



**THE SIDLEY BEST  
PRACTICES CALENDAR  
FOR CORPORATE BOARDS  
AND COMMITTEES**

2019

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**SIDLEY**

TALENT. TEAMWORK. RESULTS.



## INTRODUCTORY NOTE

This calendar represents one version of how the Board of a U.S.-domiciled corporation listed on the NYSE or Nasdaq with a December 31 fiscal year end may wish to organize its activities during a calendar year. Although this calendar is designed to address both specific requirements and general governance principles applicable to most corporations, it must be tailored to each individual corporation's circumstances and should reflect the substantive and procedural requirements of its charter/bylaws, Board committee charters and/or corporate governance guidelines. For example, a corporation having a controlling shareholder is exempted from certain of the NYSE and Nasdaq requirements, but should have procedures in place for addressing conflicts of interest. Alternatively, a corporation addressing out-of-the-ordinary course of business issues (e.g., a possible change-in-control transaction, an unplanned CEO succession or liquidity concerns) will be scheduling more frequent meetings of the Board and/or its Committees. Finally, a corporation having relatively simple businesses and facing no special issues may be able to adopt a more streamlined approach.

Although this calendar was designed for a public company subject to SEC and stock exchange requirements, a private company may adopt a similar, albeit simplified, calendar for its board activities as a matter of best practice.

In preparing this calendar, consideration has been given to an appropriate sequencing of events. For example, the strategic review is set for September, two months in advance of the November budget presentations. As another example, a discussion of disclosure philosophy in October is designed to set the stage for year-end reporting.

This calendar was prepared based upon requirements in effect as of September 2019. Changes in or new requirements may necessitate timing or other modifications.

*Questions, comments and suggestions relating to this calendar should be addressed to:*

- Thomas A. Cole      [tcole@sidley.com](mailto:tcole@sidley.com)      312 / 853-7473
- Holly J. Gregory      [holly.gregory@sidley.com](mailto:holly.gregory@sidley.com)      212 / 839-5853
- John P. Kelsh      [jkesh@sidley.com](mailto:jkesh@sidley.com)      312 / 853-7097
- Rebecca C. Grapsas      [rebecca.grapsas@sidley.com](mailto:rebecca.grapsas@sidley.com)      212 / 839-8541
- Andrea L. Reed      [andrea.reed@sidley.com](mailto:andrea.reed@sidley.com)      312 / 853-7881
- Claire H. Holland      [cholland@sidley.com](mailto:cholland@sidley.com)      312 / 853-7099

## REGULARLY SCHEDULED MEETINGS

	Full Board	Audit Committee	Compensation Committee	Nominating and Corporate Governance Committee
<b>January (two days)</b>	X	X	X	X
<b>February</b>	X	X	X	
<b>March</b>				
<b>April</b>		X (telephonic)		
<b>May</b>	X			
<b>June</b>				
<b>July</b>	X	X	X	X
<b>August</b>				
<b>September (retreat)</b>	X			X
<b>October</b>		X (telephonic)		
<b>November</b>	X		X	
<b>December</b>				
<b>TOTAL</b>	6	5	4	3

Agenda items for each of these meetings follow. Citations appearing in parentheses on the following pages are to sources of specific requirements. (“Dodd-Frank” refers to the Dodd-Frank Wall Street Reform and Consumer Protection Act, “SOX” refers to the Sarbanes-Oxley Act, “S-K” refers to SEC Regulation S-K, “S-X” refers to SEC Regulation S-X, “NYSE” refers to the New York Stock Exchange and NYSE rule references are to the rules contained in the New York Stock Exchange Listed Company Manual and “Nasdaq” refers to the Nasdaq Stock Market and Nasdaq rule references are to the rules contained in the Nasdaq listing standards.)

This calendar provides that the annual meeting of shareholders will be held in May. Although only the January and September meetings are indicated as multi-day affairs, in some instances the Committee meetings should take place the afternoon before the meeting of the full Board. As indicated above, there are no regularly scheduled meetings in March, June, August or December. Written materials should be supplied reasonably in advance of the meetings. Because of the legal significance that may be ascribed to any information supplied to a Board or Committee, consideration should be given to a prior review of those materials by counsel. Audit Committee meetings should be scheduled sufficiently in advance of scheduled earnings releases so as not to preempt the Committee from giving meaningful input. The Chair or lead independent director (if any) may communicate with Board members between the regularly scheduled meetings to identify agenda items and engage on other matters (e.g., the performance and functioning of the Board or individual directors) as appropriate.

