boards.

One of the consequences of this move towards stakeholder capitalism is the advent of stewardship, whether by regulation or by market pressure. This trend is also being driven by the largest investors, who are keen to differentiate themselves by embracing good stewardship practices (and are expressing this by expecting the companies they invest in to place greater emphasis on non-traditional drivers of long-term financial return). In part, this involves investors, particularly index trackers, beginning to engage with boards in a manner that is broader than a focus purely on short-term financial performance – to hold directors accountable for good governance, diversity and for decision-making that always has a sustainable long-term plan in its sights. More regulators are adopting and seeking to enforce stewardship codes; these are now well recognized in such key public markets as Japan, the Netherlands, the United Kingdom and the United States.

To conclude, the evolution towards stakeholder capitalism, evidenced by both the spread of stewardship and the move in some countries to enforce director duties to take into account the interests of all shareholders as well as those of other stakeholders, could result in the slow convergence (rather than asymmetry) of director and shareholder duties. This will in turn promote better engagement between boards and shareholders, fostering a more sustainable balance between short-term pressures and long-term value creation. It will also help restore trust in companies as important contributors to society at large.

Case study 1: Hitachi

Background

Hitachi is a leading multinational manufacturer of heavy electrical and industrial machinery, electronic equipment and consumer electronics, as well as an information service provider. Hitachi's diverse product line ranges from power systems and railway cars to home appliances. The company also operates subsidiaries in the wire and cable, metal and chemical industries and employs over 300,000 people around the globe. Hitachi is focusing on developing a "Social Innovation Business" that is aligned with the UN Sustainable Development Goals (SDGs).

Hitachi reports to shareholders on a quarterly basis. The publication of its results is supported by a quarterly financial-result briefing hosted by the chief financial officer (CFO), an annual mid-term management meeting and an annual Hitachi IR Day.

Hiroaki Nakanishi, Executive Chairman of the Board, commented on his drive for long-term value, investor engagement and the role of the board.

Driving long-term value

Hitachi aims to drive long-term enterprise value through its Social Innovation Business approach. The company believes that, by proactively responding to social issues, it can contribute broadly to the achievement of the SDGs by 2030.

What are the drivers of long-term value and growth at Hitachi?

Hitachi's primary focus is the development of its Social Innovation Business, which aims to realize a safe, secure, convenient and sustainable society that both resolves social issues and improves people's quality of life. The direction of the Social Innovation Business is fully aligned with achieving the 17 SDGs that the UN announced in 2015, which include fighting inequality and injustice, and tackling climate change. Hitachi believes that it can deliver value to society and customers over a long period by using the know-how and expertise in products and operational technology it accumulated for over 100 years and in information technology accumulated over 50 years.

What strategies and initiatives does Hitachi use to help the board keep an eye on the long-term impact of its decisions?

In terms of goal-setting, Hitachi breaks down its long-term vision into a three-year mid-term management plan. The mid-term plan is then further broken down into annual targets. By striving to build upon the achievement of its annual targets, Hitachi aims to realize its long-term vision and increase its enterprise value. It is important to execute the mid-term management plan, which sets out the company's commitment to its stakeholders. The plan contains key performance indicators that help to measure Hitachi's enterprise value from both a short-term and long-term perspective. Even so, as the business environment changes from day to day, Hitachi continually reviews its strategies and performance indicators and updates them to reflect changing circumstances while maintaining its long-term vision.

Regarding its decision-making process, Hitachi has an Investment and Strategy Committee (ISC) that examines, among other items, the viability and risks of proposed projects, such as M&A activity and business reorganizations, to realize improvements in Hitachi's group asset efficiency and secure the profitability of investment projects. From a mid- to long-term perspective, ISC reports on matters at the president's advisory body to the Senior Executive Committee for final decisions.

Hitachi operates a wide range of businesses in various regions of the world and the business cycles vary from one business to another. As a result of this diversity and the overlapping business cycles, Hitachi continually evaluates the short-, medium- and long-term risks (as well as the risks by region) from multiple perspectives.

How does Hitachi incentivize executives to focus on the long-term value and growth of the company?

In addition to basic and performance-based compensation, Hitachi has introduced a stock option scheme for executives as incentive to focus on the medium- to long-term perspective and motivation to contribute further to sustainable increases in enterprise value.

Investor engagement

Although Hitachi has no objection to quarterly reporting, the board is leveraging a number of opportunities to promote dialogue with investors that is focused on the longer term.

If regulations were changed to move away from current quarterly-based disclosure to less frequent disclosure, such as semi-annual or even annual reporting, what would Hitachi's view be?

Hitachi has no objection to disclosing financial results quarterly because it is important to disclose facts on a timely basis, which investors expect. In Japan, however, companies are required to report quarterly under the Companies Act and the Financial Instruments and Exchange Act. These requirements could be integrated to make the associated administration more efficient.

