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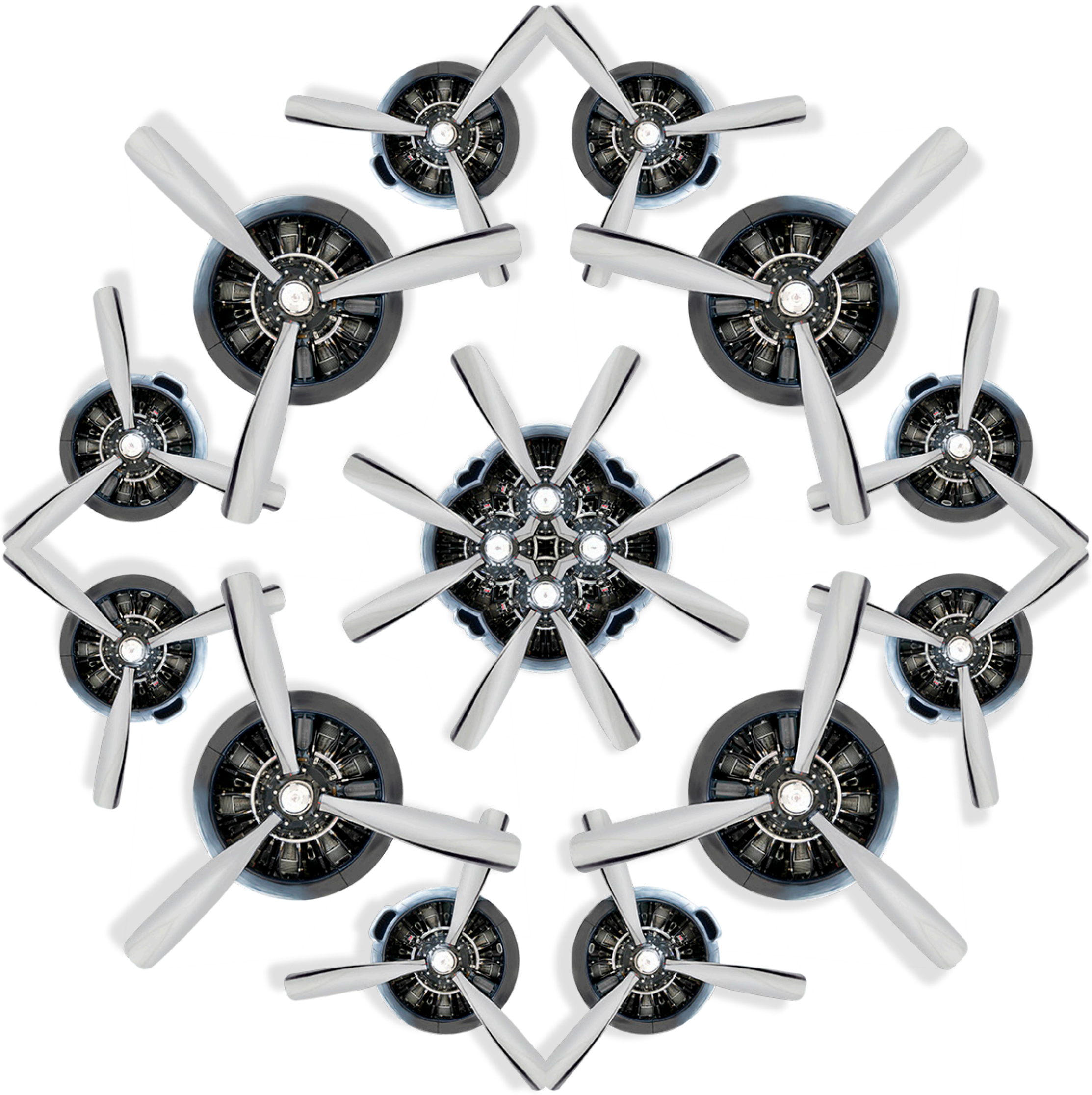


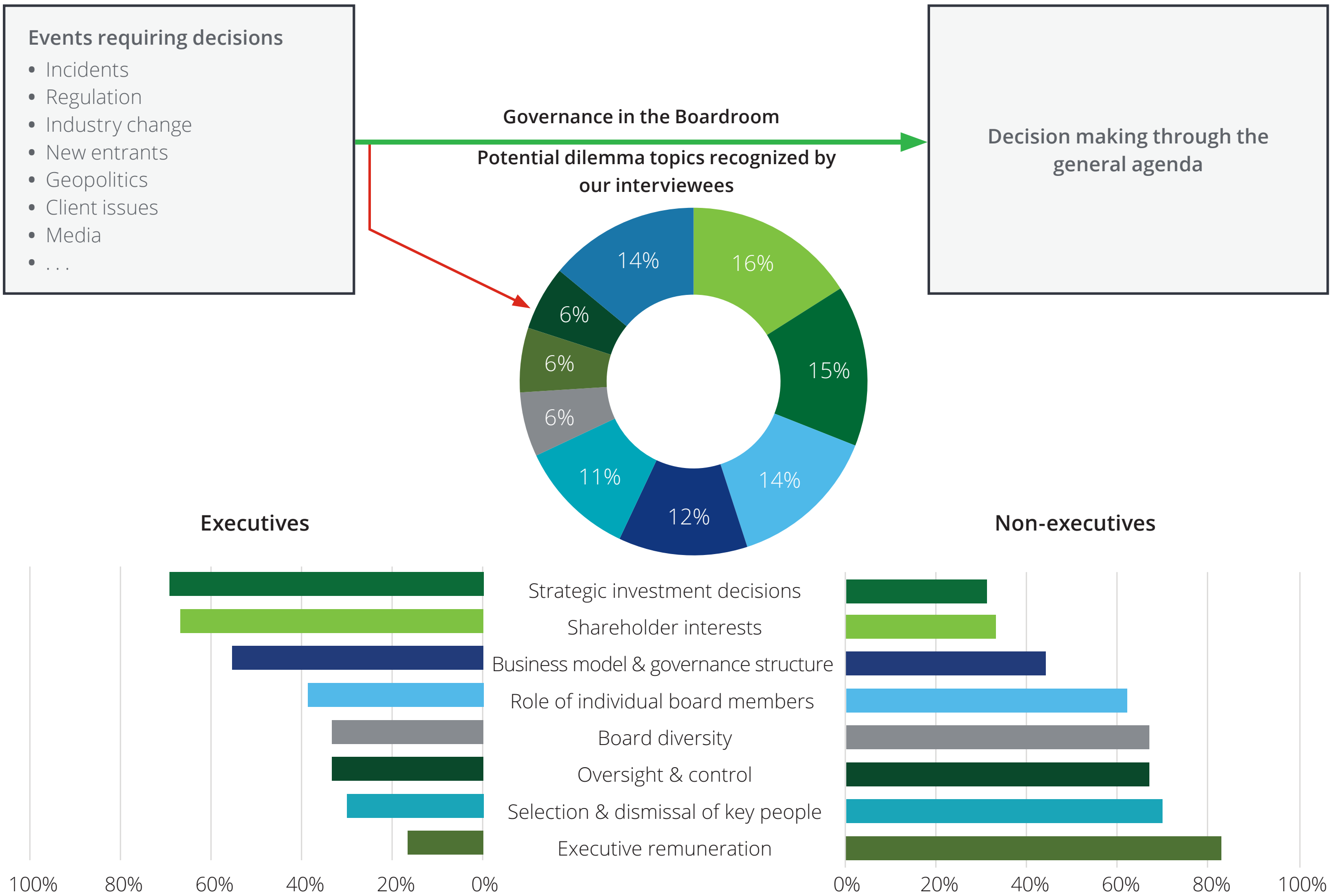
Good Governance driving Company Performance?

