WHY GOOD BOARDS FAIL
Our Middle Eastern Corporate Boards need to understand that the world has changed – what brought us success over the last 20 years will no longer work to help us survive and grow for the next 5 years...

Let’s face it: The Middle East business landscape and economy have changed dramatically in the last 12 months and many believe it will never return to its oil-driven heydays of 15% GDP growth per year. The arrival of strong international competition, dropping legal and cultural entry barriers, rising geopolitical instability, the growth in unemployment, and the collapse of historical monopolistic practices – all of these elements indicate that any Board that chooses to ignore these changes or elects a “proactive wait and see strategy” is simply being unrealistic. Gone also are the days that being on a Board of Directors in the Middle East was seen primarily as a prestige position and supervisory role. Being a Board Member is now about active leadership, personal accountability and senior executive coaching rather than passive supervision. Board Members need to move from being reactive to dynamic by approaching their Board work with increased vigour and dedication to make a positive difference to the organisations on whose Boards they serve.

Boards need to reinvent their work on the fly whilst their companies face unprecedented change and challenges in the Middle East. Boards can make or break an organisation, and most Board Members now care substantially more about their personal reputation and the impact of being associated with an organisation that fails.

Boards are increasingly under pressure from regulators, shareholders, and stock markets to be held accountable for corporate performance. The global drive in governance standards has substantially raised the requirements for Board performance, driving the rapid evolution of the role of Corporate Boards and Board Members. Investors are now openly stating their requirements for the appointment of high performing Boards. Institutional investors are seeking reforms to enable them to elect independent Non-Executive Directors to challenge the Executive and hold them accountable for results.

Many Board Members have discreetly told me over the last few months that they are disgruntled with corporate governance speeches, events, elective codes, new rules and the constant complexities of ensuring their Boards and organisations comply. A Board Chairman recently told me “It’s too much, too fast, and I spend too much time worrying about these complex corporate governance issues”. He added “can’t this be boiled down into some simple practical practices and principles that could be easily implemented by our Board as a first step?”. This article is a pragmatic attempt to answer the Board Chairman’s request by distilling ten simple boardroom principles for easy implementation. Based on personal boardroom and client experiences over the years, the failure to implement these principles is the main cause as to “Why Good Boards Fail”.

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**1 Principle 1: BOARD MIX**

A Board of Directors is only as good as the individual Board Members who sit on the Board. Understanding the importance of the role whilst possessing the required skills, relevant qualifications and experience is fundamental to success.

Ensuring that Board Members have an appropriate mix of skills, competencies and characteristics is an important aspect of building a good Board and is critical for boardroom performance. In recent years, Boards have evolved into requiring more specialist skills in particular areas. For example, newspaper corporations have been actively seeking IT and multimedia expertise as their industry shifts more online. However, as well as having a specialised capability, Board Members also need broad competence and experience across a whole series of skill sets to fulfil their obligations as Board Members. This has implications for Board Director acquisition and the development of a robust Board Director Assessment Framework as it becomes more challenging to find that combination of specialist skills with the broad suite of experience. Increasingly, Boards need deep operational and industry skills with members who understand the complexity of the business.

**3 or 4?**

A Board that truly adds value is not just a group of high performing individuals; a good Board is a balanced team with complementary skill sets and a culture that allows them to work together to make the most effective decisions for an organisation. While the leadership from the chair is crucial, it is the full participation of every Board Member that contributes the most to the effectiveness of a Board.

(Source: Institute Of Directors, New Zealand.)

Furthermore, the Board’s size and the structure of its committees will also have an impact on effectiveness. This calls for a Board Director Assessment Framework that encompasses leadership ability, business and industry know-how along with organisational cultural fit.

**2 Principle 2: BOARD MEMBERS “NOT UP TO DATE”**

Board Members need access to the right information, at the right time, at the right level of detail in order to make the right decisions. The Board agenda and its associated Board papers form a substantial part of the information Board Members receive to make those decisions.