What steps can the board and Hitachi take to make reporting and investor communications more long-term oriented?

The Hitachi CFO hosts quarterly financial-result meetings to discuss the results when they are disclosed. The top management team, including the CEO and CFO, visits institutional investors in North America, Europe, Asia and Japan for bilateral discussions twice a year. The CEO also hosts the mid-term management-plan briefing and a meeting with sell-side analysts once a year. In addition, Hitachi holds an annual Hitachi IR Day, at which each business unit's management team gives a presentation on its business strategy. Although Hitachi's main target is growth investors who are seeking to hold shares for the long term, the company also receives requests for meetings from investors focused on the short term. At every opportunity, Hitachi strives to engage in dialogue regarding the company's mid- to long-term perspective.

In 2018, Hitachi considered the 17 UN SDGs and the opportunities and risks they represented, and identified the 11 goals that pose the most important social challenges for the company, five of which Hitachi can significantly impact through its business strategy, and six relevant to its corporate commitment to society, cutting across all areas of business and management strategy to affect Hitachi's very sustainability as a company. It reports on progress against these goals via the newly-published *Hitachi SDGs Report*. Moreover, Hitachi formulated a "value creation model" that includes its contributions to achieving the SDGs, unveiled in the *Hitachi Integrated Report 2018*. By pursuing these goals and reporting in this manner, Hitachi is promoting longer-term dialogue with investors.

Case study 2: PepsiCo

Background

Founded in 1965, PepsiCo is a leading food and beverage company with 22 billion-dollar brands and products that are enjoyed by consumers over 1 billion times a day in more than 200 countries and territories. Headquartered in the United States, PepsiCo reports to shareholders on a quarterly basis and hosts earnings calls and webcasts to announce its financial results. The company also reports annually on sustainability. During Indra Nooyi's tenure, the company was governed by a philosophy called "Performance with Purpose". Its sustainability reporting encompassed a variety of disclosures separated into three categories: products, people and the planet.

Indra Nooyi, Chairman and Chief Executive Officer (2006-2019) of PepsiCo, was asked a number of questions about the long-term strategy, quarterly reporting and engagement with investors. Key themes of the discussion included linking business strategy with global trends, clearly articulating the return expectations and time horizon of investments to all stakeholders, and the need for change in the structure and mindset of the investment world to allow more companies to focus on sustainable value.

Understanding the investments and industry

PepsiCo believes it is important to understand both the short-term and long-term effects of the investments it proposes to make, the environment and megatrends. CEOs are faced with the challenge of balancing and communicating these investments coherently. As CEO, Nooyi was the chief architect of Performance with Purpose, PepsiCo's pledge to do what is right for the business by being responsive to the needs of the countries it serves. As part of Performance with Purpose, PepsiCo focused on delivering sustained growth by making more nutritious products, limiting its environmental footprint and protecting the planet, and empowering its associates and people in the communities they serve.

What are the drivers of long-term value at PepsiCo?

The drivers of long-term value are strategic positioning and making the right investments, not just for today's business but for future growth in a dynamic environment. To drive long-term value, CEOs must understand how the world around them is changing, where their business currently makes money and where to invest for future growth. Companies need to seed the appropriate levels of investments in the business of today and of tomorrow while leaving flexibility for the unexpected.

The financial implication of this strategic calculation is that leaders must balance duration and level of returns. A company that generates a high level of shareholder returns in the short term (perhaps two or three years) has not necessarily ensured the future success of the company. However, simply focusing on the long-term duration of returns can lead to shareholder activism. A CEO must thread the needle between the two and consider what kind of returns can be delivered on a yearly basis, while allowing room for reinvestment.

At the same time, careful attention to the drivers of returns is equally important. Are returns top-line or efficiency driven? Returns driven solely by top-line growth may allow inefficiencies to creep in, while returns that are solely driven by efficiencies may not support growth over the long term. It is critical to focus on effectively balancing the short and long terms, keeping the vision in mind; profit is of course important, but so is advancing the values, which sustain the company's future relevance.

A CEO must also consider how a wide range of global issues, such as the environment and megatrends in the company's industry, play to a company's strengths, both within its current business and its long-term strategy. Reducing plastic waste and moving towards health and wellness are good examples within PepsiCo's industry. A company cannot move to a portfolio of more nutritious products overnight. It takes time to build new capabilities that can create good products using less salt, added sugar and saturated fat – all without sacrificing taste. That has required PepsiCo to make significant investments, and it is megatrends like these that inspired the Performance with Purpose strategy.

Ultimately, boards must be trained to pick CEOs who recognize the importance of running sustainable enterprises and dealing with inclusive societies, not just because it is the right thing to do, but also because it is the right thing for their business.

Developing a scorecard that actually reflects all of these factors and making it part of financial reporting would also help. Today, PepsiCo has a financial reporting scorecard. It has a Global Reporting Initiative scorecard and a Dow Jones scorecard, all of which are not connected. PepsiCo must find a way to connect them.

