



Aventus Partners Knowledge Series

Attracting & Engaging Independent Directors in India

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1 INTRODUCTION

Business complexity continues to increase by the day in India. Most entrepreneurs leading emerging businesses and seasoned business leaders of large companies strongly feel the need for impartial, independent advice and actively seek alternate and varied perspectives on current as well as emerging strategic challenges that they grapple with.

Business Leaders and entrepreneurs are waking up to the long term value to business that can be added by committed Independent Directors (one or more); this is true even for those businesses that are not mandated by law to appoint Independent Directors. All of them deep within, wish to build an organization that sustains over a long period of time and creates long term value.

While the talent pool of Independent Directors has begun to grow in India, Nomination Committees are realizing that attracting Independent Directors is no more easy. With changes introduced by the Indian Companies Act of 2013 in the role, functions, duties, evaluation process, liabilities, term of office and remuneration of the Independent Directors, competent and seasoned Independent Directors are becoming increasingly picky about the Boards that they are willing to join. Gone are the days when they would willingly accept an offer of appointment and be present on the Boards of multiple companies. The likely damage to their professional and personal reputation in case of a misdemeanor by the executive leadership as well as their personal liability in specific cases makes them extremely wary.

This note proposes a few concrete steps that can be taken by company leaderships to 'attract' desired individuals to join their Boards in India and ensure that these individuals stay fully engaged and add long term value to the organisation.

2 ATTRACTING INDEPENDENT DIRECTORS

2.1 IDENTIFY THE NEED TO BE FULFILLED

It is important to shortlist individuals with expertise who can add substantial value to the organization's vision, strategy and execution plans. In order for this effort to be successful, an organization must:

1. Conduct an internal exercise to understand the existing Board's overall skill sets and gap areas
2. Agree on a set of well-defined "qualifiers" to benchmark potential candidates against

Of equal importance as the "qualifiers" is a realistic assessment of the cultural milieu currently prevalent in the organization. More specifically, the extent of challenge that the organization, its leadership and the Board requires, the level of transparency and information sharing that is prevalent as a culture and how a balance between these two can be arrived for the Board to be effective in the long term.

Some Boards, cognizant that they are becoming one-dimensional, consciously look for Independent Directors who can challenge the existing group. They do so fully recognizing the possibility of consequential tensions and disruption.

Some others, especially those who believe their business is driven by intellectual property and unique practices are intrinsically reluctant to share a lot of information. The need here will be of Independent Directors who push the organization to be more transparent and demonstrate the benefits of the same.

Illustration of Qualifiers to bridge skill set gaps:

1. **Reflect Diversity of Customer Base** (Ex. Age, Ethnicity ,Urban/Rural)
2. **Understanding of key Customer & Market segments** (Ex. Industry Segments)
3. **Functional Expertise** (Mergers and Acquisitions, Technology etc.)
4. **Understanding of Key Geographies** (In terms of Distribution channels, external environment, legal framework and enforcement mechanisms Ex. South East Asia, South America, Africa)

2.2 IDENTIFY SUITABLE INDIVIDUALS

Prevalent ways of identifying prospective Independent Directors are:

- Release of Advertisements. *This process is not prevalent in India; however it is successful in countries like UK.*
- Recommendations from the members of the Nomination Committee and Remuneration Committee
- Recommendations from other Board members/ Chairman

- Engaging a dedicated executive search firm to identify prospective individuals. This removes any suggestion of bias in the process, and offers the Nomination Committee and the Board a wider choice of candidates for consideration. With the increasing external scrutiny on both process and performance, the benefits of engaging an unbiased third party to assist in identifying suitable Board candidates may be greater than ever before.

While there is a natural tendency and desire to have big and marquee names on the Board, there is no data to substantiate that these Boards are more effective. It would be more useful for an organization to identify individuals with the required expertise (meets the qualifiers) who are ready to commit time and effort towards the organization's cause beyond just the Board and Committee meetings.

Short listing from the pool of suitable Board candidates is to be done with care (based on secondary and publically available information) as the process unlike a typical interview does not provide the opportunity for probing and understanding an individual's industry/business/subject matter expertise. Multiple interactions (repeat) over a period of time are required to clearly establish confidence in selecting the 'right' Board candidate.

In this context 360 degree reference checks become an extremely useful way to understand a prospective Director. Done with care, tact and skill this can be a very powerful discovery tool.

2.3 INVITE THEM TO EXPERIENCE THE ORGANIZATION

The key question in the minds of these potential Independent Directors is "Why should I be a part of this organization and its Board?" Some of them will already be part of other Boards while a few others might be actively leading organizations.

It is important to customize one's approach to engage with each of these prospective individuals and help them answer the above stated and at times even unstated question.

One needs to share honest, complete, and meaningful information about the organization with the prospective Independent Director in order to help him/her make an informed decision.