See Attachment A to this calendar for a list of possible additional items to include on the agendas of regular or special meetings of the Board and/or its Committees.

## JANUARY (TWO DAYS)

### Audit Committee

- Review and approve minutes of prior meeting
- Review financial results, with detailed review of revenue recognition, significant reserves and any special charges or material changes
- Review draft earnings release for prior 4Q and full year, key messages for analysts conference call and MD&A and earnings guidance, with a particular focus on the appropriateness and disclosure of any non-GAAP financial measures used (NYSE § 303A.07(b)(iii)(B) and (C); Nasdaq § 5605(c)(1)(C))
- Review management representation letter to auditors
- Review SOX § 204 report, including any management letter or schedule of unadjusted differences (S-X Rule 2-07; NYSE § 303A.07(b)(iii)(A); Nasdaq § 5605(c)(1)(B) and § 5605(c)(3))
- Review and discuss with the independent auditor reports from the independent auditor describing the audit firm's (a) independence and all relationships between the auditor and the Company, and (b) internal quality control procedures and any material issues raised by the most recent internal quality control review, or peer review, of the firm, or by any inquiry or investigation by governmental or professional authorities within the previous five years (S-X Rule 2-01; NYSE § 303A.07(b)(iii)(A); Nasdaq § 5605(c)(1)(B) and § 5605(c)(3))
- Review and evaluate qualifications, performance, tenure and independence of independent auditor, select independent auditor for current year (SOX § 301; Exchange Act Rule 10A-3(b)(2); NYSE § 303A.07(b)(iii); Nasdaq § 5605(c)(1)(B) and § 5605(c)(3)); review lead and concurring audit partners and other audit partners who provide services to the Company to determine whether any rotation is necessary (SOX § 203; S-X Rule 2-01(c)(6))
- Review and approve plans for independent audit and non-audit services to be provided by auditors and related fees (SOX §§ 201, 202; S-X Rules 2-01(c)(4) and 2-01(c)(7)); review pre-approval policy relating to provision of permissible non-audit services including whether Committee wants to continue to delegate authority to subcommittees to approve unplanned non-audit services (SOX § 202)
- Review and approve the scope, responsibilities, plans, budget, staffing and organizational structure of the internal audit function
- Review policies for hiring employees or former employees of independent audit firm (SOX § 206; S-X Rule 2-01(c)(2); NYSE § 303A.07(b)(iii)(G); Nasdaq § 5605(c)(1)(B))
- Receive reports from other Board Committees (such as any Risk or Compliance Committee) and internal audit on matters that might impact financial statements
- Receive report from the Chief Compliance Officer
- Executive session

## Compensation Committee

- Review and approve minutes of prior meeting
- Approvals and actions relating to employee benefit plans (ERISA § 404)
- Review draft Compensation Discussion and Analysis and other compensation and Compensation Committee-related disclosures for proxy statement (S-K Item 407(e); NYSE § 303A.05(b)(i)(C))
- Review report regarding compensation risk assessment and draft proxy statement disclosure regarding same, if any (S-K Item 402(s))
- Review report regarding scope of compensation consultant services and fees and draft proxy statement disclosure regarding same, if any
- Review pay ratio calculations and draft proxy statement disclosure regarding same
- If applicable for the current year, review draft say-on-pay and say-when-on-pay resolutions for proxy statement (Dodd-Frank § 951; Exchange Act Rule 14a-21; Item 24 of SEC Schedule 14A)
- Review compliance with stock ownership guidelines by executive officers and directors