Boardroom dilemmas & good-practice interventions

December 2017

Executive Summary

Decisions that cannot be captured in a simple right or wrong answer can create tough dilemmas in the boardroom. Yet these often are the decisions that really matter.



How do successful board members deal with dilemmas as part of existing decision-making practices?

Executives		Non-executives
Hold on to the company's long-term vision, which needs to be strong and embedded in company values	1	Composing the right executive team is vital.
Predefine anchor points and non-negotiables aligned with the company strategy.	2	Engage with executives and middle management transparently so as to receive signals.
First think things through yourself and consider all aspects, and then soundboard with the right people	3	Look what's happening outside and consider whether that could happen to you, too. If so, act.
Think why the dilemma is a dilemma, and decide on the meta-level	4	Be meticulous, take your time and reflect. It's always wrong to take decisions under pressure of time or power.
Take time to consider all aspects. Don't just seek a solution, but ask questions and make sure you understand the problem.	5	If decisions have to be taken sooner rather than later, take them.
Let decisions go through all phases, both rational and emotional.	6	A key criterion in all decisions: what is the value for the company?
Assess the risks of a dilemma in the context of its opportunities.	7	Trust your gut feelings.
Be decisive and support the decision taken.	8	Be sensitive to cultural differences.
Don't just evaluate bad decisions, but also those with a positive outcome.	9	Be able to agree to disagree.
Evaluate the effectiveness of board meetings twice a year, and ask for and provide ad hoc feedback.	10	Summarize discussions to ensure everyone understands how they have been resolved.

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Preface

Welcome to the second white paper in our Research Program investigating the relationship between good governance and company performance.

In February 2017 we published our first white paper on the relationship between good governance and company performance. Our second white paper provides insight into the main dilemmas faced by boards.

As the first paper explained, good governance can result in better performance and long-term value creation. In determining what good governance entails, however, there is no one-size-fits-all solution. Our aim in conducting this research and facilitating a broad dialogue is, therefore, to help management and supervisory boards and its members identify the governance issues that really matter.

Based on interactions with board members and our experience we have seen that most boardroom decisions follow a predefined procedure. Often, however, these procedures do not allow sufficient time and energy to be spent on the decisions that really matter, and which we call 'critical dilemmas'.

Over the past three months we have continued the dialogue by conducting interviews with management and supervisory board members (hereafter refered to as respectively executive and non-executive) of listed Dutch companies to explore the critical dilemmas that they face in governing their organizations, with the aim of identifying examples of good governance in practice. Our focus in these interviews was on understanding how governance affects decision-making in the boardroom.

Our research was conducted against the background of the introduction of the 2016 Dutch Corporate Governance Code ('the Code'). We have sought to provide guidance on and examples of good practice so as to help promote good governance and an appropriate interpretation of the Code in those moments that really matter, personally or for the company.

The insights resulting from our research are captured in this whitepaper. Including best practices from some of the most experienced board members in the Netherlands as well as complimentary insights shared by professor Mervyn E. King, one of the global toughtleaders on corporate governance and experienced board member, both in executive and non-executive positions.

We are pleased to invite you to engage in and contribute to the ongoing dialogue so that, together, we can help each other in dealing with dilemmas and to improve both governance and company performance.

Wim Eysink
Senior Partner
Deloitte Governance Services

Arjan ten Cate
Director
Deloitte Governance Services

Reading guide

Research program

Our research program aims to contribute to the dialogue on good governance. We aim to explore good practices for Boards, provide guidance to identify and remediate dilemmas with the purpose of improving corporate performance.

By combining insights from scholars and the corporate community, relevant board room topics potentially leading to dilemmas and actionable good practices have been derived.

Dilemmas in the boardroom

Decisions that cannot be captured in a simple right or wrong answer can create tough dilemmas in the boardroom. Yet these often are the decisions that really matter.

"A dilemma is where there are two sides, without one obvious right choice"

Executive director of Dutch listed company

"A dilemma has an essential and long-term impact on the organization, and creates uncertainty about the consequences of the decision"

Executive director of Dutch listed company

"That gut feeling that something isn't in line with your personal beliefs and values"

Non-executive director of Dutch listed company

Board[1] decision-making is part of day-to-day practice for executives and non-executives alike. In our experience and confirmed during our interviews, the majority of these decisions can be made within the regular board processes as part of the general agenda and day-to-day business. The remaining decisions, however, require more in-depth consideration and time. These decisions can be seen as dilemmas as they involve more difficult choices.

Definition of a dilemma

What exactly constitutes a dilemma, and how does it differ from a normal tough decision?