An effective strategy involves providing opportunities for extensive one on one interaction between key stakeholders of the organization and the prospective Independent Director.

This could also include inviting them to experience the organization by attending Board meetings as an observer. This helps them gain a firsthand experience to see how the Board functions, the process of decision making and to understand individual styles of each member.

These interactions also ensures that the organization gets multiple insights into the individuals' personality, decision making and team working styles in order to assess fitment with respect to the Board's ways of functioning, and organization's context including current needs and future plans.

The time spent in this process more than pays for itself.

3 ENGAGING INDEPENDENT DIRECTORS

As mentioned in the earlier section, engagement of an Independent Director starts from the first interaction and needs to be an ongoing process.

3.1 HELP THEM UNDERSTAND THE ORGANIZATION

A robust orientation process helps new Board members to understand the purpose and the mission of the organization, its major businesses, current strategy, challenges, and issues and how the Board operates.

A group orientation (when practical) is an excellent way for Board members to share this expertise.

New Board member orientation enables all Board members to make decisions and to take actions from the same base of information.

An effective orientation program is customized to the needs of the incoming Independent Director and uses a combination of written materials, presentations and one on one meeting to cover critical aspects of the organization, such as, company structure, strategy, markets, product information, risk profile etc. These presentations are conducted by Senior Managerial personnel and Executive Directors.

3.2 TRANSPARENCY: PROVIDE ACCESS TO INFORMATION AND PERSONNEL

Scholars, thought leaders, researchers have often questioned the utility and value-add by Independent Directors. They refer to studies which have shown that organizations caught in corporate scandals over the last 15 years across the world and in India had highly respected individuals as Independent Directors on their Board.

We are convinced that a large part of the success of the Board and the Independent Directors, the questions that they ask, the depth of their discussions and the effectiveness of their decisions is a direct function of the extent and the quality of information that they receive.

Organizations that are benchmarks in Corporate Governance have written policies that provide Board members with full and unfettered access to all company information and any employee.

In fact, one of the main reasons for Independent Board member disengagement and consequent resignation is their discomfort with the level of information that's accessible by them.

Organizations that have successfully enabled Independent Directors perform their role teach us that it is good business practice to enable Independent Board members with the opportunity to interact with the executives of the organization, other than the MD/CEO. While this offers a fair chance for the Independent Directors to understand the organizational workings and issues in more detail and base their decisions during Board meetings on ground reality, it also allows executives to raise issues, question and

understand management decisions constructively and seek advice and guidance directly from Independent Directors wherever possible.

Annual Board retreats/ Strategy Conferences are a good way to discuss and debate organizational priorities, annual financial and operational plans, etc.

Sharing quarterly/periodic updates with all Independent Directors that are not limited to financial numbers helps them stay connected with the organization's progress and enables them to take a holistic view of situations and dwell deeper and deliberate more effectively in Board meetings.

This transparency gives them confidence in the strength of data that informs and underlies the governance processes.

3.3 ENSURE ROLE CLARITY AND HAVE PERFORMANCE CONVERSATIONS

The relationship that the Independent Directors have with the other Board members is rather unique. It is a collegium of peers. While they are recommended by the Board/ Nomination Committee and their appointment is ratified by the shareholders, they do not report to any specific individual in the traditional sense.

In this context, it is critical to clearly define and document the role and the duties of an Independent Director and have conversations around the responsibilities and their performance expectations.

We recommend that the same be done by the Chairman of the Board or the Nomination Committee.

The Companies Act 2013 mandates evaluations of Independent Directors to be institutionalized while leaving the exact definition of the process and the assessment parameters to the organization.

However, many organizations in India are still hesitant to evaluate the performance of individual Independent Directors and have candid conversations around their role expectations and performance owing to the nature of the

Key parameters for evaluation of the performance of Independent Directors:

1. Quality of participation at the Board / Committee meetings including the level of preparedness
2. Guidance provided to senior management both inside and outside of Board/ Committee meetings
3. Independence of behaviour and judgment
4. Contribution to constructive debate and decision making (Includes ability to challenge and question in a non offensive manner)
5. Contribution in long term strategy planning
6. Ability to introduce global best practices to improve organizational performance
7. Impact and Influence on the Board, committees , governance practices and organisational strategies and plans

relationship and the pedigree and professional stature of these individuals. They however, do acknowledge that it is important for Independent Directors to understand how their contribution is perceived by other stakeholders in the Board and how they can work towards adding greater value to the organization they serve.

A few evolved organizations request all Board members including Independent Directors to make a presentation to their fellow Board members highlighting their contributions and initiatives taken during the year.

The tenure of appointment for an Independent Director being typically 5 years in India, the objective of their evaluations and conversations is to provide the Directors with data to reflect on their contribution and address gaps that emerge.

While it can be challenging the first time around you will be surprised at what these conversations can do for the engagement levels of your Independent Directors and the performance of the Board.

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