## Nominating and Corporate Governance Committee

- Review and approve minutes of prior meeting
- Assess expertise, qualifications, skills, attributes, contributions, diversity characteristics (e.g., gender, racial/ethnic, age), tenure and independence of incumbent directors and other director candidates in light of the Company's strategy, material risks and needs, and recommend to the full Board candidates for election or re-election to the Board
- Review Board refreshment mechanisms (e.g., whether to modify approach to conducting Board and Committee self-evaluations or analyzing the results; whether to institute or modify mandatory retirement age or term limits)
- Review draft of governance-related disclosures for proxy statement, including disclosure related to (x) the experience, qualifications, skills and attributes that led to the conclusion that the nominees/directors should serve/continue serving as directors of the Company, (y) the consideration of diversity in the process by which director candidates are identified and (z) the Board's administration of its risk oversight function (S-K Items 401(e), 407(c)(2)(vi) and 407(h))
- Review Board leadership structure and draft proxy statement disclosure regarding why such structure is appropriate, including the reasons why the Company has the same or different persons serving as Chair of the Board and CEO, and the role of the lead independent director, if any (S-K Item 407(h))
- Review D&O insurance coverage, indemnification provisions and policies relating to advancement of expenses; also review developments in law regarding D&O insurance, exculpatory charter provisions and indemnification/advancement of expenses, and make recommendations to the full Board
- Review form of questionnaire to be used in Board and Committee self-evaluations
- Review updates to proxy advisory firm voting policies

## Full Board

- Review and approve minutes of prior meeting
- Standard reports — at each meeting (if not monthly), these reports will include operating results, business unit presentations, financial condition, key drivers, contingencies, investor relations
- Approve nomination of directors for election/re-election at the annual meeting based on recommendation of Nominating and Corporate Governance Committee
- Receive reports of Audit, Compensation and Nominating and Corporate Governance Committees and act upon any recommendations relating to:
  - Board leadership structure
  - D&O insurance, indemnification and related matters
- Review completed D&O questionnaires relating to director independence (Exchange Act Rule 10A-3; SOX § 301, NYSE § 303A.01 and § 303A.02; Nasdaq § 5605(b)(1) and (c)(2)), qualifications and independence of Audit Committee members (SOX § 407; S-K Item 401(e); NYSE § 303A.06 and § 303A.07; Nasdaq § 5605(c)(2)) and independence of Compensation Committee members (Dodd-Frank § 952; Exchange Act Rule 10C-1; NYSE § 303A.02(a)(ii) and § 303A.05(a); Nasdaq § 5605(d)(2)); make determinations as to the independence of directors (including for purposes of Audit and Compensation Committee service) and qualifications and financial expertise of Audit Committee members
- Review completed D&O conflict of interest questionnaires
- Review corporate communications strategy, including plans for shareholder engagement throughout the year
- Review Board's role in risk management
- Executive session (NYSE § 303A.03; Nasdaq § 5605(b)(2))

## FEBRUARY

### Audit Committee

- Review and approve minutes of prior meeting
- Review Form 10-K
- Discuss audited financials and MD&A with management and independent auditors and recommend to the full Board that the audited financials be included in the Form 10-K (S-K Item 407(d)(3)(i); NYSE § 303A.07(b)(i)(B) and (b)(iii)(B); Nasdaq § 5605(c)(1)(C))
- Review and approve draft Audit Committee-related disclosures for proxy statement (S-K Item 407(d); NYSE § 303A.07(b)(i)(B); Nasdaq § 5605(c)(1)(C))
- Review report on the Company's critical accounting policies, alternatives to such policies, ramifications of such policies and the treatment preferred by the independent auditors, as well as any material written communications between the firm and management (SOX § 204; S-X Rule 2-07) (The Committee should also make sure it reviews with management and the independent auditors the matters set forth in clauses (A)-(D) of the General Commentary to NYSE § 303A.07(b))
- Review SOX § 404 internal control report and auditor attestation and discuss with management and independent auditors
- Review with the independent auditors any audit problems or difficulties and management's response (NYSE § 303A.07(b)(iii)(F); Nasdaq § 5605(c)(3)(ii))
- Communicate with auditor about related party transactions, significant unusual transactions and executive officer relationships and transactions as required by Auditing Standard No. 18
- In connection with, or in addition to, the matters listed above, meet separately with management, with internal auditors (or other personnel responsible for the internal audit function) and with independent auditors, in each case with a view to identifying issues warranting Committee attention (NYSE § 303A.07(b)(iii)(E))

## Compensation Committee

- Review and approve minutes of prior meeting
- Review the performance of the CEO and other executive officers of the Company, and approve the compensation of the CEO and executive officers (including salary, equity grants, bonuses, other incentive awards and benefits) (NYSE § 303A.05(b)(i)(A)-(B); Nasdaq § 5605(d)(1)(B); IRC § 162(m))
- Review and approve Compensation Discussion and Analysis and other compensation and Compensation Committee-related disclosures and recommend to the full Board that the Compensation Discussion and Analysis be included in the proxy statement and (through incorporation by reference) the Form 10-K (S-K Items 402 and 407(e)(5))