The Oxford dictionary defines a dilemma as *"A situation in which a difficult choice has to be made between two or more alternatives, especially ones that are equally undesirable"*.

But individuals' personal definitions of what constitutes a dilemma for a board member can vary. What one person sees as undesirable may not be seen as such by another person. These differences in perception are often driven by personal beliefs and values. Our moral compass determines how we assess certain situations and choices and identify them as a dilemma. As a decision-maker you need to be able to align the decision at hand with your responsibilities to the enterprise, but also with your personal beliefs. The inability to align all these factors may be the key aspect distinguishing a dilemma from a normal difficult decision.

During the interviews we asked the executives and non-executives to define what they saw as a dilemma. While the descriptions varied from one respondent to another, certain common characteristics could still be identified.

Conflicting alternatives

One of the key aspects of a dilemma is an identifiable tension between two (or more) alternatives. This was a clearly recurring aspect in the personal definitions given during the interviews, and one recognized by the majority of the respondents.

The dictionary refers to the presented alternatives as undesirable and emphasizes the negative. Whereas this was generally supported in the interviewees' definitions, some of them also described a dilemma as being a difficult choice between two conflicting, but equally positive alternatives.

1 The term 'board' is used thoughout this white paper to refer to the governance body or bodies responsible for managing and supervising companies. The legal nature of a board may differ, depending on the country in which the company is established. The majority of interviewees in this dialogue worked for listed Dutch companies with a two-tier board structure.

Impact and consequences

Another important attribute of a dilemma is the consequence the decision can have. For all dilemmas mentioned, the discussed alternatives are likely to have a significant and long-term impact on the organization (or the subject of the dilemma). Often, a dilemma not only has a potentially great impact on the organization, but also on the decision-makers themselves. How the decision at hand can impact both the organization and the decision-maker(s) personally can keep someone awake at night.

Dilemmas and the Corporate Governance Code

Our research coincided with the publication in December 2016 of the revised Dutch Corporate Governance Code. In an effort to achieve greater relevance, the Code has been restructured to focus on a number of central company and boardroom decision areas, such as long-term value creation, effective management and supervision, and remuneration.

Aspects that the Code sees as being key in ensuring a continued focus on long-term value creation and company value include implementing adequate risk management and internal control systems closely linked to the overall strategy, as well as culture and a remuneration system designed to ensure management board member's personal interests are aligned with those of the company.

While some of these aspects were indeed recognized as a topic potentially leading to dilemmas in the boardroom, the examples given during the interviews also highlighted other areas that frequently lead to discussions and create organizational and personal dilemmas. Figure 1 shows the frequency with which different topics were mentioned, while Table 1 (on page 8) briefly describes what these topics entail, based on the input from our interviewees. It is remarkable that one third of the topics mentioned concern the individual rather than the company and effective management thereof. This is illustrated by topics such as role of the individual board members, selection & dismissal, board diversity and executive remuneration.

An example of the difference between the intentions of the Code compared to its implementation in practice is Culture. The Code prescribes that effective management entails establishing a culture that supports long-term value creation. This topic, as potentially leading to dilemmas was, however, not always recognized by the interviews: *"Including culture in the Code is madness. It shouldn't be necessary to put that in writing! Being clear on standards and values is what you need in a company."*

When asked, the interviewees said the Code was mainly perceived as a means to create awareness and to facilitate a dialogue between different company stakeholders, including executives and non-executives, and also as a basis for their accountability to shareholders.

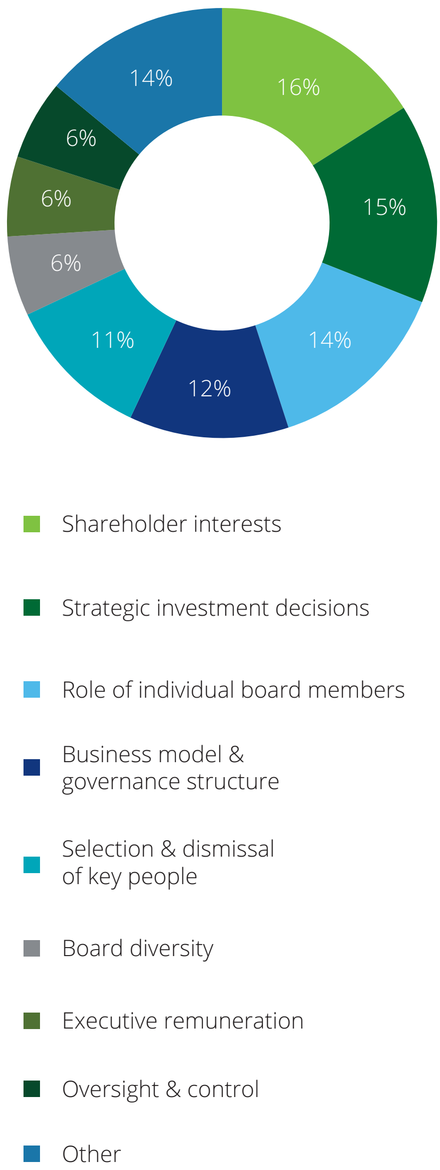

Figure 1 – Topics identified on the basis on interviewee responses

Table 1 – Topics highlighted during the interviews on where dilemmas occur in the boardroom

Topics	Description
Shareholder interests	How to manage the interests of the main shareholder(s) compared to those of all other stakeholders, such as customers and employees?
Strategic investment decisions	Should the board invest in current products and services, or invest in research & development with uncertain future returns?
Role of individual board members	What is my role as an individual management or supervisory board member? Where are the boundaries to my responsibilities to the company, its stakeholders and myself? When do I decide to take action and go beyond the boundaries of the formal responsibilities of my role?
Business model & governance structure	How do I organize and structure the company from a business model or governance perspective in order to achieve the long-term strategy in the most effective manner?
Selection & dismissal of key people	Who should be a board member? How do I handle the dismissal of a key board member? How do I manage the different perspectives, and personal and other stakes involved?
Board diversity	What is the right composition of the (management) board to ensure it includes the appropriate level of quality, as well as company and industry expertise, and diversity?
Executive remuneration	What is the most appropriate type of remuneration for board members? How can the company interests be aligned to my personal interests, especially in an international environment or an environment of differing cultural values?
Oversight & control	How does a board maintain a balance between managing the business within a certain risk appetite and promoting entrepreneurship (i.e. conscious risk-taking), while also ensuring the enterprise is properly controlled?
Other	Other key decisions in the boardroom, including sustainability and social responsibility, and specific cultural aspects of governance.