How does PepsiCo incentivize executives to adopt these drivers?

Communication is key. Some people will get it, some people won't. It is very important to communicate this message to the executive team in a way that resonates with its members. It cannot be communicated in vague terms; it must be delivered in a way that speaks to their hearts and minds, which brings them along with the leadership. On a transformation journey, chief executives need the support of a team that believes their story, or they will fail.

Is there a difference in the way PepsiCo communicates these drivers to the executive team compared to the board as a whole?

The PepsiCo board was very involved and wanted to know everything about these transformations, so transparency was always key. Transitions are easier if the board is supportive. In PepsiCo's case, the board totally supported what the company was doing, and its members were provided with as much information as they needed to contribute their views to the transformation journey.

The company dug deep into the detail with the executive team in terms of how to make these transformations, how to invest differently than before, and how to deal with failures, because when investing in the future, not everything will be a success.

How does PepsiCo communicate these transformations to investors?

It is important to do what is right for the company, to manage it to deliver success to the investor base as a whole. Some investors can be short-term focused, which means they may disagree with making investments that are long-term oriented. Consequently, a level of returns must be delivered that keeps investors happy while continuing to invest for the future of the company.

As CEO of PepsiCo, Nooyi faced scrutiny for making long-term investments, but it is now clear that these investments have paid dividends to PepsiCo's long-term story. These investments were not made to get accolades from investors but to help ensure PepsiCo would remain a successful company for the next few decades. Unfortunately, if faced with a trade-off between the short and long terms, many CEOs tend to deliver for the short term because that is how they are judged.

How does PepsiCo sell that long-term story to investors?

Companies need to qualify their long-term story clearly and cogently. Companies must explain the journey they are on and the investments they are making, and then must go on the road to articulate that story. PepsiCo spent time speaking with investors but there can be no separation between what is told to one investor as opposed to another – it must always be in the public domain.

A change in mindset

Universal change is required to encourage companies to take a long-term perspective and accelerate the currently incremental pace of progress.

Can long-term investors counterbalance the actions of investors oriented towards the short term?

Long-term investors buy stock and hold it for the long term. If short-term investors apply pressure for results, the long-term investors also reap the benefit of that short-term improvement, so they tend not to overtly oppose short-term shareholders.

A key consideration is the structure of the investment industry, where investment companies may manage multiple funds with differing objectives: long-term value funds, short-term performance funds, ESG funds, dividend yield funds, etc. As a result, the voice of the long-term investor can be diluted.

To effect real change and a real long-term approach, the entire system must be rethought: the type of incentives used, the type of candidates hired as fund managers, and the type of multi-year goals they are given. Many investment companies are not set up to encourage long-term investment. A change in mindset and a willingness to accept a different return for the activities that a company pursues are required. The unfortunate reality of this is that the opposition to change may be greater than the support.

For example, some describe work-life balance as simply a matter of personal responsibility, but it has business implications. If a company does not give employees the opportunity to have families, it will not recruit the best and the brightest, and it will lose a connection with the next generation. Companies therefore need to recognize that a community and societal-based perspective can help drive shareholder value.

Nooyi is a shareholder, but at the same time she worries about what PepsiCo is doing to its people. That is why, despite criticism, PepsiCo has made changes on issues such as flexible work, day care, diversity and inclusion. PepsiCo employees have benefitted from that, but relying on all companies to effect these changes voluntarily will take a generation. Therefore she thinks these are the type of investments that companies should be required to make.

Case study 3: Royal Bank of Canada

Background

Royal Bank of Canada (RBC) is the largest company in Canada and one of the largest banks in the world based on market capitalization. It is a leading diversified financial services company, serving 16 million clients in Canada, the United States and 34 other countries. In 2018, RBC received two awards for its governance efforts: from Governance Professionals of Canada, the Best Practices in Enhancing Boardroom Diversity award and the Best Overall Corporate Governance award. RBC reports to shareholders on a quarterly basis, supplemented by quarterly press releases, webcast calls and financial supplements.

Dave McKay, President and Chief Executive Officer, was asked a number of questions about sustainability, investor expectations and the role of the board. Pervading themes were tiered "horizon" investments and their use to set strategy, disruption and its importance in long-term value creation, and investor attraction including RBC's pursuit of a specific type of investor.

Managing horizons

RBC operates horizon plans in its investment policy that are executed on three levels, ranging from the short term to the long term.

What frameworks does RBC have in place to keep an eye on the long-term impact of decisions?

"Horizon one" investments are within the remit of current strategic objectives and have a one- to two-year orientation – for example, launching a new product. "Horizon two" investments are typically over three to five years and may provide access to a new market or clients. "Horizon three" investments are typically five-year to decade-long plays, for which the bank seeds the investment but may not see the full benefit of that investment during its CEO's term in office. Thus CEOs need to think about the medium and longer term, where the benefits may extend beyond their tenure. Horizon three strategies allow RBC to focus on the bank's long-term future. Without these investments, the bank would be at greater risk of disruption, particularly from non-traditional competitors. RBC's aim is to focus on customer relevancy and value, while remaining cost efficient.