## Full Board

- Review and approve minutes of prior meeting
- Standard reports
- Receive reports of Audit Committee and Compensation Committee
- Adopt resolutions relating to Annual Shareholders Meeting, including setting record date and meeting date and making recommendations with regard to ballot items
- Review Form 10-K, draft proxy statement and procedures supporting CEO/CFO certifications regarding Exchange Act reports and internal control over financial reporting (SOX §§ 302, 404, 906) and CEO certification of compliance with NYSE listing standards (NYSE § 303A.12)
- Review information reporting systems (*Caremark*) and disclosure controls and procedures (Exchange Act Rule 13a-14), including possible report on the operations of any Disclosure Committee
- Review information reporting systems and disclosure controls and procedures (Exchange Act Rule 13a-14), including possible report on the operations of any Disclosure Committee (See *Caremark* (1996) holding that directors will not be subject to oversight liability so long as adequate reporting and control systems are in place and the directors do not consciously fail to monitor and oversee such systems and *Marchand* (2019) reaffirming the need for board-level reporting systems related to the company's "mission critical" compliance risks)
- Review takeover environment and defenses, as well as all contracts (employment and other) containing change-in-control triggers
- Executive session, including review of CEO and CFO evaluations (NYSE § 303A.03; Nasdaq § 5605(b)(2))



## APRIL

### Audit Committee

- Review and approve minutes of prior meeting
- Review financial results, with detailed review of revenue recognition, significant reserves and any special charges or material changes
- Review draft earnings release for 1Q, key messages for analysts conference call and MD&A and earnings guidance (NYSE § 303A.07(b)(iii)(C); Nasdaq § 5605(c)(1)(C))
- Review draft 1Q Form 10-Q (including MD&A) (NYSE § 303A.07(b)(iii)(B); Nasdaq § 5605(c)(1)(C))
- Receive reports from other Board Committees (such as any Risk or Compliance Committee) and internal audit on matters that might impact financial statements
- Receive report from the Chief Compliance Officer
- Executive session

## MAY

### Full Board (Following Annual Shareholders Meeting)

- Review and approve minutes of prior meeting
- Standard reports
- Elect officers
- Review Board Committee composition and appoint directors as members and chairs of Board Committees, as necessary, with input from Nominating and Corporate Governance Committee; consider whether any delegated responsibilities should be transferred from one Board Committee to another or whether any additional Board Committee(s) should be formed
- Executive session (NYSE § 303A.03; Nasdaq § 5605(b)(2))
- Independent directors to elect a lead independent director, if necessary

### New Directors

- Orientation session (NYSE § 303A.09)

## JULY

### Audit Committee

- Review and approve minutes of prior meeting
- Review financial results, with detailed review of revenue recognition, significant reserves and any special charges or material changes
- Review draft earnings release for 2Q, key messages for analysts conference call and MD&A and earnings guidance (NYSE § 303A.07(b)(iii)(C); Nasdaq § 5605(c)(1)(C))
- Review draft 2Q Form 10-Q (including MD&A) (NYSE § 303A.07(b)(iii)(B); Nasdaq § 5605(c)(1)(C))
- Receive reports from other Board Committees (such as any Risk or Compliance Committee) and internal audit on matters that might impact financial statements
- Review and assess effectiveness of corporate compliance program including risk assessment and management programs relating to insurance, derivatives, information systems and cybersecurity, stress testing\*, etc. (*Caremark*, Sentencing Guidelines and NYSE § 303A.07(b)(iii)(D)), including:
  - Whistleblower policy and procedures (SOX § 301 and Exchange Act Rule 10A-3(b)(3))
  - Code of Business Conduct and Ethics (NYSE § 303A.10; Nasdaq § 5610) and the Code of Ethics for senior financial officers (SOX § 406 S-K Item 407), and recommend any proposed changes to the full Board
  - Insider trading policy and other compliance program policies and procedures as appropriate (including in relation to up-the-ladder reporting) (SOX § 307 and 17 CFR 205)
- Review Audit Committee Charter, recommend any proposed changes to the full Board
- Annual Committee self-evaluation (NYSE § 303A.07(b)(ii))
- Executive session

\* “Stress testing” refers to understanding the impact, if any, on the Company’s results of operations or financial condition of changes of a certain magnitude in interest rates, foreign exchange rates, commodity prices, stock prices, credit ratings, etc.