Different perspectives

Executives and non-executives have different perspectives on which topics have the most potential to create dilemmas in the boardroom.

The executives and non-executives interviewed revealed different perspectives on where they experience dilemmas. To fully appreciate the tensions identified, it is worthwhile to first explore these different perspectives.

Figure 2 shows the topics regarded as most relevant, in terms of dilemmas, executives compared to non-executives. From the executives', dilemmas relating to strategic investment decisions and managing different stakeholder expectations stood out, while non-executives seemed to face more dilemmas in the areas of selection and dismissal, and remuneration.

These trends are consistent with the roles of the interviewees, and how the Code envisages the different responsibilities of each role. Strategic investment decisions commonly relate to the company's long-term strategy, which is primary driven by the management board, while non-executives tend to be responsible for selecting and dismissing certain key personnel and for setting policy on remunerating the management board[2].

If we look at the type of dilemmas and opposing alternatives that decision-makers face, we can identify certain tensions within the decision areas, such as tensions between shareholder interests and the interests of other stakeholders. The interviewees also mentioned dilemmas of a more personal nature, and relating specifically to when to intervene and step outside your individual role as a non-executive, as key issues.

However, the distinction between executives and non-executives is not always clear as some of the dilemmas and underlying alternatives touch on multiple organizational and decision-making aspects, and these are partly what makes such decisions so challenging.

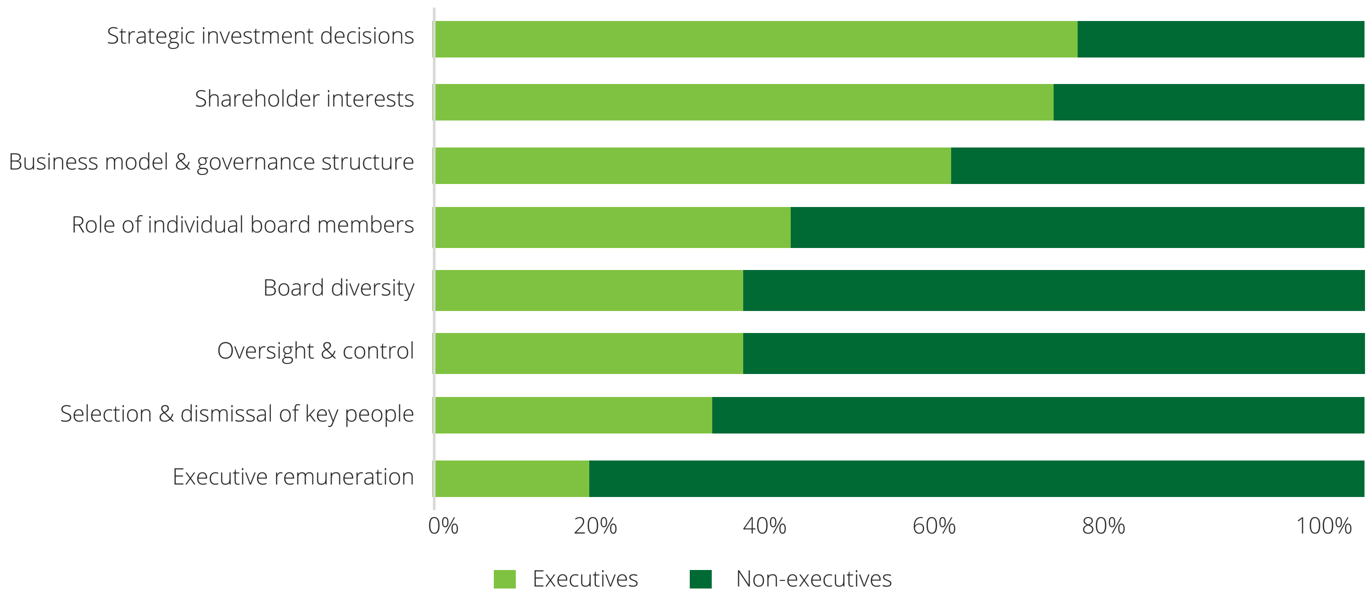

Figure 2 – Different perspectives on identified topics

2 According to Dutch corporate law, the management board is charged with the management of the company (Article 2:129 (1) Dutch Civil Code). The law prescribes that supervisory board and non-executive board members are to supervise and advise the management board members (Article 2:129a (1) and 2:140 (2) Dutch Civil Code).

Shareholder versus stakeholder interests

In the traditional Anglo-Saxon paradigm, both executives and non-executives have a fiduciary duty to promote the interests of the shareholders.

Our respondents reported managing the interests of the main shareholder(s) versus the interests of all the organization's other stakeholders as a potential dilemma for executives. On the one hand, the executives have a certain commitment to the shareholders as they invest in the enterprise. On the other hand, however, other stakeholders also make claims on the organization. Interviewees reported considering employee interests, public opinion and the effect on the local environment and broader society when making decisions.

One of the examples given described the dilemmas faced during restructuring. Although the restructuring may be in the overall interests of the company (and so also of the shareholders), it may also have a substantial impact on other stakeholders, especially on employees.

Alongside shareholder and stakeholder interests, the company itself has objectives and interests that, according to the interviewees, need to be considered in decision-making. This is in contrast to the traditional Anglo-Saxon paradigm where the main focus is on shareholder and stakeholder interests. Our respondents, however, frequently reported that they consider company value first in decision-making:

> "It should be about the organization and not about ME"

The interviewees indicated that the, sometimes contradicting, interests that need to be considered could lead to tensions on which interest to prioritize, especially in international environments.

