IDC Independent Directors Council
Promoting Excellence in Fund Governance

Welcome and Opening Remarks, 2018 Fund Directors Conference

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As prepared for delivery.

Hello and good morning!

Two weeks ago, it was my honor to be elected chair of IDC's Governing Council.

I'm excited to have this opportunity to serve the director community of our vibrant and dynamic fund industry, and I'm particularly pleased to welcome you and help kick off IDC's 2018 Fund Directors Conference!

Although I'm new in this role, I have had the privilege to work with IDC for more than seven years—and even longer if you count attending this conference—so I can say with confidence that this year's program is among our very best.

We have a star-studded lineup of speakers and panelists here to share their insights with us. And the topics we'll cover are as diverse and timely as they've ever been.

Organizing events like this one is never easy, so let's give a big round of applause to IDC's Education Committee, the IDC staff, and ICI's Conferences team, for putting it all together for us.

I'm also excited to see so many old friends from the director community here—as well as many new faces. For all of us, "community" is the key word—it's behind everything we do.

Whether we have worked within the fund industry or come from another professional background, we all benefit from sharing our experience, knowledge, and perspective with our peers. You are in the right place to do just that.

Even as we absorb information from our formal program, we'll also benefit enormously from impromptu conversations in the hallways—and from the relationships we create and develop on the sidelines.

So in that spirit, I encourage you to make new connections while you're with us. In fact—let's take some time to do that right now!

Please indulge me here. I want all of you to stand up as you are able, say hello to the people around you, and introduce yourself. If you've clustered with your fellow board members, go ahead and break out of the bunch, and look for a new face.

Come on—don't be shy. This is what building a community is all about.

Thank you—thank you for that.

Now fix those names and faces in your minds. Later today and tomorrow, make a point to seek out the people you just met—and build on the new connections you just made. I promise—you'll be glad you did.

Speaking of community, I am quite fortunate to be working with 27 seasoned, committed directors—the members of the IDC Governing Council—who volunteer their time and talents to further the mandate of the IDC. Their leadership is invaluable. I am grateful to work alongside them.

So—as I said—I'm just two weeks into this job, but already I can tell that it's going to be an inspiring time. We are in a period when our industry and our primary regulator are thinking harder than ever about the roles of fund directors—and about how best to help directors fulfill those roles.

That examination is leading us back to some basic questions:

- Why do funds have boards?
- Where do boards and directors add value?
- How can we all—regulators, advisers, boards, board counsel, and individual directors—help directors realize the value that they bring, effectively and efficiently?

In theory, the roles of independent directors are simple: they stand in for the shareholders of the fund. They are elected by the shareholders to oversee the operations of the fund and its adviser, to negotiate fund expenses, and to look out for conflicts of interest.

In all of these functions, independent directors act as fiduciaries for funds and their shareholders—one of the strongest relationships in the common law, and one of the most sacred.

If I have a fiduciary duty to you, I'm obligated to treat your interests as if they were my own—to take the same care, and to exercise the same loyalty, as I would in managing my own money and business affairs.

With respect to the adviser, independent directors must serve as "independent watchdogs" who "furnish an independent check" on the management of the fund.

That's not me talking—those are the words of the US Supreme Court, which has time and again affirmed this independent check as a core role of independent directors in safeguarding the interests of fund shareholders.

Act as fiduciaries and serve as independent watchdogs. Simple, right?

Yet those simple roles aren't nearly as simple as they once were. These days, the workload for boards is heavier and more complex. And amid the reams of paper and hours of presentations, it's harder and harder to maintain focus on those simple core roles.

Yes, boards work harder because our industry has grown tremendously, and because funds are using increasingly sophisticated tools and techniques. These are trends that can bring clear benefits for shareholders.

But the workload for boards has also grown under the weight of new regulatory requirements—imposing duties on boards that can be distracting, out of date, or out of sync with our oversight role.

Let me be clear: Directors aren't complaining about this workload—we recognize that our job is demanding. And it should be, for the benefit of our shareholders.

We just want to ensure that we can be as effective as we can be—and focus on our core roles. We want to concentrate our time and effort on the places where we can best add value for the shareholders we serve.

How can we improve our effectiveness? Doing so will require contributions from all sides:

- From regulators. They can re-examine the rule-based and liability-driven drains on directors' time and energy, and free up boards to focus on their core roles. Fortunately, we have seen progress on that front in just the past few days—as I'll discuss later.
- From boards collectively. All of us, working with our colleagues, can commit to improving our governance structures, to recruiting wisely, and to organizing our boards to work effectively.
- And from each of us as individual directors. We can continually educate and inform ourselves, learn from one another, form connections, and apply our skills, knowledge, and judgment in the service of fund shareholders.

Let's talk in more detail about the contributions that each of those parties can make. First—regulators.

The responsibilities imposed on fund directors have been accumulating since the Investment Company Act of 1940 was signed into law 78 years ago.

Some 26 years ago, in its landmark 1992 study of fund regulation, the SEC recognized that boards were “unnecessarily burdened” when tasked with “a high level of involvement in day-to-day activities.”

A decade ago, the Commission’s Division of Investment Management set out to reconsider directors’ duties.

But while the SEC has recognized that board responsibilities are outmoded, it hasn’t taken any of those tasks away from boards.

