KPMG MAKINSON COWELL

Overboarding

2018 AGM season
KPMG Board Leadership Centre

The 2018 AGM season saw an increasing trend of shareholders voting against the re-election of a director because of concerns over the number of roles they were undertaking - so-called 'overboarding' One reappointment was supported by just 59% of shareholders, ostensibly because they were a director at six other companies. Another reappointment received just 66% support, with a significant number of shareholders apparently worried about the number of external commitments the individual had.

From our review of AGM voting, we can identify three FTSE 100 directors and eight FTSE 250 directors that received less than 80% support for their re-election during the 2018 AGM season because of overboarding. The updated UK Corporate Governance Code, that comes into effect for accounting periods commencing on or after 1 January 2019, makes specific reference to the time commitment of directors.

> *"When making new appointments the board should take into account other demands on directors' time. Prior to appointment, significant commitments should be disclosed with an indication of the time involved. Additional external appointments should not be undertaken without prior approval of the board, with the reasons for permitting significant appointments explained in the annual report. Full-time executive directors should not take on more than one non-executive directorship in a FTSE 100 company or other significant appointment."*
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> **Source: UK Corporate Governance Code – July 2018**

Whilst the UK Corporate Governance Code only makes a specific recommendation as regards additional roles for an executive director, a number of institutional investors and proxy advisors have developed more specific guidelines, which cover both non-executive and executive directors. For example Legal & General Investment Management encourages non-executive directors to limit their board positions to a total of five public companies.

> *"We encourage non-executive directors to limit their number of board appointments to a total of 5 public company board roles. We consider an independent Board Chair role to count as two board roles."*
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> **Source: Legal & General Investment Management Corporate Governance Principles**

ISS Governance, the influential proxy voting advisory company, sets out specific guidance in its voting policy, and proposes five directorships as a maximum, but with a scaling back of this limit when executive or chair roles form part of the mix. ISS recommended that shareholders vote against nine of the 11 FTSE 100/250 directors that received less than 80% support for their re-election in the 2018 AGM season because of overboarding.

> *"Any person who holds more than five mandates at listed companies will be classified as overboarded. For the purposes of calculating this limit, a non-executive directorship counts as one mandate, a non-executive chairmanship counts as two mandates, and a position as executive director (or a comparable role) is counted as three mandates."*
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> **Source: ISS UK voting policy**

An increasing number of investors have prepared their own voting policy, which includes guidance or limits as regards other directorships. For example Aviva Investors sees as a general rule, four non-executive appointments as the maximum one individual can manage properly.

Some investors apply even more stringent voting guidelines as regards overboarding. Silchester International Investors, the London-based value investor, states that the re-election of non-executive directors will not be supported if they have more than three non-executive positions.

> *"We will not support independent directors who are involved in too many other Boards. Non-executives will not be supported if they have more than two other equivalent positions with other companies or organisations. Where non-executive directors hold a position as chair of a company or chair of a nomination, audit or remuneration group we do not expect them to hold more than one other position"*
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> **Source: Silchester International Investors**

Kiltearn Partners in Edinburgh is another institution that applies a very specific voting policy on the number of board roles a director should undertake.

> *"Kiltearn would not expect an executive or chairman to hold more than one external non-executive directorship"*
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> **Source: Kiltearn Partners**

Such investor voting policies are mainly couched in terms of the number of directorships held in listed companies and generally do not take into account other time commitments, such as charity trusteeships etc., which can be just as time consuming as a non-executive directorship at a listed company.

Looking ahead, we expect even greater investor scrutiny of the time commitments of directors, with more instances of directors receiving less than 80% support for their re-election. Under the revised UK Corporate Governance Code, when 20% or more of the votes have been cast against a resolution, the company should explain, when announcing the result of the AGM vote, what action it intends to take; and provide further updates on the issue within six months and in the annual report. The company will also be included in the Investment Association's public register of companies that receive a high vote against an AGM resolution. Therefore overboarding is not just an issue for the AGM but will have on-going repercussions for any company with a director in such a situation.

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