A more personal dilemma identified by our respondents related to their company's products and services. What if the quality of the offerings does not align with your personal values? One of our non-executive respondents said: *"The products offered aren't illegal, but, personally, I wouldn't buy them."*

Short term versus long term objectives

Determining the optimal timing and horizon of investments in order to meet the company's strategic objectives poses dilemmas for executives, who are often torn in opposite directions by short-term and long-term objectives. Technologies shift and markets can dry up. Market differentiation and timely technological advancements have to be pitted against the comfort of today's cash cows. Should you invest in bio fuels, even when oil is only at $100 a barrel? When should you switch from print to digital? Or from product to service?

While the need for investment may be clear, and the decision in itself is not a dilemma, the way you are held accountable for this decision and have to manage your stakeholders' expectations can create uncertainty about the potential consequences. Technological investments are a good example of decisions made with a long-term horizon and limited noticeable effect on the shorter term.

> "These short-term decisions are not in the interests of the organization as a whole"

To counter (shareholder) short-termism, a company may decide to reduce the frequency of its financial reporting from quarterly to half-yearly.

When to intervene?

Sustainability of the business model and effectiveness of governance structures were mentioned as important areas prone to dilemmas. Particular challenges are experienced regarding when and how to intervene when things seem to go in a wrong direction. The individual role of executives and non-executives, and the mutual alignment between the two, was another topic frequently mentioned during the interviews. Especially for non-executives, the question of when and how to intervene can cause intricate dilemmas.

> "When to intervene is a difficult decision. As a supervisor I don't want to be too directive or to ignore the executive's autonomy"

It is the executive's responsibility to manage the business within a certain risk appetite, while the supervisory board is charged with overseeing the balance between entrepreneurship (i.e. conscious risk-taking) and ensuring the enterprise is controlled and management is held accountable.

Non-executives' views on what is in the company's best interests may differ from the strategic direction chosen by the executives.

For non-executives, this can create a personal dilemma on when and how to intervene. What do you do if, in your supervisory role, you structurally disagree with the direction taken by the management board? Do you resign to 'make a statement' or do you stay and try to steer the company in the right direction? It is all a matter of fine balances, tact and thin lines, especially when cultural differences are evident.

Diversity

The Code[3] seeks to promote gender diversity on boards, with the aim being to achieve boards comprising women for at least 30% (executives and non-executives). Research shows that demographic diversity has a positive impact on performance and can protect companies against confirmation bias in decision-making.

By highlighting diversity the Code has helped to put the topic on the board's agenda. And when new board members are being selected, the focus is shifting towards gender, while our interviewees feel that diversity should be about much more than that. Professional experience, cultural background and industry expertise are all elements that should also be considered when board appointments are being made.

If these elements of diversity are not recognized, enforcing diversity can endanger the company's overall interests and long-term value. As research has also found that the aforementioned positive effects of diversity are offset when it is enforced by regulation.

This seeming contradiction between scientific evidence and boardroom perception was also recognized by our interviewees. The perception of what diversity means and what the effects can be, and that these are prioritized over quality of board members, was illustrated by the following quote from one of the non-executives interviewed.

> "Sometimes it seems to be about diversity in itself, whereas I firmly believe it should be about competence."

Selection & dismissal

Regardless of their role, most of our respondents regarded evaluating people and their performance as a very personal matter. The main tensions identified within this area were personal interest and reputation versus company interest.

While using board members' personal networks can provide certain benefits when selecting new board members, how do you avoid the appearance of bias or nepotism?

Similar forces are in play when senior executives are not performing well. How do you handle the personal relationship you may have developed with each other, while focusing on the best alternative for the company?

> "Interpersonal relations involve the most difficult dilemmas"

Imagine a situation where a senior executive is performing unsatisfactorily and does not deliver on the company's agreed strategic objectives. Although it might be in the best interest of the company to relief this person from his duties. However, the personal or cultural setting might prevent the non-executive to make that decision. The dismissal, could, for instance, damage the reputation of the non-executive or company as a whole.

3 Principle 2.1.6 of the Code refers to Articles 2:166, 2:276 and 2:391(7) of the Dutch Civil Code, stating a 30% target for gender diversity.

Good practices & lessons learned

How do successful board members deal with dilemmas as part of existing decision-making practices?

Quote from the film Invictus:

Advisor to Nelson Mandela:

"This is what your people want. If you go against it, you risk your political capital. You risk your future as our leader".

Nelson Mandela's answer:

"The day I am afraid to do that is the day I am no longer fit to lead".

A dilemma would not be a dilemma if you did not have to make a decision. Although many of our respondents professed and demonstrated great clarity of view and steadfastness of action, we also heard about the struggles and reflective strains that dilemmas put on boards. Insights into how executives and non-executives make decisions on the dilemmas they face can provide valuable lessons and examples of good practices for response mechanisms.

In clustering the lessons learned we noticed that most related to the need to anticipate dilemmas, and specifically how to prepare for unknown dilemmas that may occur in the future. Other good practices related to the actual decision-making process or lessons learned, and applying these lessons when following up decisions made: in other words, to reflective learning.

Anticipating dilemmas

Unforeseen changes in circumstances can turn a regular decision into a personal dilemma. Anticipating dilemmas may, therefore, be even more important than the actual decision-making once a dilemma has been recognized.

One of the most striking good practice is to predefine principles derived from the overall strategy so as to benchmark your options and guide the decision-making process. Some interviewees also framed this as *"being clear on non-negotiables"*. When it comes to setting these principles, executives focused on achieving the right balance between risk and control. As well as being in an organization's DNA, entrepreneurship should be a clear direction. For non-executives, however, the non-negotiables related to the value for the company itself, rather than to value for shareholders or other stakeholders.

This raised the question as to what is exactly meant with *company value*. Does is relate to the financial worth of an organization? The perception and satisfaction of employees or customers? Or should it be defined by the reputation of a company? While interviewees did not provide a clear cut answer to this question, company value was a central theme in dealing with dilemmas.

Another aspect that can help in anticipating dilemmas is clarity on how you perceive your role as a management or supervisory board member. An example of this is direct engagement between non-executives and company employees at different levels in the organization. Some of our interviewees argued that this allowed them to be sensitive to what was going on, while others claimed that it undermined the role of the management board, and that it was the management board's responsibility to monitor and communicate on ongoing practices. The consensus was that both are possible, as long as you are clear about your position and act transparently.