## Compensation Committee

- Review and approve minutes of prior meeting
- Review CEO and senior executive succession plans and report to the Board
- Initial review of compensation policies and practices, and efforts to engage with shareholders in light of the results of the say-on-pay vote at the annual meeting
- Review policies relating to clawback of executive compensation or consider need for adoption or revision of same (Dodd-Frank § 954)
- Review policies relating to hedging of company stock by employees and directors or consider need for adoption or revision of same (Dodd-Frank § 955; S-K Item 407(i))
- Review stock ownership guidelines for executive officers and directors
- Review Compensation Committee Charter, recommend any proposed changes to the full Board
- Annual Committee self-evaluation (NYSE § 303A.05(b)(ii))

## Nominating and Corporate Governance Committee

- Review and approve minutes of prior meeting
- Consider shareholder proposals and voting results from prior proxy season and anticipate any shareholder engagement needed on governance matters (e.g., ESG, proxy access)
- Review completed questionnaires relating to Board and Committee self-evaluations; discuss potential areas for improvement and consider impact on Board succession planning
- Review the following and recommend any proposed changes to the full Board:
  - Standing resolutions on delegation of authority and information flow (see Attachment B to this calendar)
  - Charter/bylaws (including in light of any recent corporate law developments (e.g., increasing prevalence of exclusive forum provisions))
  - Corporate governance guidelines (NYSE § 303A.09)
  - Policies and procedures for approval of related person transactions (S-K Item 404(b))
- Review form and amount of Board and Committee compensation and recommend any proposed changes to the Board
- Review Nominating and Corporate Governance Committee Charter, recommend any proposed changes to the full Board
- Annual Committee self-evaluation (NYSE § 303A.04(b)(ii))

## Full Board

- Review and approve minutes of prior meeting
- Standard reports
- Mid-year rejections
- Receive reports of Audit, Compensation and Nominating and Corporate Governance Committees and act upon any recommendations relating to:
  - Succession planning
  - Code of Business Conduct and Ethics (NYSE § 303A.10; Nasdaq § 5610)
  - Code of Ethics for senior financial officers (SOX § 406 and S-K Item 406)
  - Insider trading policy and other compliance program policies and procedures
  - Clawback policy
  - Hedging policy
  - Stock ownership guidelines
  - Charter/bylaws
  - Committee charters
  - Standing resolutions on delegation of authority and information flow
  - Corporate governance guidelines (NYSE § 303A.09)
  - Related person transaction policy (S-K Item 404(b))
  - Board and Committee self-evaluations
  - Form and amount of Board and Committee compensation
- Planning for September retreat
- Executive session (NYSE § 303A.03; Nasdaq § 5605(b)(2))

## SEPTEMBER (RETREAT)

### Nominating and Corporate Governance Committee

- Review and approve minutes of prior meeting
- Review form of D&O questionnaires
- Review criteria and qualifications for Board membership, including diversity, tenure and standards for assessing independence, and recommend any changes to the full Board
- Review policy (if any) regarding diversity in the identification of nominees for directors and assess the effectiveness of such policy
- Review policies and procedures for receipt of shareholder recommendations of candidates for nomination by the Board
- Develop an orientation program for new directors and a continuing education program for all directors (NYSE § 303A.09) (see Attachment C to this calendar)
- Approval of Board and Committee calendar for coming year, for recommendation to the full Board
- Initial review of Board size and composition and any expected director departures, and consideration of appropriate slate of nominees for next year's Annual Shareholders Meeting; determine whether any rotation in Board leadership roles is advisable

### Full Board

- Review and approve minutes of prior meeting
- Standard reports
- Comprehensive reviews: corporate strategy; management structure, talent development and succession; competitive analysis; corporate culture; Board purpose and objectives
- Receive Audit Committee report on risk management review
- Receive report from management regarding major categories of risk exposure for the Company and steps taken to manage such risks
- Receive Nominating and Corporate Governance Committee report and act upon any recommendations relating to:
  - Director independence standards
  - Criteria and qualifications for Board membership
  - Board and Committee calendar for coming year
- Continuing education session; review plans for continuing education for directors (NYSE § 303A.09) (see Attachment C to this calendar)
- Executive session (NYSE § 303A.03; Nasdaq § 5605(b)(2))