The Board agenda will determine the issues to be discussed. This document is commonly assembled by the Chairman and the Corporate Secretary with input from the Executive. A Chairman would also typically offer Board Members the opportunity to suggest additional items as it is each Board Member’s responsibility to ensure that the right matters are tabled. The Chairman’s role in this is important to ensure the right agenda balance and further safeguard that the Executive is not overly controlling the Board’s agenda and possibly avoiding or reinforcing certain subjects.

Board papers should be summarised and formatted in a standard structure so that Board Members can readily grasp and focus on the most significant issues during the Board meeting. The volume of information is not necessarily related to its quality or value. Less information, if structured and presented appropriately, may be better. Board papers should therefore be short, timely, concise, material and action focused.

I have worked extensively with one Board (Financial Services Industry) who requested that every Board paper presented by the Executive to the Board also include a final paragraph entitled “Recommended Board Resolution”. This recommended Board resolution paragraph was to be written in a format that could be included in Board Minutes if the Board resolved to accept the recommendation. This not only crystallised the Executive’s recommendation in writing in one paragraph, but also allowed the Board to focus on the specific subject at hand.
Board Members are responsible for making decisions in the best interest of the organisation whilst safeguarding corporate assets and organisational funds. Regular poor decision making is symptomatic of a dysfunctional Board. These Board characteristics, and recommended actions, include the following:

- **Wrong size:** The Chairman should consider altering the Board size by either requesting the Nominations Committee to initiate the selection and appointment processes, or taking appropriate steps to retire directors.

- **Insufficient range of expertise:** The Chairman should consider requesting the Nominations Committee to initiate a study of the personal skills, knowledge, and attributes required by the Board. When carried out properly, this can easily identify skill gaps on the Board and paint the profile of the next Board Member to join the Board.

- **Inadequate information:** The Chairman should ask the Company Secretary and Executive to remedy the situation.

- **Inadequate debates, few overt disagreements or differences of opinion:** The Chairman should consider encouraging Non-Executive Directors to be more independent, challenging, and critical in their behaviour at Board meetings. It’s a valued skill set to be able to disagree, without being disagreeable.

- **Decisions are made by small inner groups outside of the Board:** The Chairman should consider reviewing the statement of reserved powers.

- **Few reviews to see if the decisions were correct:** The Chairman should consider initiating a regular review of the Board’s material decisions.

- **Failure to identify the risks:** The Chairman should consider initiating a regular review of the organisation’s risk profile.

Global market forces will sort out those companies that do not have sound corporate governance

Mervyn King

In all the cases highlighted above, remedying Board dysfunction is the Chairman’s responsibility, since the Chairman has ultimate responsibility for managing all aspects of Board meetings.

(Source: Corporate Governance Board Leadership “Dysfunctional Boards” | The International Finance Corporation, World Bank Group)
Assets and funds belong to the organisation and not the Board of Directors or the Executives. Acting as stewards on behalf of the shareholders, the Board needs to ensure that appropriate processes and controls are in place to manage conflicts of interest and the misuse of assets and funds.

One example of corporate governance enforcement carried out by the Dubai Financial Services Authority (DFSA) could be seen in the United Arab Emirates with Damas, an international jewellery retailer, which publicly listed on the NASDAQ Dubai Exchange in 2008. In this case, the controlling shareholders and company founders carried out unauthorised withdrawals of corporate funds for a total value over $160 million USD. The investigation conducted by the company’s auditor found grave corporate governance failures: conflicts of interest at the level of the Board, failure of the Audit Committee to meet, unauthorised use of company assets, inadequate segregation of duties and other issues.

Following an extensive investigation, the DFSA proceeded to remove the Board, appoint senior executive staff and force the majority shareholders to make a full disclosure of assets. This investigation revealed serious corporate governance failures and the controlling shareholder was fined.

(Source: OECD Corporate Governance Working Papers)

Disclosure Note: The author was the Chief Operating Officer (COO) of the DFSA at the time of this case and all information revealed here is in the public domain.
Accidental or deliberate financial misreporting is one of the most common components in numerous recent corporate scandals. Whilst many cases of financial failure have involved either deliberate fraud or conflicts of interest, numerous other cases demonstrate a Board that merely failed to act on its oversight responsibilities. This financial negligence in the boardroom has often resulted in substantial shareholder losses.