In anticipating dilemmas, never underestimate how important it is to develop your own compass, both morally and in business terms. Developing a clear compass requires both a perceived freedom and an absence of pressure to protect your own position.

"Dare to speak up if your gut feeling tells you to do so"

Top 10 by executives

1. Hold on to the company's long-term vision, which needs to be strong and embedded in company values.
2. Predefine anchor points and non-negotiables aligned with the company strategy.
3. First think things through yourself and consider all aspects, and then soundboard with the right people.
4. Think why the dilemma is a dilemma, and decide on the meta-level.
5. Take time to consider all aspects. Don't just seek a solution, but ask questions and make sure you understand the problem.
6. Let decisions go through all phases, both rational and emotional.
7. Assess the risks of a dilemma in the context of its opportunities.
8. Be decisive and support the decision taken.
9. Don't just evaluate bad decisions, but also those with a positive outcome.
10. Evaluate the effectiveness of board meetings twice a year, and ask for and provide *ad hoc* feedback.

Without such a compass it can be difficult to remain objective in difficult situations as it requires guts to be courageous, to reflect on poor and good decisions, and to be proud of what you have done because you know you did it for the right reasons!

Decision-making

To some extent, anticipating dilemmas can be done individually. However, the actual decision-making process is always a group activity. Many good practices identified by both executives and non-executives were built upon the strength of diverse views within the group.

The need for a diversity of views can already be anticipated when board members are being selected. A good practice provided by one of our respondents was *"When selecting new board members, be careful not to look for clones of yourself"*.

Other examples of good practices for avoiding confirmation bias in decision-making involved playing devil's advocate, using trusted advisors as a sounding board and looking at the problem from different rational and emotional angles.

Some lessons learned relate to the dimension of time. While board decisions sometimes have to be made within a very short space of time, this pressure may not result in optimal and conscious decision-making. There are many good practices for buying time for yourself, including taking a time-out and seeking external advice, or writing things down. This helps you to reconsider all the aspects involved and to ensure you fully understand the situation.

"Avoid the trap of seeking solutions. Decision-making is primarily about asking questions to understand the problem"

Buying some time for yourself will give you a greater chance of considering all aspects. But although it may seem to contradict the previous point, a good practice – once the best option is clear – is to take the actual decision sooner rather than later. This applies especially to 'goodbye dilemmas' such as selling or closing part of your business or dismissing a board member.

Other good practices relate to the dimension of space. Where you discuss and reflect on dilemmas can make a huge difference. Many breakthroughs in dilemmas were associated by our interviewees with a short break in board meetings or with visiting colleagues at home instead of at the office.

But however important all these aspects relating to time and space may be in facilitating optimal decision-making, most good practices mentioned by our interviewees relate to the contents of decision-making.

Examples of these good practices include 'First determine what defines success in this case', 'List the critical aspects and focus on them', 'Hold on to your long-term vision, which needs to be strong and embedded in company values' and – one of our favorites – 'Think why the dilemma is a dilemma, and decide on the meta-level'.

This last example focuses attention on the core of a dilemma instead of on the many process-related comments. Other people's perceptions and ego considerations, which can dominate decision-making, are actually distractions from what really matters.

Reflective learning

Dealing with dilemmas does not end when the decision has been made and executed. Several good practices discussed relate to reflection on action: in other words, what can be learned from a specific dilemma so as to anticipate or deal with future dilemmas more effectively? Especially since some of the best answers to dealing with dilemmas lie in the past.

Several of the lessons learned focus on finding the right balance in reflective learning, such as '*Don't just evaluate bad decisions, but also the ones with a positive outcome' and 'Assess the risks in a dilemma in the context of the opportunities it presents'.* '

Reflection can be organized. A good practice is to evaluate the effectiveness of board meetings twice a year. Some companies use role plays to prepare for difficult dilemmas such as hostile takeovers. This allows decision-makers to assess all the relevant aspects.

> "Look at what is happening outside at benchmark organizations and consider whether that could happen to you, too. If so, act!"

Although every dilemma is different, reflective learning can also produce guidance for dealing with similar dilemmas in the future. This is referred to as *moresprudence*[4], just like *jurisprudence*, which refers to legal guidelines developed on the basis of individual lawsuits. The dilemma, for example, of whether to resign as a director can occur in many different situations. Based on the experience of our interviewees and past cases, it can then be helpful to ask yourself the following four questions:

1. Is the dilemma at hand acceptable or unacceptable to my own moral values?
2. Will my resignation solve anything?
3. If I stay, do I feel my contribution can make a difference?
4. How could the situation change over time if I do nothing?

Similar forms of *moresprudence* can be developed for any dilemma facing executives and non-executives and provide a powerful tool for meticulous and fast decision-making.

Top 10 by non-executives

1. Composing the right executive team is vital.
2. Engage with executives and middle management transparently so as to receive signals.
3. Look what's happening outside and consider whether that could happen to you, too. If so, act.
4. Be meticulous, take your time and reflect. It's always wrong to take decisions under pressure of time or power.
5. If decisions have to be taken sooner rather than later, take them.
6. A key criterion in all decisions: what is the value for the company?
7. Trust your gut feelings.
8. Be sensitive to cultural differences.
9. Be able to agree to disagree.
10. Summarize discussions to ensure everyone understands how they have been resolved.

4 Moresprudence can be defined as "general norms, values and actions derived from case studies"

Validation roundtable & expert view

> "Directors are the heart, mind and soul of the company. They make the decisions for the company, as the company can't do that for itself. However, you can only make the right decision if you are well informed."
>
> **Professor Mervyn E. King**

In a roundtable with a selection of the interviewees we validated the key insights presented in this white paper. Main topics discussed were company value and the individual responsibility. In addition we had the opportunity to invite Professor Mervyn E. King, who shared his vision on dilemmas in the boardroom and gave some practical tips from his broad experience as boardmember, in both executive and non-executive positions.

Differences between executives and non-executives in identified topics leading to dilemmas were clearly recognized by the participants of the roundtable. After reflection, they collectively shared the opinion that executives and non-executives should align more with eachother. The participants also noted that there are inherently more dilemmas than highlighted in this whitepaper, for instance around cross cultural differences and integrity.

