

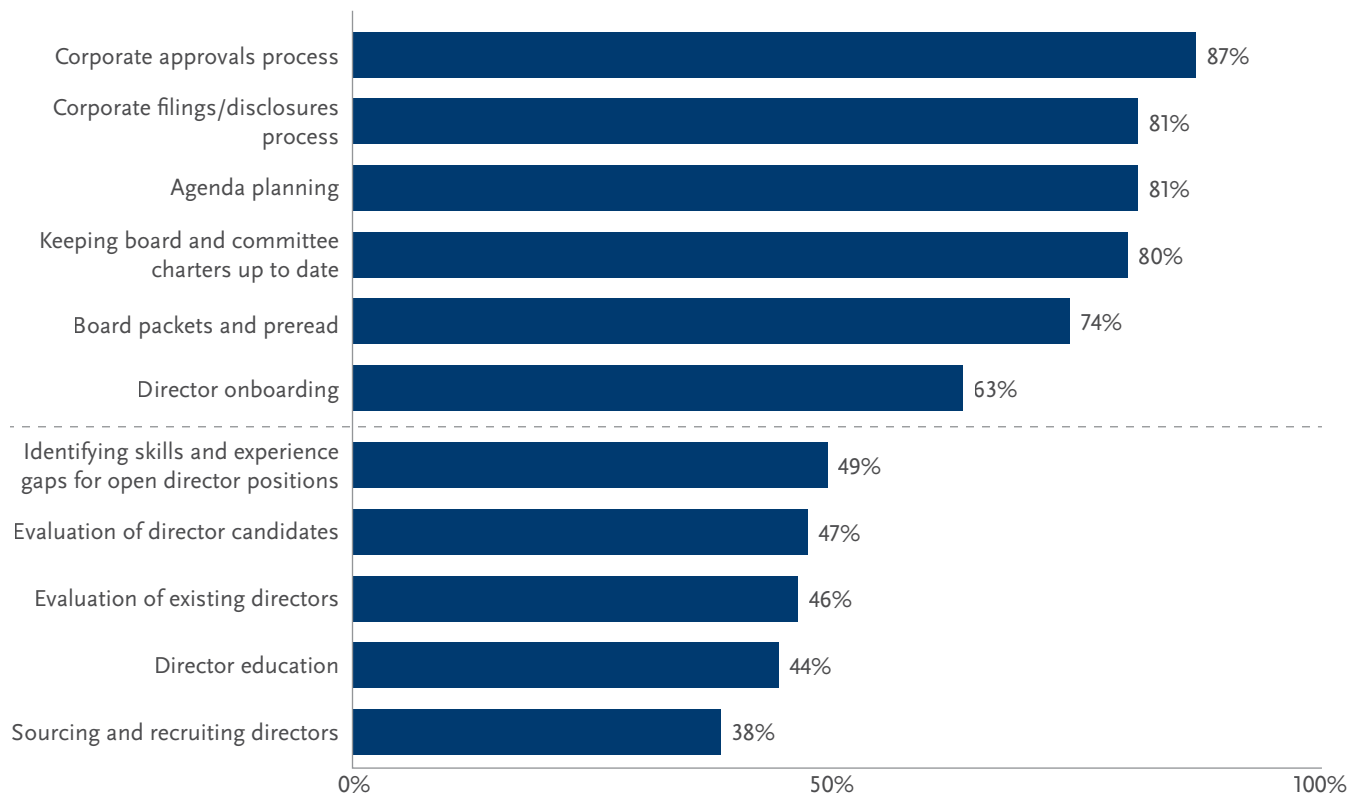


The General Counsel’s Role in Supporting Board Excellence

In an environment of increasing expectations for board performance, general counsel have an important role to play. A recent study by [Gartner](#) showed that when general counsel self-assess, they acknowledge there is room to improve in several critical areas when it comes to their board; these include onboarding new directors, supporting the board evaluation, and sourcing and recruiting new directors.

We see an opportunity for the board and the legal function to work together more effectively to enhance board performance and value. General counsel who elevate their advisory role in the boardroom deepen relationships with directors and enhance their impact, influence and credibility with the board and CEO.

FIGURE 1: GENERAL COUNSEL EFFECTIVENESS AT CONDUCTING OR FACILITATING BOARD MANAGEMENT
PERCENTAGE OF GENERAL COUNSEL WHO SAID THEY WERE EFFECTIVE OR VERY EFFECTIVE



Source: [Gartner Says General Counsel Are Not Delivering on Director Management Activities](#), Gartner, September 2022.

1. Board annual self-assessments

Nearly all S&P 500 boards conduct an annual self-assessment as required by stock exchange listing standards. A growing number of boards are also conducting individual director assessments. According to our [2022 U.S. Spencer Stuart Board Index](#), 47 percent of S&P 500 boards disclose that they have some form of individual director evaluation, up from 31 percent a decade ago.