More recently, the troubled Saudi contractor Mohammed Al Mojil Group announced the resignation of its entire Board with immediate effect, days after the firm’s Chairman Mohammad Al Mojil and his son were sentenced to five years in prison for misrepresenting the company’s value. Saudi Arabia’s Capital Market Authority further banned a Big Four accountancy firm from providing accounting services in Saudi Arabia for two years, following its involvement with the company.

(Source: www.thenational.ae | 20th June 2016)

Boards must ensure that they have the financial skills and expertise to understand all financial aspects of a corporation so that they may effectively discharge their responsibilities vis-à-vis the organisation’s financial stewardship and accountability.

Practical compliance can be obtained by:

- Pinpointing the applicable rules, laws and regulations
- Ensuring that the Board collectively understands the legal requirements
- Ensuring that the Board is kept up to date on evolving rules, laws and regulations, which can be achieved as part of a Board’s continuing education program
- Ensuring that the Executive implements a comprehensive compliance and monitoring program
- Ensuring that regular compliance audit reports are included for review by the Board

A Board’s financial oversight duties include:

- Establishing financial controls
- Ensuring compliance with financial policies and procedures
- Approving an annual budget
- Performance tracking (actual cash flow, expenses and income vs. budgeted)
- Ensuring the long term financial sustainability
- Defining executive compensation

Typically, a Board also delegates their responsibilities to the Audit Committee for:

- Overseeing the financial reporting and disclosure process
- Selecting accounting policies and principles
- Overseeing the retention, performance and independence of external auditors
- Overseeing regulatory compliance, ethics, and whistle-blower requirements
- Overseeing the internal control process and reviewing the performance of the internal audit function
The guidance on Board effectiveness issued by the United Kingdom’s Financial Reporting Council states, “an effective Board should not necessarily be a comfortable place. Challenge, as well as teamwork, is an essential feature”.

Board Members should be appointed to the Board for their wisdom, strength of character and courage in making decisions and judgments concerning difficult and complex matters. It is therefore inevitable, essential, and healthy for Boards to have a certain amount of tension, disagreements, and challenge. It is one of the most challenging responsibilities for a Chairman to manage those conflicts, disagreements, and creative tensions within the boardroom that may be negatively affecting the effectiveness of Board meetings.

When Board Members feel comfortable around each other, they will feel free to speak their minds, unafraid of being criticized and opposed. Challenge and criticism will still occur and can’t be avoided in a team of strong personalities, but they transpire within the limits of professionalism, not personal outbreaks. Over the years of working with Boards and conducting Board Assessments, I’ve often noted from experienced Board Members that it’s not always “what they say” that is important but more often “how they say it”, amplified by “what they don’t say”. Being able to respectfully disagree with a fellow Board Member without being disagreeable is an acquired and highly valuable skill set. Witnessing a Board that is capable, via conversation and disagreement, of reaching a final consensus, is the fruit of a strong team. Research demonstrates that strong teams are built around mutual trust and respect and that a Board Chairman should actively seek to build a team spirit around the boardroom table.

Principle 10: LACK OF TEAMWORK

The oversight of the development and implementation of a corporation’s effective and sound business strategy is another core component of a Board’s responsibilities. Many Board Members have commented that the only pragmatic manner for them to satisfy their corporate strategy responsibilities is to be actively engaged in governing the strategy process, without becoming operational.

I have actively witnessed one organisation (Financial Services sector - that included the development of its strategy, business plan and budget in a yearly 6-month cycle, starting with a short (10 pages) “Corporate Strategic focus document” coupled with an “Economic and Risk Overview Document”. These re-focused the Board and Executive on the corporate vision, current strategy (what is working and what isn’t), forecasted economic conditions in key markets and the risks currently facing the organisation. The final output of the process was a continuously adaptive business strategy, drilling down to divisional business plans and budgets, ratified by the Board in November for implementation in January. Regardless of the process, a well-developed corporate strategy should play to the organisation’s strengths, mitigate risks and increase the final chances of success.