RBC's objective is not to be the fastest growing bank but to target a premium return that is in the top quartile, defined publicly by balancing and reporting on levers, using customer strategy and striving for deep customer relationships. The levers are customer feedback, employee engagement and satisfaction, and medium-term financial performance objectives.

How does the board influence horizon investments?

Risk governance and risk management are extremely important when formulating horizon investments because growth is achieved by taking on risk or venturing into a new product or business. The board approves a risk framework to ensure that management does not step outside prescribed bounds that affect shareholder value in the long term. It also sets guard rails regarding risk-taking and volatility to ensure all stakeholder interests are taken into consideration.

The CEO's challenge is integrating, balancing and managing the three investment horizons. Management has to engage in dialogue with the board on how RBC will grow, what risks it will take and what the financial outcomes will be. Not only must that strategy be sold to investors, it must be sold to the board. The bank needs to convince both the board and investors to buy into its vision and journey, where a valuation may hit in the short term, but where gains may be seen over the next five to 10 years, and ensure that RBC prospers in the technology revolution.

Disruption

Technology is a focal point in board-level discussions within the banking industry. McKay expressed a clear vision of how RBC is preparing itself.

Are longer-term discussions with the board focused on products only, or do they include wider issues?

Discussions with the board are rarely focused on products unless they exceed the stated risk appetite or affect medium-term performance objectives.

Long-term discussions with the board involve a variety of macro factors that affect all stakeholders, including climate change, technological disruption, tax reforms, demographic change and capital shifts.

Aligned with the bank's medium-term financial commitments, the board acts as a sounding board and provides guidance on strategic options, checkpoints, investments, talent and risk strategy. The timing of these discussions allows the board to provide input and advice to management on the strategy.

How have these discussions affected RBC's strategy?

To invest in the technology revolution, RBC has sacrificed some short-term performance in respect of total shareholder returns. To deliver an important long-term technological transformation, the entire management team is making a sacrifice in terms of compensation in the short term. The urge to manage for short-term rewards at the expense of long-term benefits for the company must be resisted.

McKay believes that, given current economic conditions, a number of goals can be achieved – particularly given the big technology platforms and their increasing market share. Accordingly, RBC has invested heavily in data resources, artificial intelligence and blockchain capability to ensure that it is future-ready.

The bank is holding itself accountable to deliver against this incremental investment. As part of a culture transformation, RBC changed its leadership model to emphasize the need to think longer term and take longer-term risks – balancing the portfolio between short-term tactical and long-term strategic goals. It has articulated what it expects from leaders in shaping the future, acting as one RBC, and taking risks over multiple horizons. The entire team was evaluated on that new basis from the top on down. Despite RBC's success, McKay could not see progress continuing without that reset. This is difficult for a leadership team to do when things are going well, but it is probably the most important time to do it. That was a two-year journey that homogenized the culture and long-term perspective of the businesses, and it is now starting to pay dividends.

Investor attraction

A recurring theme from the interview was investor attraction at companies that seek out a specific type of investor, creating a two-way dynamic in which the investor must also fit the company's agenda.

How do investors engage with the long-term vision RBC has outlined?

The engagement depends on the type of investor. The appetite for 24/7 media content and the sell side driving short-term ratings put pressure on the management team when short-term performance drops, even when it is part of a long-term strategy. This can have an effect on the management, employees, brand and interaction with the community.

RBC provides medium-term financial objectives on earnings per share growth, return on equity and risk. When investors push for short-term numbers, the bank always comes back to its medium-term objectives. This is important, and it does not give forward guidance as a result.

The bank spends time with investors who have longer-hold horizons and who show an interest in understanding how RBC articulates its strategy across all its businesses. These investors want to understand not only how the bank is managing performance, but how it is adapting to the secular change affecting the industry. It is clear that they are thinking about longer-term themes, opportunities and challenges, as opposed to those investors who are simply thinking about how fast credit cards will grow the following year.

Consequently, RBC takes the time to articulate its strategy and allow investors to pressure test it. For example, in June 2018, the bank laid out a clear path regarding how it would achieve its plan for Canadian retail and wealth businesses. The market appraised it as an innovative and credible strategy. Some investors believed in the strategy and bought stock, some waited to see the results at the first few checkpoints. Some investors have such large positions in RBC that they will not be successful if the bank is not successful. They have a lot at stake so they need to have a feeling for and understand the strategy.

