RISK MANAGEMENT TRAINING FOR THE BOARD OF DIRECTORS

AUGUST 13, 2020 – HOLLAND & MARIE

INTRODUCTION

In this article, we (1) offer a gentle reminder that a Board of Directors (the "**Board**") of a financial institution is expected to receive regular training to ensure that directors can do their jobs effectively and (2) would like to pitch Holland & Marie as the provider of that training, especially training on risk management topics. To acknowledge the value of your time as well as illustrate our approach, if you would like to skip the first point and jump to how we can help, please feel free to click here.

THE EXPECTATION FOR THE BOARD TO RECEIVE TRAINING

Singapore

According to the Monetary Authority of Singapore's (the "**MAS**") Guidelines on Risk Management Practices – Board and Senior Management (the "**Board Risk Guidelines**"):

> "The Board should receive regular training from time to time. It should put in place a continuous professional development programme to ensure that directors are equipped with the appropriate skills and knowledge to perform their roles on the Board and Board committees effectively. Such programmes may include providing the directors with a detailed overview and risk profile of the institution's significant or new business lines and periodic updates on regulatory developments."[1]

The MAS does not specify any required subject matter, delivery methods, quantities, or frequencies of training. Such decisions are left to the judgement of the Board. However, when setting up a Board training program, it is critical to keep in mind that **the audience for the training is not solely the Board. Instead, the audience includes the MAS and other stakeholders which will evaluate the Board's performance and "the institution's risk profile, taking into account the quality of the institution's internal risk management systems and processes."[2]**

Hong Kong

Risk management is one of the eight core functions of a licensed institution identified by the Securities and Futures Commission (the "**SFC**").[3] A licensed institution's directors are ultimately responsible for the adequacy and effectiveness of the corporation's internal control systems.

Part III of the SFC's Management, Supervision and Internal Control Guidelines for Persons Licensed by or Registered with the Securities and Futures Commission (the "**Internal Control Guidelines**") provides that training policies shall be established with adequate consideration given to training needs to ensure compliance with the firm's operational and internal control policies and procedures, and all applicable legal and regulatory requirements to which the firm and its employees are subject. Adequate training should be provided both initially and on an on-going basis.

In addition, Paragraph 3.2 of the SFC's Fit and Proper Guidelines states: "All responsible officers, executive officers, licensed representatives, and relevant individuals who engage in the sponsor work of a firm are required to attend training on topics that are relevant to their sponsor work, e.g. skills that are relevant to their role as sponsors and knowledge of the relevant regulatory

[1] See Paragraph 1.2.6 of the Board Guidelines.
[2] See page 12 of "Objectives and Principles of Financial Supervision in Singapore" revised by the MAS in September 2015.
[3] See Paragraph 7 of the SFC's Circular to Licensed Corporations Regarding Measures for Augmenting the Accountability of Senior Management dated 16 December 2016.

rules and their changes."

Therefore, while the SFC's Guidelines on Continuous Professional Training are not applicable to persons who are not licensed with the SFC, we believe directors are generally expected to receive periodic risk management training to ensure they effectively discharge their responsibilities.

WHY RISK MANAGEMENT?

The MAS' supervisory approach is risk-focused.[4] The MAS states that this allows it to "give greater business latitude to well-managed institutions while retaining higher requirements or tighter restrictions for weaker ones".[5] As a result, it is desirable for financial institutions to be both well managed **and perceived as well-managed**.

Thankfully, in this case financial institutions ("**FIs**") do not have to choose between perception and reality. Instead, risk management training at the Board level adds value in terms of form and substance.

WHAT DOES RISK MANAGEMENT TRAINING COVER?

The risk management training needs of a Board vary for each FI, primarily depending on the FI's complexity and sophistication. Topics can include:

- an overview of applicable regulations and guidelines;
- case studies of incidents where other Boards failed to discharge their duties effectively and were subject to discipline;
- reviews of internal reporting frameworks to ensure material risks are appropriately escalated to the Board for consideration, including guidance on appropriate timelines, levels of detail and thresholds for escalation as well as whistle-blower policies;
  - in particular, we recommend that Boards require periodic, written confirmations on certain subjects from senior management including regulatory compliance and maintaining operations within designated risk thresholds;
- advice on how to prepare for and subsequently respond to regulatory inspection or internal audit findings; and
- advice on how to conduct Board performance assessments
  - The MAS has stated: "The Board should critically review its own performance and that of the Board committees periodically. The performance criteria applied should include the quality of risk management and adequacy of internal controls…"[6]

WHY HOLLAND & MARIE?

Our team

We believe Board training needs to be done by senior personnel in order to be effective. Our senior team has experience serving on corporate boards (including director experience of licensed and listed companies), as well as CEO, COO, General Counsel and risk management experience. In particular, Kevin Riendeau, CEO of Anextere[7] (a business and technology solutions company for financial institutions), has recently joined Holland & Marie as a Special Advisor. Kevin's experience includes serving as Head of Oversight and Control, Asia Pacific for J.P. Morgan Asset Management.

Our experience

In addition, our team has direct experience dealing with the following issues (among others):

- Adverse audit findings
- AML/CFT issues
- Capital monitoring or operational failures
- Compliance breaches

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[4] Id.
[5] Id.
[6] See Paragraph 1.2.7 of the Board Guidelines.
[7] For information about Anextere, click here.

- Customer or supplier disputes
- Culture
- Cyberattacks
- Debt covenant breaches
- Fraud
- Fit and proper issues pertaining to employees, executives, directors and substantial shareholders
- Office/business line closures
- Profit warnings
- Regulatory inspections and supervisory warning letters

We consider this experience invaluable as it enables us to advise Boards on how to either (1) avoid the same pitfalls or, (2) if an issue has already occurred, effectively remediate the problem.

If nothing else, we hope the war stories keep our risk management presentations from being boring… as if corporate governance discussions could ever be considered boring.

Our approach

We believe simpler risk management frameworks are best as they reduce execution risk, which may be the most under-rated risk that a FI faces. Our approach is to take our subject matter expertise and establish a training program that is commensurate to the FIs nature, size and complexity. There are often simple changes a FI can make that provide a disproportionate benefit compared the burden of implementation.

For example, when you conduct Board risk management training, be sure to list such training on the agenda for the meeting and then also in the Board minutes upon completion. These steps take no time or money to do and yet are remarkably important in a world where auditors often argue that "not documented equals not done". While this tip does not address the risk profile of a FI's underlying businesses, it improves corporate governance and reduces risks faced by the Board itself.

CONCLUSION

At Holland & Marie, We think reducing the inherent risks and liabilities of directorships as part of a FI's overall risk management framework is an important priority. If you agree, please do reach out and let us by you a cup of coffee to explore how we can help.

HOLLAND & MARIE

Holland & Marie is a compliance, risk, C-Suite and legal solutions firm based in Singapore. We have extensive experience in resolving typical compliance issues including regulatory inspections, satisfying regulatory requirements and maintaining best practices in corporate governance to navigate the rapidly changing regulatory landscape.

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