

Ethics and Compliance Leadership Forum

December 2020

ECLF

SUMMARY of THEMES

Boards grapple with leading culture and compliance

Despite corporate culture's clear impact on business results and long term value, few boards bring the same rigor to their oversight of culture that they apply to strategy, operations, or CEO succession. During companion meetings on December 1 and December 8, 2020, directors and senior executives—including chief ethics and compliance officers—met virtually to discuss board oversight of corporate culture, ethics, and compliance. *For a full list of meeting participants, please see appendix on page 5.*

The following key themes emerged from those conversations:

- **Success often obscures problems in corporate culture, but cultural issues will ultimately reveal themselves in performance or crisis.** Participants agreed that strong financial performance, a high stock price, or a stellar reputation can hinder boards from recognizing deep-seated cultural problems. One said, *“I think it’s important for boards to force themselves to take a step back and introduce dialogue on what pressures may exist around good performance. Good times are easy to accept, but directors need to speak up about potential problems.”* Another director recalled, *“My company was trading at an all-time high and was a Wall Street darling. In reality, we were a disaster waiting to happen internally. Our CEO did not trust anyone but himself, and our culture really suffered. People felt isolated and helpless.”* Festering culture issues had been obscured by high-performing executives and strong financial results, the director said.

Executives at every level can create pockets of toxic culture. One participant recalled an experience with an executive who, while brilliant and high performing, *“was killing the people below him. We started to see it in turnover and employee surveys. People were confused when I started to work him out of the organization, but you can’t let performance trump culture.”* Coaching can help redirect such *“cultural vipers,”* but according to a director, *“you have to know when enough is enough.”*

Eventually, cultural problems will compromise performance or lead to a crisis. One director said, *“If you lose your culture, you lose everything.”* By the same token, investing in a healthy culture will generate good performance in the long run, but it requires courage to prioritize culture in the face of short-term performance weakness or investor skepticism. *“If you invest in your people, they will treat your customers and each other well. The outcome will be financially profitable for investors as well,”* said one director.

- **Boards struggle to identify trends that indicate emerging problems and to find explanatory narratives to guide their oversight.** Although strategies to measure corporate culture have improved in recent years, identifying pockets of problematic corporate culture remains a key challenge, particularly in large, global organizations. Crises rarely arise from a single failure but rather are the cumulative result of many factors, including business, societal, technological, and environmental developments external to the company. A data-driven, analytics-based approach to oversight is necessary but not sufficient. One director said, *“With respect to culture, boards of major companies do not lack for data. We lack narrative and interpretation of what the data may be showing. We need more opportunities to discuss and explore with management what they see in the data.”*

In the face of this challenge, senior leaders often have to rely on employees to flag problematic behaviors and patterns and thus must promote a “speak-up” culture, where employees feel empowered to identify issues. The board can help foster this culture by ‘going deep’ to understand what inhibits that culture and by creating opportunities to engage with different company employees and encourage candid discussions. One director said, *“A few times a year, we try to meet with different managers across the company and create an environment where they feel comfortable to speak with us. People at different levels can create this type of culture now.”*

- **Boards often underestimate the time needed to lead culture, ethics, and compliance.** Robust engagement between the board and management, even in normal times, is critical to get ahead of potential challenges and bring about substantial change. A participant pointed out that many compliance issues require boards to engage at a fairly *“granular level,”* yet board time and capacity is inherently limited. Several participants said that their boards struggle with giving ample time to compliance concerns across already packed agendas. One director said, *“Compliance and ethics originally sat with the audit committee, but when they became jammed, we moved it to our risk committee. Now our risk committee is becoming overworked. It is a challenge for boards and the management team to ensure that we have the appropriate dialogue around this topic.”*

Some participants suggested creating separate compliance committees to ensure that the board is dedicating enough time to the topic. One director said, *“The agenda was getting too heavy on audit, so we created a compliance committee. That truly has been transformative.”* Another suggested integrating ethics and compliance into every board discussion to ensure that the topic gets the right focus: *“Ethics and compliance is on every governance committee agenda, and as chair I report on progress at every board meeting. We also make it a habit to think about the ethics and culture implications of every major business decision and make sure ethics and compliance is discussed in every operational review and in decisions on promotions and succession within senior management.”*