Similarly, CEOs need to find investors who want the balance a long-term strategy can provide, investors who will not be swayed by the media or the sell side of the business. Investing in the long term is easier when the short-term performance is respectable. In that regard, some sort of short-term performance will always be a necessary focus. Companies need to articulate credible short-term strategies that plug into longer-term goals. Even if investors buy into a long-term strategy, they do not want to be caught out after three years, left surprised that the bank is materially off its checkpoints.

RBC has attracted investors who believe in this long-term orientation and has reinforced existing investors' belief that the bank continues to think in longer-term horizons. The feedback showed that the strategy was clearly ranked highest in terms of leverability, executability and impact – despite the fact that all banks did a strategy reset – and the bank continues to be rewarded with a premium valuation. This is important feedback from investors, who constantly evaluate management teams and ideas when putting money behind those ideas.

What is the board's role in articulating this strategy to the market?

The board is crucial in this respect because it must back a CEO when making a long-term transition or articulating that strategy, and it must stay focused on what the long-term goals are.

CEOs are constantly faced with this trade-off pressure from the media and the sell side, who focus on short-term ratings and performance. This can distort a leader's perspective, who must know who is serving who. CEOs can sometimes fail to recognize the difference between long-term buy-side investors and short-term sell-side investors.

What other challenges do board members face?

The world is diverse and complex, and particularly so for banks. Board members meet once a month, so absorbing everything at that meeting is an enormous challenge. It is difficult to understand company strategy in the context of how fast the world is changing today, and the consequent financial implications. The level of expectation investors, the market and regulators place on board members may be too high. The board plays a critical role in setting boundaries and acting as coaches, and directors are sounding boards and checkpoints. They put guard rails down for key issues. However, ultimately, it is management that is responsible for creating long-term strategy and ensuring the sustainability of the company.

Case study 4: Royal Philips

Background

Headquartered in the Netherlands, Royal Philips is a leading health technology company with a particular focus on diagnostic imaging, image-guided therapy, patient monitoring and health informatics, as well as consumer health and home care products. Royal Philips' health technology portfolio generated 2017 sales of €17.8 billion. The company has approximately 74,000 employees, with sales and services in more than 100 countries. Royal Philips reports to shareholders on a quarterly basis and makes use of conference calls, webcasts and supplementary presentations to support its earnings reports.

Frans van Houten, Chief Executive Officer, was asked a number of questions about sustainability, investor expectations and the role of the Supervisory Board ("Board"). He noted the significance of having a long-term horizon and its use to set the company's strategic framework, disruption and its importance in long-term value creation, and the value of a varied investor base.

Managing horizons

Royal Philips has a variety of frameworks in place to manage long-term decision-making.

What frameworks does Royal Philips have in place to keep an eye on the long-term impact of decisions?

Royal Philips has strategic, governance and risk management frameworks. In addition to its yearly operating plans, it has a three-year strategic plan for every business across the group. Furthermore, it considers various longer-term strategic scenarios that take into account even longer-term planning. Overall, the governance framework is aimed at long-term value creation.

A stakeholder model exists in the Netherlands. The whole governance model, in general, looks to long-term impact and value creation. Royal Philips operates under a two-tier system in which both the management and supervisory boards take into account the interests of the company and all of its stakeholders, including shareholders. The company strategy is aimed at long-term value creation, as laid down in the Dutch Corporate Governance Code. The key drivers for creating long-term value include portfolio management, growth, productivity, investment in future company growth, and development of the company culture.

The company supports its long-term future by investing approximately 10% of sales revenue in research and development, €300 million of which goes into long-term projects. In the classic trade-off between the short and long terms, not investing would support short-term earnings but would do so at the cost of the company's longer-term future.

How does the Board influence horizon investments?

From a risk management perspective, Royal Philips has put in place a process that takes into consideration all views, through both a bottom-up and top-down approach.

The Board has multiple discussions on the particular risks of each area of business and individual market. These topics form part of a clearly defined risk discussion that takes place once a year.

Royal Philips runs dedicated risk workshops at each level of the company to specifically address its most prominent risks, its risk appetite and the level of comfort it feels towards each of the risks. Horizon investments are taken into consideration as part of these workshops. These inputs are all considered during specific risk discussions at the board level.

Are longer-term discussions with the Board focused on the development of products only, or do they include wider issues?

In terms of the focus of longer-term discussions and what exactly the Board should take into consideration, it is well accepted in the Dutch market that a board's mindset should generally be focused on the long term, taking into account stakeholder interests. The Supreme Court of the Netherlands confirmed quite clearly that this is the approach to take. How companies translate this approach into practice is up to each individual company and depends on specific circumstances, which must be dealt with on a case-by-case basis. Clearly, however, a long-term approach is expected. That has also very much been part of the Royal Philips vision and culture throughout its 127-year history. The amount invested in research and development mentioned earlier is a good example. But it is also important to consider, for example, that the nature of projects in this sector generally means they do not generate returns for two to five years, which thus requires long-term thinking.

How have these discussions affected Royal Philips' strategy and approach to corporate reporting?