General counsel can support the board in strengthening and enhancing results from their assessment approach. This involves redefining the process as one that goes beyond a check-the-box activity and provides real value and substantive improvement. General counsel can guide the board by asking several key questions.

Critical questions for every general counsel to consider

- » How can we get more meaningful results from our process?
- » How can we address board performance at all three levels: full board, committee and individual?
- » Who from the board will lead the process and ensure meaningful outcomes from our assessments?
- » Would the board benefit from working with an external partner to ensure a more transparent, anonymous and effective process?

If the board would benefit from external support, general counsel can play a vital role in identifying, vetting and recommending a partner. Boards that engage outside support frequently report that working with an external partner can encourage directors to share more freely resulting in critical issues being surfaced and addressed.

ANNUAL BOARD, COMMITTEE AND DIRECTOR EVALUATIONS

| | 2022 | 2021 | 2017 | 2012 |
|--------------------------------------|------|------|------|------|
| Full board and committees | 47% | 47% | 54% | 51% |
| Full board, committees and directors | 47% | 45% | 33% | 31% |
| Full board only | 5% | 6% | 9% | 13% |
| Full board and director | 1% | 2% | 4% | 5% |

Source: [2022 U.S. Spencer Stuart Board Index](#).

2. Board recruitment

Recruiting new directors and evaluating candidates for open positions is a key responsibility of the board, often led by the nominating and governance committee. While general counsel often have a limited role in candidate identification and selection, they can help improve the recruiting process.

Recruiting new independent directors can be time-consuming. Before commencing any search, general counsel can help directors define and align on the search process, including the sequencing of events; the responsible parties for each stage; the board's approach to candidate meetings and interviews; and the strategy for keeping the full board informed of the search. They can also help identify and vet search firms with which the board may work.

Having the right group of directors on the board is a critically important factor in board performance. Boards should continually consider whether they have the optimum composition and the right mix of skills, experiences and backgrounds for the company's strategic direction. They can also regularly evaluate the contributions of individual directors as part of the board effectiveness assessment. The general counsel can help ensure that the annual assessment process serves as a mechanism for surfacing and addressing gaps, and as a catalyst for refreshing the board as new needs arise.

72%

of new directors are from **historically underrepresented groups***

34%

of new directors are serving on their **first public company board**

98%

of boards conducted **annual performance evaluations**

50%

of new directors have **experience working internationally**

Source: [2022 U.S. Spencer Stuart Board Index](#).

* Defined as individuals who self-identify in one or more of the following categories: women, underrepresented racial/ethnic group or the LGBTQ+ community.

Critical questions for every general counsel to consider

- » How can I better work with the chair and nominating/governance chair on the board's recruitment priorities and processes?
- » How can I help improve our communication to shareholders regarding the composition of our board?
- » How would we benefit from an outside partner to support our director recruitment and help us expand reach?
- » Has the board developed a forward-looking board succession plan and what steps is it taking to identify and engage candidates that might satisfy that plan?

3. Director onboarding

Director recruitment does not end with a candidate's appointment to the board. A thorough, tailored, post-appointment onboarding program is essential for preparing new directors to quickly add value. The general counsel frequently plays a key role in onboarding efforts, with the support and guidance of the board. The onboarding leader is responsible for helping new directors understand their role and responsibilities; ensuring meetings are scheduled and materials are available; and ensuring the onboarding process is customized for the needs of each individual director. This leader will give a newly appointed director a sense of what it's like to be on the board, help them build relationships with other members of the board and the management team, and bring them up to speed with the major issues and challenges that the board will be discussing in upcoming meetings.

Board Director Knowledge Center

Resources for corporate directors, aspiring directors and corporate secretaries, including onboarding timelines and checklists.

Visit [here](#).

Critical questions for every general counsel to consider

- » When was the last time we reviewed and updated our new director onboarding program?
- » What standard resources and information do we make available for all new directors and what supplemental information will be available as an option for those directors who may want it?
- » How have we incorporated feedback on the onboarding program from the directors who recently joined our board?
- » How can I help set up a formal or informal mentorship program for experienced board members to coach and support new or first-time directors?



General counsel can elevate their credibility and influence in the boardroom by helping boards enhance board effectiveness assessments, director recruiting and onboarding. Amid so much change and unpredictability, having robust processes in these critical areas of board performance will position boards to better adapt to a highly dynamic business environment, and will help individual directors succeed. By taking a more visible, proactive role in guiding the board, general counsel will enhance their own visibility and effectiveness, as an even more impactful, strategic member of the senior leadership team.



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