## OCTOBER

### Audit Committee

- Review and approve minutes of prior meeting
- Review financial results, with detailed review of revenue recognition, significant reserves and any special charges or material changes
- Review draft earnings release for 3Q, key messages for analysts conference call and MD&A and earnings guidance (NYSE § 303A.07(b)(iii)(C); Nasdaq § 5605(c)(1)(C))
- Review draft 3Q Form 10-Q (including MD&A) (NYSE § 303A.07(b)(iii)(B); Nasdaq § 5605(c)(1)(C))
- Review with CEO, CFO, CAO reporting and disclosure philosophy and internal communications designed to set “tone at the top” for preparation of Form 10-K and year-end financials
- Receive reports from other Board Committees (such as any Risk or Compliance Committee) and internal audit on matters that might impact financial statements
- Receive report from the Chief Compliance Officer

## NOVEMBER

### Compensation Committee

- Review and approve minutes of prior meeting
- Review compensation plans (including incentive compensation plans and equity-based plans, policies and programs) and make recommendations to the full Board as appropriate
- Approve corporate goals and objectives relevant to the compensation of the CEO and other executive officers of the Company (NYSE § 303A.05(b)(i); Nasdaq § 5605(d)(1)(B); IRC § 162(m))
- Conduct independence and conflicts of interest analysis relating to compensation consultants, legal counsel or other advisers prior to selection by the Compensation Committee; engage compensation consultant (Dodd-Frank § 952, Exchange Act Rule 10C-1; NYSE § 303A.05(c)(iv); Nasdaq § 5605(d)(3); S-K Item 407(e)(3))

### Full Board

- Review and approve minutes of prior meeting
- Standard reports
- Approve operating and capital budgets and financing program for coming year
- Receive report of Audit Committee
- Receive report of Compensation Committee and approve matters relating to compensation plans
- Executive session (NYSE § 303A.03; Nasdaq § 5605(b)(2))



## **POSSIBLE ADDITIONAL AGENDA ITEMS**

**(For Regular Meetings or Bases for Calling Special Meetings  
or Taking Action by Unanimous Written Consent)**

### **Audit Committee**

- Receipt of SEC accounting comments or press/analyst reports reflecting on accounting
- Request for approval of related person transaction (S-K Item 404; NYSE § 314; Nasdaq § 5630)
- Notice of significant whistleblower complaint or other compliance issue
- Communication with auditor about significant audit and financial statement matters as required by Auditing Standard No. 1301
- Review conflict minerals disclosure for annual report (Dodd-Frank § 1502, Exchange Act Section 13(p))
- Approval of additional permissible non-audit services to be provided by independent auditor (SOX § 201; S-X Rule 2-01(c)(4))

### **Compensation Committee**

- Compensation of newly-hired senior executives
- Adoption of any golden parachute or other employment agreement
- Adoption or amendment of equity compensation plans, subject to shareholder vote under NYSE § 303A.08; Nasdaq § 5635(c); adhere to a robust process for determining non-employee director compensation (e.g., involve compensation consultants, potentially obtain shareholder approval)
- Review how often the say-on-pay vote should be presented to shareholders, taking into account the results of the advisory vote relating to the frequency of say-on-pay proposals at the annual meeting, and make a recommendation to the Board (Dodd-Frank § 951)
- Review any new SEC disclosure rules relating to executive compensation and planned approach for compliance

## Nominating and Corporate Governance Committee

- Any change in independence status of any individual director
- Any performance concerns regarding a director
- Letter of resignation submitted by any director, including by any director nominee who does not receive a “majority of votes cast” at the annual meeting
- Review shareholder proposals, nominations and/or recommendations
- Request for waiver of the Code of Business Conduct and Ethics
- Negative vote recommendation from proxy advisory firm
- Review any new SEC disclosure rules relating to corporate governance
- Review emerging trends and shareholder input relating to corporate governance (e.g., ESG, proxy access)
- Review any new influential governance recommendations (e.g., the Commonsense Principles of Corporate Governance published in July 2016 and updated in October 2018, the Investor Stewardship Group’s Corporate Governance Principles which took effect in 2018, Business Roundtable’s Principles of Corporate Governance revised in August 2016)