Royal Philips has a number of Board meetings away from the quarterly results announcements. In general, the Audit Committee will have quarterly reporting as one of its primary focus areas, while the full Board looks to a greater extent towards the long term.

The company has slimmed down its quarterly reporting and does not give any quarterly guidance. In addition to half-yearly and annual reports, it issues short quarterly reports (in the first and third quarters) with less information than in the past. At the same time, Royal Philips seeks to be transparent and does not want to be seen as withholding information, so it strives for an equilibrium. Needless to say, material events are disclosed regardless of how frequently the company reports.

Since Royal Philips is in the process of transforming, declaring outright that the company will no longer report quarterly would send the wrong message to stakeholders, for two reasons. Internally, quarterly reports can serve to ensure that the company does not become complacent; the quarterly requirement can work effectively in terms of optimizing performance. Externally, reporting is a form of marketing, which gives Royal Philips visibility in the capital markets and attracts new investors. Accordingly, the debate about reporting is multifaceted.

An important point is that quarterly reporting is not connected to how Royal Philips executives are incentivized. The company has a long-term incentive plan and an annual incentive plan.

Strategy and actual value creation vary from period to period, and Royal Philips does not provide annual targets. It sets mid-term targets that in general have two-year objectives, so the company is less focused on the occasional and unavoidable ups and downs between quarters. The focus is on meeting the targets in the longer term, without overlooking the short-term results.

Royal Philips also has ambitious sustainability targets that can be seen as the “North Star” for a health tech company that is all about health and sustainability. Sustainability is part and parcel of the business model and is taken into account in the incentive structure. The company has a long-term incentive plan that distributes performance shares based on financial metrics, but sustainability is so ingrained in the business that if the sustainability targets are not met, the financial targets will probably not be met. Product quality is the key priority, and sustainability is an important indicator of quality. Quality and sustainability targets are on the Executive Committee’s performance dashboard, which contains a number of key metrics alongside the main financial targets.

Sustainability can be a competitive advantage. For example, recycling returned equipment can help to extend customer relationships and allows the sale of spare parts.

Having the right culture is also very important. The Dutch Corporate Governance Code places great emphasis on the importance of culture. Royal Philips agrees with this sentiment and takes it into account in everything it does. However, translating culture into measurable metrics can make it difficult to compare with other metrics. Nonetheless, the company continuously drives its culture change.

Investor attraction

Van Houten spoke about the diversity of Royal Philips’ investor base, and how quickly it is changing. The company focuses on investor marketing and investor communications, and knows that many shareholders are open to a dialogue on long-term performance, strategy and governance.

How do investors engage with the long-term vision Royal Philips has outlined?

In general, Royal Philips has a wide variety of shareholders, including institutional investors oriented towards the long term, hedge funds and retail investors. It also has a geographical split; approximately 40-50% are US shareholders. The transformation towards a health tech company means that both the shareholder base and analyst coverage are changing. Investors are now more likely to specialize in healthcare rather than in industrials more broadly. It has become increasingly clear also that investors in medical technology voraciously consume information, data and research.

As mentioned, Royal Philips must actively market the company to attract the right shareholders who provide the support to continue its transformation. Therefore, the company is serious about interacting with investors and has intensified its contact points during the transformation.

Royal Philips has also intensified its off-cycle meetings with investors on the long-term strategic approach and the corporate governance support of that strategy. These discussions take place with shareholders and their representatives, including governance groups and proxy voting groups, and have been very well received.

The management’s view is that the debate cannot be only about quarterly reporting. It is about having a value-creating long-term strategy that is well explained to all stakeholders and that provides management with room to act. The company has transformed itself successfully over the years. It has set itself an ambitious, long-term strategic course, anchored in a multistakeholder value-creation approach. Long-term targets are set by the Board and management. Royal Philips actively markets itself to its shareholders to ensure the company attracts the right investors who support its strategy.

Legal background – summary

This section provides a summary of the legal framework in the surveyed jurisdictions, namely, France, Germany, India, Japan, the Netherlands, Switzerland, the United Kingdom and the United States. The areas covered relate to financial reporting obligations – the legally required frequency – and to director and shareholder obligations to the company, as well as to any enhanced or additional obligations of Chairs. Brief updates on regulatory developments in the areas of board independence, diversity, remuneration and the role of shareholders as stewards are also provided. More details are available in the Appendix.

1. Are there legal barriers to shifting reporting/guidance to six-monthly or longer?

The legal barriers to shifting the publication of financial results and guidance to six-monthly or longer periods vary significantly among major jurisdictions and listing venues around the globe.

In many jurisdictions outside of Europe (India, Japan, the United States), quarterly financial reporting remains an absolute legal requirement, which limits companies' ability to lengthen reporting intervals. However, exceptions in the United States exist for qualifying "foreign private issuers", which can benefit from US securities laws that are generally more relaxed and designed to rely on the issuer's home country reporting requirements.