Whilst there are many reasons why strategic plans fail, one the most common reasons is the inability of the Executive to translate strategy into implementation. A report entitled “Why Good Strategies Fail: Lessons for the C-Suite” published by The Economist Intelligence Unit in 2013, states, “The best-laid strategies of any organisation are useless without proper implementation... In a survey conducted in March 2013, of which the majority of respondents were C-Suite executives, 61% of respondents acknowledge that their firms often struggle to bridge the gap between strategy formulation and its day-to-day implementation”. We can therefore conclude that whilst Boards need to ensure that their strategies are sound, they also need to ensure that they are implementable by their executive team.

Principle 9: POOR DIRECTION / STRATEGY

We’ve always done it this way, so there’s no need to ever change

Private Company Board Member

“Another experienced and retiring Chairman recently confided in me (during a Board assessment mandate in an oil & gas company) that, based on his experience, “an effective boardroom team of good individuals is substantially better than an ineffective team of boardroom experts”. He also highlighted the importance of “removing a rotten apple before the rot spreads to the rest of the barrel”.

Boards can also display an unwillingness to adapt by remaining committed to a strategy that may have historically worked well. As markets change and evolve rapidly, this unwillingness to adapt can also be lethal: Polaroid Corporation refused to move into digital imaging until after this resistance to change had severely affected the company. By the time Polaroid finally accepted that it needed to adapt it was too late, and the corporation finally declared bankruptcy (BBC News, Friday 12th October 2001).
IN CONCLUSION

As Boards come to terms with the changing economic conditions and the realisation of their “new” responsibilities, many are now exploring how to adapt and evolve. A Global Boardroom Assessment Methodology, along with clear objectives, pragmatic tools and concise deliverables, allowing the Board to prioritise change and focus on what is required to be implemented in the next 12 months, is the equivalent of switching on bright lights in what was a very dark room.

Boards now have their hands full for the foreseeable future adapting to new market realities in the Middle East, and Boards that do not proactively seize the opportunity to adapt may be in for a rough ride. The challenge is not just change but the speed of change, and the faster the pace of change, the harder the consequences of wilfully sticking to old ways. Those that seize the opportunity to strengthen and adapt their Boards earlier than later will find that they will position themselves to take advantage of those that don’t.

AUTHOR

Jan Bladen is the Managing Partner of Governance Creed. Jan qualified as the first accredited Board Director of the Mudara Institute of Directors (IOD) and has subsequently successfully participated in the International Finance Corporations (IFC) Train the Trainers’ Global Corporate Governance Board leadership Program. He obtained an MBA from Lausanne, Switzerland and attended “Making Corporate Boards More Effective” at Harvard Business School. He now serves as an independent Board Member on several Boards and has observed many Boards in action. The Boards he sits on allow him to observe first-hand what works and what doesn’t.

He is passionate about the Middle East and contributing towards the region’s long term economic success. Raised in the region as a child, Jan’s spouse is an Arab, his children speak Arabic at home and he has spent more than half his life living and working in the Middle East. As the former Lead and Executive Advisor to the Board at Abu Dhabi Global Market (ADGM), the founding Chief Operating Officer of the Dubai Financial Services Authority (DFSA) for nearly a decade, and nine years with Pricewaterhouse Coopers, he carries a wealth of experience in corporate leadership in the Middle East. He believes that the role of the Board in the Middle East is becoming more challenging as unlocking growth and shareholder value in corporations, State-owned enterprises (SOEs) and family businesses becomes one of the key challenges over the next decade.

As a dedicated governance advisory firm, Governance Creed specialises in strengthening boardroom and operational corporate governance practice across the Middle East. The firm works with shareholders, Boards and senior executives of family businesses, state owned enterprises, publicly listed entities, private equity firms and private companies to improve Board performance and organisational governance so as to drive shareholder value.

www.governancecreed.com
Governance Creed
Emirates Financial Towers
North Tower Level 13
Dubai International Financial Centre (DIFC)
Dubai, United Arab Emirates.

T +971 (0) 4 439 6777

governancecreed.com

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