



## 4 TOOLS FOR BOARD DISCLOSURE OVERSIGHT (10/23)

As noted in the editorial above, corporate disclosure has become a compliance headache (if not nightmare) for companies around the world. Boards, and their committees, are the ones who put their names to all these legal, financial and compliance disclosures, so you need to lose sleep over assuring that they're correct. But how do you shape a compliance process that's both manageable *and* bullet proof?

■ *Yesterday's model* - management tells the board what structures are needed to assure compliance. *Today's model* - the board *and* management coordinate to build disclosure systems. This can mean "giving management more instruction on the volume and level of detail they are looking for," advises [Liz Dunshee](#), a shareholder in the Frederikson law firm in Minnesota, and a disclosure expert. This also applies to the timing of disclosures, which have grown more onerous. For example, the new US SEC cybersecurity disclosure rules demand notice within four days of a "material incident" - a timeline making it difficult to be sure just how "material" a hack actually is. Dig in with IT and legal counsel on whether your disclosure tools can actually deliver what's expected.

■ Give board structures fresh review for disclosure readiness. "Make sure your committees know who's doing what so there isn't a lot of added work involved," counsels [Helena Grannis](#), of the Cleary, Gottlieb law firm. A yearly checkup on your committee charters is a smart policy already, but is vital if you want to assure disclosure is well vetted at the committee level. As is too often the case, it's easy to dump all disclosure review onto the audit committee, but that's become both burdensome and awkward. Is Audit really the best monitor of, say, company carbon emissions? Sit the board down with counsel for a checklist of all the disclosure demands on the company today, and rationally divide them among your committees.

■ To make this management interface work, build solid bridges between the board and the management disclosure committee. For public companies, a disclosure committee has become a must over the past few decades, and typically includes the controller, legal counsel, risk manager, and the head of IR, along with other management offices as needed. There are plenty of good online [best practice tools](#) for disclosure committees available, so we won't dig into charters, procedures and reporting here. However, a vital aspect is committee reporting to the board. Typically, the committee offers minutes and a full report on their meetings for the board, usually going through the audit committee. However, having the audit committee chair seconded to the management disclosure committee aids two-way communication.

■ Questions the board should ask disclosure committees include: Who are the business unit heads reporting to the disclosure committee, and how well trained are they on disclosure obligations? What are the committee's standards on collecting, reporting and retaining disclosure information, and how often are these procedures reviewed? How do our disclosure practices compare to industry peers, and how is this reviewed? Are "outsiders" (external audit partner, outside counsel) members of the committee, and if not, how do they interface? Were there "judgment call" issues facing the committee, and how were they resolved?

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