In Europe, following the implementation of EU Transparency Directive 2013/50/EU in 2014/2015, EU Member States are not legally required to publish results announcements or guidance on a quarterly basis. However, in countries where quarterly reports were previously mandatory (France, the United Kingdom), companies chose to continue to release quarterly financial results on a voluntary basis in line with investor expectations. In addition, some European stock exchanges (Germany) may impose their own rules that stipulate the release of quarterly statements. Half-year financial reporting appears mandatory in Europe, which means that financial reporting intervals cannot be extended beyond six months.

2. What is the minimum reporting/guidance necessary on a quarterly basis?

In terms of content, it appears that quarterly financial reporting requirements in the surveyed jurisdictions largely represent less detailed versions of the annual report requirements, with a lower standard of audit comfort (Japan, the United States). However, in the three jurisdictions surveyed outside of Europe, it is not mandatory to provide guidance with the financial results, although (at least in the United States) market practice may mean that such guidance is nevertheless provided.

In Europe, as noted above, quarterly reporting is often not required. The rules concerning guidance and half-year reporting are patchier. Some European jurisdictions (the United Kingdom) require that half-yearly financial results be accompanied by "management reports" that outline important events, risks and uncertainties that have impacted or will impact a company's financial results. Others do not require the publication of earnings guidance (France), or do so in conjunction with the publication of annual results only (Germany, the Netherlands).

3. In relation to financial and non-financial reporting obligations in the jurisdictions, has there been any shift in focus beyond historical financials to longer-term viability?

As noted above, several jurisdictions are not required to provide financial or non-financial guidance. In a number of jurisdictions (France, Japan, the Netherlands, the United Kingdom), rules or governance codes for listed companies have been introduced in recent years that place greater emphasis on medium- to long-term strategy, viability and/or resilience reporting.

4. Is there a legal concept of "fiduciary duties" in the jurisdictions?

Although the legal concept of "fiduciary duties" is perhaps most clearly established in the common law legal systems (India, the United Kingdom, the United States), all jurisdictions surveyed incorporate, to some degree, analogous concepts into various areas of law. Certain civil law jurisdictions (Germany, the Netherlands) codify these duties, in part, on the basis of general obligations to act reasonably, in good faith or with reasonable care, although other such jurisdictions (Japan, Switzerland) appear to focus more specifically on relationships where one person owes another a duty of care or is entrusted with managing another person's affairs.

5. Do shareholders owe fiduciary (or other legal) duties to investee companies?

Broadly speaking, most jurisdictions surveyed (Germany, India, Japan, the Netherlands, Switzerland, the United Kingdom, the United States) reported that there is no general fiduciary duty owed by shareholders to investee companies. France is an exception, in that shareholders are subject to a duty not to enter into acts that adversely impact the investee company. Several jurisdictions (India, the United Kingdom, the United States) indicated that controlling shareholders (in particular in listed companies) may be subject to duties and obligations to the company and/or minority shareholders in particular circumstances.

Further, large institutional investors in a number of jurisdictions (Japan, the Netherlands, the United Kingdom) can voluntarily "comply with or explain" stewardship codes that typically include principles regarding engagement with investee companies. Also, some jurisdictions (the Netherlands, Switzerland, the United Kingdom) indicated that it is possible for shareholders to agree, either under an investee company's constitutional documents or contractually, to assume duties to investee companies in certain circumstances.

6. Do boards of directors owe fiduciary (or other legal) duties to shareholders?

In all jurisdictions surveyed, directors primarily owe fiduciary (or other analogous) duties to the company itself as opposed to shareholders directly. The general consensus is that the interests of the company are usually aligned with the interests of the shareholders. In India and the United Kingdom, this alignment is made express in law as directors are required to act in the best interests of the company for the benefit of members "as a whole", which incorporates a concept of equal treatment of shareholders, in relation to which there is also a general consensus. It is noted that a number of jurisdictions surveyed treat shareholders as just one category of stakeholders (with other categories including creditors, customers, employees and society at large) to whom directors owe fiduciary (or analogous) duties.

Examples of this stakeholder approach can be taken from the Netherlands and the United Kingdom. The Netherlands adopts a model under which directors are required to act in the interests of the company. These interests are considered to be the company's continued existence and all stakeholders, including shareholders, creditors, suppliers, customers, employees and society at large. Similarly, in the United Kingdom, large companies are now required to disclose in their annual report how directors have considered their duty to promote the company's success for the benefit of its members as a whole. They are also obliged to report how they have regarded (among other matters) the need to foster business relationships with suppliers, customers and others, and the effect of that regard, including on the principal decisions taken during the financial year. This requires directors, who do not already do so, to consider these issues in the boardroom rather than simply delegate them to management.