- **Senior leaders need to model the values they want to see in the company's culture.** Even when the board and senior management fully embrace core company values, it is challenging to infuse those throughout an organization, including to front-line managers, who shape the culture for hundreds or thousands of colleagues. Often the most effective way of doing so is for senior leaders to model the values they want to see in the company's culture. One participant said, *"When I was a CEO, I realized that vulnerability can be a really powerful thing. Most leaders are unwilling to show it; instead, they put their guards up."*
- **Crises created by culture and compliance issues shift the relationship between the board and management.** Finding the right line between board oversight and management is critical for directors, and never more so than during a crisis. In some cases, boards need to get into the trenches and work alongside management. In other instances, the nature of a crisis requires the board to emphasize its independence in order to generate credibility with external stakeholders, including investors, regulators, and potential litigants. A director said, *"There are times where the board has to act as a body separate from the company in order to fulfill its fiduciary duty."*

The board may need to hire its own outside counsel and advisers to carry out an objective investigation, but participants acknowledged that doing so can compromise trust between the board and the management team. One participant recalled that because of the legal and regulatory implications of a recent crisis, *"our board felt that we needed to hire our own outside legal counsel to provide a review of everything. This led management to worry that we were not trusting their plan of action. It was not that we did not trust them, but the seriousness of the event dictated our actions."*

About this document

Summary of Themes is produced by Tapestry Networks and aims to capture the essence of the network discussion and associated research. Those who receive it are encouraged to share it with others in their own networks. *Summary of Themes* reflects the use of a modified version of the Chatham House Rule whereby comments are not attributed to individuals, corporations, or institutions. Network participants' comments appear in italics.

About the Ethics and Compliance Leadership Forum (ECLF)

The ECLF is convened by Tapestry Networks and sponsored by LRN, Inc. It is a consortium of non-executive directors who have broad oversight responsibility and senior executives who are responsible for corporate ethics and behavior, many of whom are both public company board members and current or former chief ethics and compliance officers. As boards have more responsibility around corporate behavior and integrity, the ECLF aims to explore the specific issues that are top of mind and how boards and management teams are collaborating in pursuit of corporate integrity.

About Tapestry Networks

Tapestry Networks is a privately held professional services firm. Its mission is to advance society's ability to govern and lead across the borders of sector, geography, and constituency. To do this, Tapestry forms multistakeholder collaborations that embrace the public and private sector, as well as civil society. The participants in these initiatives are leaders drawn from key stakeholder organizations who realize the status quo is neither desirable nor sustainable and are seeking a goal that transcends their own interests and benefits everyone. Tapestry has used this approach to address critical and complex challenges in corporate governance, financial services, and healthcare.

About LRN

LRN helps organizations build and sustain ethical cultures. The foundation of everything LRN does is a simple but powerful notion: Values drive behavior, and behavior drives outcomes. Every solution LRN offers is designed with this in mind. Since its founding in 1994, LRN has helped over 20 million people at more than 700 companies worldwide simultaneously navigate complex legal and regulatory environments and foster ethical cultures. Through a combination of practical tools, education, and strategic advice, LRN enables companies to translate their values into concrete corporate practices and leadership behaviors that create sustainable competitive advantage. A global company, LRN works with organizations in more than 100 countries from its offices in major cities, including New York, London, and Mumbai.

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Forum participants

- Virginia Addicott, CDW and Element Fleet Management
- Don Cornwell, AIG and Natura & Co.
- Kathleen Franklin, Sony and Bank OZK
- Jeff Gearhart, Carnival Corporation and Bank OZK
- David Greenberg, International Seaways
- Joy Greenway, Hillenbrand
- Peggy Johnson, BlackRock^{*}
- Julie Kane, Siga Technologies
- Cathy Lego, Cirrus Logic, Guidewire Software, IPG Photonics, and Lam Research
- Leo Mackay, Lockheed Martin and Cognizant Technology Solutions
- Cindy Moehring, Pyxus International
- Neil Novich, Beacon Roofing Supply, Hillenbrand, and WW Grainger
- Cynthia Patton, Verily Life Sciences
- Meg Porfido, Kaiser Foundation Health Plan
- Walt Rakowich, Host Hotels & Resorts, Iron Mountain, and Ventas
- Diana Sands, Boeing[†]
- Melissa Stapleton Barnes, Eli Lilly & Co. and Algonquin Power & Utilities
- Kathy Sullivan, International Paper
- Catherine West, Capital One
- Kim Williams, The EW Scripps Company, Xcel Energy, and Weyerhaeuser
- Donna Zarcone, Cigna and CDW

LRN

- Kevin Michielsen, Chief Executive Officer
- David Greenberg, Special Advisor

Tapestry Networks

- Marsha Ershaghi Hames, Partner
- Eric Baldwin, Principal
- Jonathan Day, Vice Chair
- Marisa Roman, Associate

^{*} Participated in pre-meeting call only.

[†] Represents former company