## Full Board

- Any matter set forth in Attachment B to this calendar
- Receipt of indication of interest/takeover bid
- Unplanned succession of senior executive
- Recommendation from Nominating and Corporate Governance Committee as to whether or not to accept a letter of resignation submitted by a director
- Review any transaction or other matter giving rise to an actual or apparent conflict of interest
- Notice of significant whistleblower complaint or other compliance issue
- Receipt of shareholder demand for books and records
- Crisis impacting the stock price or business reputation
- Review of corporate social responsibility/sustainability efforts, particularly as they relate to strategy and risk
- Approval of use of swaps pursuant to the “end-user exception” from the Dodd-Frank-required CFTC clearing mandate; adoption and/or annual review of policies regarding the use of swaps (exception not available to financial companies; authority may be delegated to an appropriate Board committee such as the Audit Committee)

## **POSSIBLE SUBJECTS FOR STANDING RESOLUTIONS ON DELEGATION OF AUTHORITY AND INFORMATION FLOW**

### **Transactions, Etc. Requiring Board Approval**

- Any statutorily-mandated items, such as charter/bylaw amendments, issuances of shares, share repurchases, dividends, etc.
- Any financing transaction in excess of \$[\_\_\_million] or, regardless of dollar amount, necessitating a legal opinion or certified resolutions
- Any acquisition involving consideration (payment for equity plus assumed debt) in excess of \$[\_\_\_million]
- Any disposition for a sales price, or involving assets with a book value, in excess of \$[\_\_\_million]
- Any reduction-in-force or layoff involving more than [\_\_\_] employees
- Any contract (including any lease) out of the ordinary course and involving payments or receipts in excess of \$[\_\_\_million] in any year or \$[\_\_\_million] over the term thereof; any material amendments of any such contract
- Any out-of-the-ordinary-course transaction or contract with any principal shareholder, director or officer (or any affiliate or relative thereof)
- The commencement of litigation by the Company involving (i) estimated legal fees in excess of \$[\_\_\_million] in any year or \$[\_\_\_million] over the course thereof or (ii) a potential counterclaim in excess of \$[\_\_\_million]
- Any capital expenditure included in an approved capital budget and costing in excess of \$[\_\_\_million]
- Any capital expenditure not included in an approved capital budget and costing in excess of \$[\_\_\_million]
- Hiring and firing decisions at the [\_\_\_\_\_] level and above

## **Matters About Which the Board Must Be Notified**

*(Immediate notification versus notification at next regular meeting to be determined by the CEO or lead independent director in consultation with counsel)*

- Any alleged event of defalcation (i) by any employee involving amounts in excess of \$[\_\_\_\_\_] or (ii) by any officer, regardless of dollar amount
- Any alleged claim of sexual harassment against any officer or director
- Any request for a waiver of the Code of Business Conduct and Ethics from any officer or director
- Resignation by any officer or director
- Any alleged “insider trading” by any employee or director
- Any alleged violation of the Foreign Corrupt Practices Act by the Company or any employee or director
- Any out-of-the-ordinary-course opening or closing of a “trading window”
- Any out-of-the-ordinary-course contact from a regulatory body (including the SEC) or stock exchange
- Any material issue raised by outside auditors with respect to previously issued financial statements
- Any approach by a potential acquirer of the Company
- The commencement of litigation against the Company seeking amounts in excess of \$[\_\_\_\_\_]
- Any significant data breach or other cybersecurity incident
- Any significant social activism targeting the Company (e.g., boycott, employee walkout, viral social media campaign)
- Any other matter that poses material risk to the reputation and/or financial stability of the Company

## **POSSIBLE SUBJECTS FOR DIRECTOR CONTINUING EDUCATION SESSIONS**

- Board Oversight Responsibilities (e.g., compliance, cybersecurity risk)
- Anticipating an Unsolicited Takeover Offer
- Shareholder Activism
- Strategy for Shareholder Engagement
- Risk Management / Crisis Management
- SEC and Other Regulatory “Hot Topics” and Corporate Governance Trends (including the recently updated Commonsense Principles of Corporate Governance and the NACD Blue Ribbon Commission Reports on (i) the Board as a Strategic Asset, (ii) Culture as a Corporate Asset and (iii) Board Oversight of Disruptive Risks)
- Proxy Advisory Firm Developments
- Corporate Social Responsibility/Sustainability/Human Capital Management
- Industry Trends
- Emerging Technology and Innovation
- Refresher on Fiduciary Duties of Directors and Confidentiality Obligations
- Best Practices Relating to Director Note-Taking and Communications (e.g., emails and texts among directors and management)