In an interactive dialogue two questions were discussed that typically rise when facing a dilemma in the boardroom: 'what should we do as a company?' and 'what should I do as a (non-) executive director?'

Company Value

To answer the question 'what should we do as a company?' the Board needs to create a collective mind on what they consider to be company value. To guide boards in developing such a collective mind, Professor King shared the key questions to ask in his approach:

1. What is the purpose of the company?
2. What are three value drivers of the company?
3. What are six major takeover risks for the company?
4. Whate are the legitimate and reasonable needs of the company?
5. What are the five most key performance indicators of the company?
6. What are the five most key risk indicators for the company?
7. What is the 'character' of the company? i.e. which characteristics best describe how the stakeholders perceive the company?

The participants noted that in practice the dialogue on company value is often dominated by a shareholder perspective, as many felt they are not in the position to select their investors. The participants exchanged practical tips on how to ensure long-term value creation for the company and agreed good communication with shareholders to be extremely important. However, there is not one type of shareholder.

As Professor King reminded us, shareholders hold limited responsibility towards the company.

> "One must remember, that the shareholder does not have any duty or responsibility of care for the company".

Some shareholders are in it for the long run, while others are interested in short term trade. One participant advized investigating what the financial sources of the investors are, which can provide some insight into the investor's long or short term investment strategy.

Individual responsibility

Besides striving for a collective mind, each Board member also bears an individual responsibility. Many non-executives recognized the struggle of maintaining and safeguarding the boundaries of their role. As a non non-executive with executive experience it can be tempting to step in when decisions need to be made within your own field of expertise.

However, as a non-executive it is not your job to tell the executive what to do. The challenge is not to interfere in daily management. The non-executive can try to steer away from risks, but the executives have to make their own decisions:

> "Oversight is like raising children: it is all about asking the right questions".

Where the board is caught up in daily affairs of running the business, as a non-executive it is your duty to also look forward and keep an eye out to the future and raise awareness for any potential future risks or opportunities. Therefore, even in prosperous times it can be challenging as a non-executive to aid the board in awareness of future scenarios and potential risks, especially when the current results are positive.

King's suggestions for Chairmen

Professor King shared some suggestions from his broad experience as chairman and board member of many organizations. These suggestions have helped him to ensure the board acts with a unified collective mind in making decisions.

Upon the beginning of a Board meeting the chairman should ask: "Can I take the preparatory documents as read and understood?". In Professor King's experience some of the board members do not fully understand all documentation that was prepared for the meeting. Therefore Professor King usually asks one of the non-executives to prepare and facilitate a detailed discussion on the specific report, so the board as a whole makes a more informed decision.

Another important aspect is that the chairman should know the strengths and weakenesses of his directors. The board is not expected to make the right decision 10 out of 10 times, but the board has to take risk for reward. If something goes wrong, directors have individual liability and responsibility Therefore Professor King advises after the vote to pick one of the directors in the room to motivate in detail why he voted the way he did. "By doing this the diligence in the boardroom increases, directors ask questions if they do not understand the issue. Also, the board ensures an understanding of what is "going on"."

When it comes to decision-making it is important how the decision is made and to record the reasons motivating the decision. The chairman has the duty to ensure all perspectives are respected and managed during the decision making process. Some questions one can ask onesself about the decision-making process are:

- Was it a reasonable decision in the circumstances at that time?
- Is the collective mind of the board a unified one?
- Was the decision taken in the best interests of the company?

As an expert on integrated thinking Professor King advises to ask if the company is adding value or destroying value. If and when we start focusing on the impact of the company on society and the environment, true long term value can be created. This integrated view of a company asks us to focus on external outcomes of the company's business model, rather than just addressing internal outcomes like revenue and profit.

Conclusions

The main starting point for this research program is the link between good governance and company performance, with the subsequent dialogue and study showing that although this link is recognized by both executives and non-executives, many dilemmas can arise along the way.

Dilemmas are generally defined as decisions entailing an identifiable tension between two (or more) alternatives. Which specific decisions are perceived as dilemmas depends on the personal beliefs and values of the individual. Some topics were recognized as dilemmas both by executives and non-executives, such as dilemmas regarding business model decisions and internal governance. In certain other cases, however, there was a distinction between executives and non-executives. Executives were particularly aware of dilemmas relating to strategic investments, while non-executives experienced more dilemmas relating to selections and dismissals, and to executive remuneration.

The link between good governance and company performance is also recognized in the way board members deal with dilemmas. This study found their main considerations were neither shareholder-focused nor stakeholder-focused, but in their words, company value focused. In other words, they primarily took the long-term interest of the company into account. This is well aligned with the Code's emphasis on long-term value creation, without polarizing between shareholders and other stakeholders.

Figure 3 provides an overview of the topics mentioned compared to the main themes mentioned in the Code. It shows that most topics mentioned during the interviews are indeed covered by the Code, confirming its relevance with regards to good governance. Topics such as board composition and diversity thereof, remuneration and oversight and control are all being emphasized in the revised Code and experienced as potentially leading to dilemmas by both executives and non-executives. The topic of long-term value creation, which is the starting point of the Code, translates to topics such as business model and governance structures or strategic investment decisions, according to our interviewees.

Although the Code also mentions topics such as internal audit and conflicts of interests, these were not mentioned by our interviewees when asked about the topics that result in dilemmas in the boardroom.

Another conclusion relates to aspects not mentioned during the dialogues. Just like everyone else, board members, too, have doubts and sometimes make decisions that, in hindsight, were careless, based on tunnel vision or simply wrong. Although we tried to include these kinds of dilemmas in the dialogue, most respondents stuck to the dilemmas where they felt they had ultimately made the right choice. Making yourself vulnerable by showing your doubts seemed to be a 'no-go area'. From this we conclude that there seems to be a common culture to back decisions that have been made by the board. This complicates any discussion of why certain options were not included, thus making it more difficult to reflect on how decision-making can be improved.

Although every situation is different, there are certain good practices – several of which were shared by the interviewees – that can be helpful in dealing with dilemmas. An important outcome of this study is that these good practices relate not only to actual decision-making, but also to the belief that it is equally important to anticipate dilemmas and reflect on action when dealing with dilemmas. Decision-makers are recommended, therefore, to consider the full range of good practices when applying these learning points in a particular context.