7. Do Chairpersons have particular fiduciary (or other legal) duties to shareholders beyond those owed by all directors?

Chairs generally owe the same duties to shareholders as other directors. A slight nuance in approach, however, is taken in some jurisdictions that have adopted corporate governance codes for large listed companies (the Netherlands, the United Kingdom), which impose (albeit on a voluntary or "comply or explain" basis) specific roles to Chairpersons with regard to the board's engagement with shareholders.

8. Has regulatory/best practice change to the following been considered or is it being considered in the jurisdictions?

Board independence

The focus of the jurisdictions' responses was on the independence requirements for the boards of listed companies. In most unitary board jurisdictions, current rules already provide that boards should appoint varying proportions of independent directors, from one director (Japan), a third of all directors (India in some circumstances), to at least half of all directors (France, India in some circumstances, the United Kingdom, the United States). Some of these rules have been strengthened in recent years or are under consultation. In two-tier systems (Germany), all members of supervisory boards are required to be independent.

Board composition and diversity (including, but not limited to, gender and race)

All jurisdictions surveyed highlighted recent or proposed measures that seek to address board diversity issues for listed companies. In several jurisdictions (France, India, the Netherlands), gender quotas for listed company boards have been given regulatory force and similar legislation is being prepared in Switzerland. The approach is softer in several other jurisdictions (Germany, Japan, the United Kingdom) where, following recent changes, listed companies are required to consider and disclose details regarding diversity issues and policies. In two jurisdictions (the United Kingdom, the United States), reference was made to recent, non-regulatory focus on this area as a result of the publication of notable reports on board diversity, and increased concern from institutional investors regarding diversity issues.

Remuneration and other incentive arrangements for board members

All jurisdictions indicated some recent/proposed change or increased focus regarding board member remuneration. Across Europe, the implementation of the revised shareholder rights directive has resulted in the grant of "say-on-pay" rights for shareholders. In some jurisdictions (Japan, the Netherlands, the United Kingdom), measures have been taken to try to ensure that remuneration (and in particular, equity compensation) is aligned with the company's medium- to long-term growth, and three jurisdictions (India, the Netherlands, the United Kingdom) reported new requirements to disclose the ratio of board member to employee pay. Two further jurisdictions (Germany, the United States) also noted that companies are facing greater scrutiny in this area, both from investors and the wider public. A movement in the United Kingdom may be beginning away from long-term incentive plans (which are incentive based) to restricted share plans (which are fixed and longer-term focused); a number of proxy advisers have said they will vote in favour of resolutions proposing restricted share plans in the current annual general meeting season.

Role of shareholders as company stewards

Several jurisdictions mentioned the recent introduction or planned revision of stewardship codes or guidelines (Japan, the Netherlands, the United Kingdom, the United States) that are typically applied on a voluntary basis by large institutional investors who have traditionally not been associated with shareholder activism. In the other jurisdictions surveyed, direct regulatory change in this area appears to be limited, but it was noted that in France other measures to empower shareholders, such as the introduction of a compulsory say-on-pay regime, have reinforced the role of shareholders as stewards.

Appendix: Legal background - summary of findings

Country	Is there a legal concept of “fiduciary duties”?	Do shareholders owe fiduciary (or other legal) duties to investee companies?	Do boards of directors owe fiduciary (or other legal) duties to shareholders?	Do Chairpersons have particular fiduciary (or other legal) duties to shareholders beyond those owed by all directors?	Are there legal barriers to shifting reporting to six-monthly or longer?	Are there legal barriers to shifting guidance to six-monthly or longer?
France	Not strictly, but see note[1]	Yes	No	No	No	No
Germany	Not strictly, but see note[2]	No	No	No (but they may be held to a higher standard in exceptional circumstances[3])	Yes (for Prime Standard listed companies)	Yes (for Prime Standard listed companies)
India	Yes	No	Yes	No	Yes	No
Japan	Yes	No, but see note[4]	Yes	No	Yes	No
Netherlands	Yes	No	No	Yes	No (but reporting may not extend past the six-month interval)	No
Switzerland	Yes	No	No	No	No (but reporting may not extend past the six-month interval)	No
United Kingdom	Yes	No (see note[5])	Yes	Yes	No (but reporting may not extend past the six-month interval)	No
United States	Yes	No	Yes	No	Yes	Yes

[1] Courts usually imply a duty of care by board members to the company (not to shareholders directly, although often aligned).
[2] Board members are liable to the company for their actions, with only minimal direct liabilities to shareholders.
[3] This follows general principles of good faith (*Treuepflicht*) owing to Chairpersons' elevated position, though it is rarely invoked in practice.
[4] Certain institutional investors of listed companies must comply with the Japanese Stewardship Code, which consists of seven principles to protect and enhance the value that accrues to the ultimate beneficiaries (mirroring the UK Stewardship Code).
[5] Certain institutional investors voluntarily apply the UK Stewardship Code, which consists of seven principles to protect and enhance the value that accrues to the ultimate beneficiaries.

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