

Sample Audit Committee Performance Evaluation Outline

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NYSE Listing Standards require the audit committee (and the board, and its compensation and nominating/corporate governance committees) to conduct an annual performance evaluation. See NYSE Listed Company Manual ¶¶303A.07, 303A.09, 303A.05 and 303A.04, respectively. Although not required, an annual evaluation would be a reasonable activity for all public company audit committees, and for audit committees of reasonably large nonprofit entities and private companies. No specific evaluation process or format is required. The following is one possible approach to evaluation.

Various different performance rating or grading questionnaires can be found on the internet. However, as an alternative, there are advantages to having a facilitator conduct an interactive evaluation approach without performance grading or rating: it can be difficult to construct a questionnaire with standardized questions which will be similarly understood by each of the participants; different people use different grading or rating scales; different people express responses in different manners; and certain important issues will change from year to year. A facilitated approach may allow for better discussion and comment, continuity, follow-up, explanation and compilation.

Also consider whether the performance evaluation will be conducted under the umbrella of legal counsel, which is better calculated, but not guaranteed, to prevent outside third party discovery of the performance evaluation results.

Overview of the Performance Evaluation Process:

Develop the list of participants.

Timely disseminate the proposed list of issue or topic areas (broad and specific) for review and consideration by the participants, and also allowing for additional or discretionary issue or topic areas.

Determine how the interviews will be performed, and conduct private interviews with the individual participants to obtain comments, feedback and suggestions.

Compile the interview comments, feedback and suggestions, with a view toward appropriate wording.

Report the comments, feedback and suggestions to the audit committee members, and possibly conduct a committee group review of the process, comments, suggestions and follow-up or next steps.

Possible Issues or Topics of Discussion (Both Successes and Possible Improvements):

Issues and topic areas will naturally vary somewhat from entity to entity. The following are some of the possible broad issue and topic areas that may be covered:

The committee meeting agenda preparation and dissemination process.

Committee member independence, to meet required qualifications.

Committee member financial literacy/expertise, to meet required qualifications (see also the committee member knowledge topic area below).

Committee and committee member demeanor and interaction, including the interactions between the committee members, and the interactions between the committee and others including the board, senior officers, the independent auditor, the internal auditor, legal counsel, consultants and other people.

Committee member knowledge and access to information and education. Are the committee members' needs being met so that they are sufficiently knowledgeable about the company and its industry; accounting and auditing topics; legal matters including standard of care; internal controls and risk management; governance; and new developments in those and other areas?

The committee's issue spotting, evaluation and decision making process and methodology.

The audit committee charter, and mutual understanding of the audit committee's activities. NYSE Listed Company Manual ¶303A.07, and NASDAQ Rule 4350(d) require a listed company to have an audit committee. Additionally, in circumstances where an audit committee charter is not mandated, consider whether it still would be prudent for there to be a sufficient understanding about the audit committee's responsibilities and limitations. That understanding is important for the audit committee, the board, the executive officers, the shareholders, and, perhaps, also the courts and other stakeholders.

The company's audit and review services and processes.

Internal controls.

The company's financial officer and internal audit functions.

Documenting and reporting committee activities; minutes.

Audit committee use of attorneys and consultants.

Various additional areas:

The company's investor communication processes.

Processes for identifying and evaluating risk management and possible liability exposure situations.

Whistleblower, ethics and complaint handling processes; corporate investigations; and compliance with laws, rules and regulations, including employer, employee and workplace processes.

Governance, including tone at the top.

Audit committee D&O insurance.

Any additional topics or issues that should be discussed, or that the facilitator should be made aware of for the purpose of the performance evaluation.

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