In some cases, boards are being asked to make determinations and designations that really belong in the hands of management. Just think about the 2014 money market reforms and the new liquidity risk management rule.

In addition, there are the tasks that bog us down in technical details—for example, fair valuation of a fund’s securities.

Some of our workload is based on old requirements that fail to reflect the complexities of a changing world. Board oversight of 12b-1 programs and other distribution arrangements were ripe for an overhaul even before the Department of Labor’s fiduciary rule set off a cascade of changes in distribution. Now—more technicalities, more challenges.

Then there are the board responsibilities that duplicate the work of others.

Since the SEC’s 2003 compliance rule, chief compliance officers—or CCOs—have become our key allies. It’s time to take this critical partnership further.

Board responsibilities should be updated to reflect how compliance has evolved over the past 15 years. That means boards should be allowed to rely more formally on the expertise and diligence of CCOs or other adviser personnel, subject to board oversight under the compliance rule.

And here is where I am happy to report some great news from last week. On Friday, the Division of Investment Management granted a request from IDC for no-action relief on some of the board responsibilities that duplicate the work of CCOs.

In a nutshell, the division staff said that boards may rely upon quarterly written representations that a number of affiliated transactions were done in compliance with fund procedures—rather than require the board to make these determinations themselves.

This is a great first step, and we look forward to hearing more about it from Division Director Dalia Blass in our next session. IDC and the director community are hopeful that additional relief may be in the pipeline, and we offer our assistance to that end.

That mission is one that the current SEC leadership appears ready to embrace.

Chairman Jay Clayton is well aware that—all too often—old rules never die, even as new ones are laid over them. He’s called for retrospective review of SEC rules, with an emphasis on their cumulative effect—looking for the extra layers of work that weigh down our markets.

And Dalia Blass has taken that mission to heart—specifically with an eye toward reviewing the responsibilities of fund boards. As director of the Division of Investment Management, she is leading a Fund Board Outreach Initiative—which aims to:

- identify the areas where board oversight is most valuable;
- and determine whether a recalibration of board responsibilities is appropriate.

In meeting with fund boards, board counsel, and independent auditors, her staff is learning even more about the complex questions they face—many that you all wrestle with every time you step foot into the boardroom.

Through that outreach, the division is hearing from members of our community about the importance of respecting the line between oversight and management. As the Director herself put it, “there is a difference between overseeing the work of experts and being asked to serve as experts.”

So we are extremely fortunate to have Dalia with us here today. We can hope to hear more from her about the Fund Board Outreach Initiative and how it can advance her goal—“to improve the ability of fund boards to serve shareholders.” That’s a goal we all can get behind.

But that task is not one for the SEC alone. As I noted earlier, all of us must contribute as well—both collectively and individually.

Collectively, because each of us has a duty to work with our fellow board members to improve the governance of our own boards.

Governance is an issue close to my heart—it's in my heritage. Growing up in the Dutch immigrant community of Kalamazoo, Michigan, I learned to always ask myself: Is it fair? Is it right?

As directors, we all need to ask ourselves those questions. And we must embrace the hallmarks of good governance: accountability, transparency, responsiveness, fairness, inclusiveness, empowerment, broad-based participation.

On my boards, I've learned a lot about the value of investing time, energy, and thought to governance—about how to get a disparate group of individuals to function effectively together as they move toward common goals.

Good governance requires thoughtful recruiting—finding the right mix of people to bring the necessary range of views to every decision.

Each time your board needs a new independent director, cast a wide net—because you never know where you will find the business judgment and insights that will make your board even more successful. That requires an emphasis on diversity—diverse backgrounds, diverse perspectives, diverse skills, diverse temperaments.

And in today's world, you must also focus on diversity in gender, race, and age. Today, boards are moving in the right direction toward reflecting America's emerging demographics—just look around and see. But we still have a long way to go.

Good governance requires a deliberate emphasis on orientation—on bringing new directors up to speed on the funds they're serving and into the culture of the board they're joining.

Good governance requires collegiality—something that boards must actively promote. A market crisis or a crucial strategic turning point is no time to find your fellow board members disengaged, nursing grudges, or unable to express their views respectfully but directly. A good board forges strong connections that can withstand any test.

And good governance requires robust and clear-eyed self-assessment. The best boards and best directors embrace Socrates' principle that "the unexamined life is not worth living." They annually evaluate and review their service, and they don't hesitate to receive feedback—leveraging the board self-evaluation as a tool to improve.

Of course, even the best-governed board is only as good as the directors who serve on it. So the final contributor to making boards more effective is us—individual directors—and the commitment we make to fulfilling the responsibilities entrusted to us.

Good directors are engaged—they dig deep into the matters before them.

Good directors are alert. They come to every meeting with their radars on, alert to any conflicts of interest or activity that could work against the shareholders they serve.

Good directors are educated. They learn their material—and ask relevant questions. They know what's going on in the fund industry and in financial services more broadly.

And good directors are connected. They recognize the value of learning from their peers. They share their experiences and build the body of knowledge that the director community relies on. Remember that later today as you are following up on the connections you just made!

As fund directors, we have been granted a great privilege—and a great responsibility. Your presence here today shows how seriously you're taking that responsibility—and I applaud you for that.

It's an honor to be here with you. We have a great conference ahead. Thank you for your time and attention.
