

Staggering: Things are Slow to Change in America's Boardroom

13 November 2004

The Economist

The annual review of American company board practices by Korn/Ferry, a firm headhunters, is a useful indicator of the health of corporate governance. This year's review, published on November 12th, shows that the Sarbanes-Oxley act, passed in 2002 to try to prevent a repeat of corporate collapses such as Enron's and WorldCom's, has had an impact on the boardroom – albeit at an average implementation cost that Korn/Ferry estimates at \$5.1m per firm.

Two years ago, only 41% of American firms said they regularly held meetings of directors without their chief executive present; this year the figure was 93%. But some things have been surprisingly unaffected by the backlash against corporate scandals. For example, despite a growing feeling that former chief executives should not sit on their company's board, the percentage of American firms where they do has actually edged up, from 23% in 2003 to 25% in 2004.

Also, disappointingly few firms have split the jobs of chairman and chief executive. Another survey of America boards published this week, but A.T. Kearney, a firm of consultants, found that in 2002 14% of boards of S&P 500 firms had separated the roles, and a further 16% said they planned to do so. But by 2004 only 23% overall had taken the plunge. A survey earlier in the year by consultants at McKinsey found that 70% of American directors and investors supported the idea of splitting the jobs, which is standard practice in Europe.

Another disappointment is the slow progress in abolishing “staggered” boards – ones where only one-third of the directors are up for re-election each year to three-year terms. Invented as a defence against takeover, such boards, according to a new Harvard Law School study by Lucian Bebchuk and Alma Cohen, are unambiguously “associated with an economically significant reduction in firm value”.

Despite this, the percentage of S&P 500 firms with staggered boards has fallen only slightly – from 63% in 2001 to 60% in 2003, according to the Investor Responsibility Research Centre. And many of those firms that have been forced by shareholders to abolish the system are doing so only slowly. Merck, a pharmaceutical company in trouble of the possible side-effects of its arthritis drug Vioxx, is allowing its directors to run their full term before introducing a system in which they are all re-elected (or otherwise) annually. Other companies' staggered boards are entrenched in their corporate charters, which cannot be amended by a shareholders' vote. Anyone who expected the scandals of 2001 to bring about rapid change in the balance of power between managers and owners was, at best, naïve.