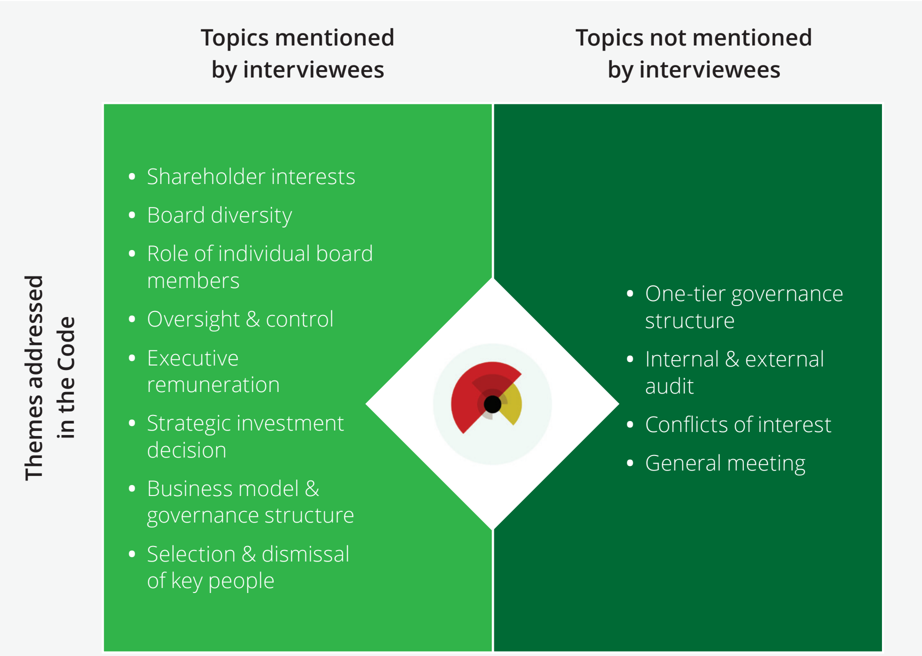

Figure 3 – Topics recognized by our interviewees compared to main themes of the Code

Methodology

We interviewed 22 people, almost all of whom were management or supervisory board members of listed Dutch companies. Our purpose was to gain insight into how professionals deal with dilemmas relating to good governance and the implementation of the 2016 Dutch Corporate Governance Code.

Selection criteria

In selecting the interviewees we looked for people from different backgrounds, who were employed at a Dutch listed company and had broad-ranging experience as management or supervisory board member.

Gathering the data

The interviews took place between May and July 2017. Each interview lasted for about an hour, and a transcript of each interview was made. Upon request, the transcript was subsequently verified by the interviewee.

Diversity statistics	
Gender	
Male	76%
Female	24%
Nationality	
Dutch	95%
Non-Dutch	5%
Age	
45-55	45,5%
55-65	36,5%
65+	18%
Education*	
Business	41%
Economics	41%
Accountancy	45%
Law	13,5%
Engineering	18%

* As the majority of our interviewees held multiple university degrees, all completed university degrees (or equivallents) were counted.

We used semi-structured interviews, which allowed us to prepare a number of open questions in advance, while also giving us the flexibility to deviate from the prepared questions if necessary. This interview technique generally resulted in a frank and open dialogue on the dilemmas encountered by the interviewees during their work. The questions we prepared in advance were subdivided into four main categories so as to ensure that the main topics were covered in each interview. The main topics comprised the interviewees' definition of a dilemma, a description of some of the main dilemmas they had faced as an executive or non-executive, how they had dealt with the dilemma, and how the internal governance structure influenced how they dealt with dilemmas.

Subsequent to the research we verified the preliminary results of the white paper in a roundtable discussion with a selection of the interviewees, who were accompanied by professor Mervyn E. King. He shared some of his insights from his broad experience as chairman of many organizations.

Description of the database

The 22 people interviewed all worked for Dutch companies listed on the AEX, AMX or ASX, as shown in Figure 4.

In total we interviewed 11 non-executives, 9 executives and 2 people in the category 'Other', as shown in Figure 5.

Interpreting the data

We used Nigel King's template analysis method for coding each transcript into a coding file, which was later cross-referenced by a member of the research team.

When coding the transcripts, we divided the dilemmas mentioned during the interviews into 11 decision areas, each linked to a relevant topic in the Corporate Governance Code. For each dilemma, a certain tension was described.

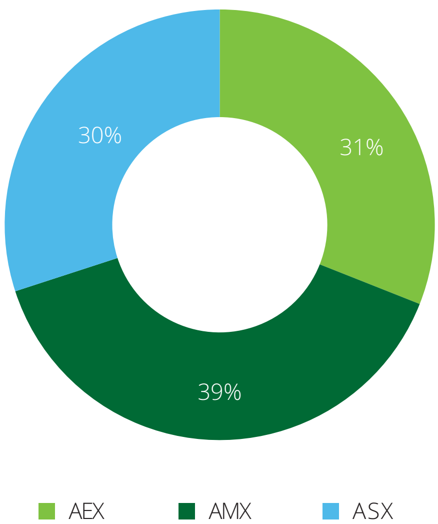

Figure 4 – Participating interviewees' employers

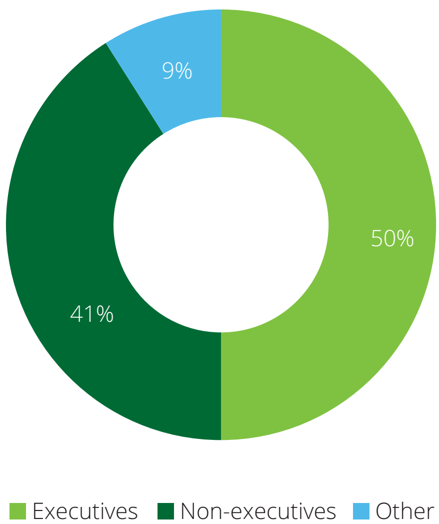

Figure 5 – Participating interviewees' role

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