



Exploring Modern Executive Limitations, Related Best Practices, and the Connection to Risk

Advanced Practice Online Forum
(Governance Advisors and Board Users)

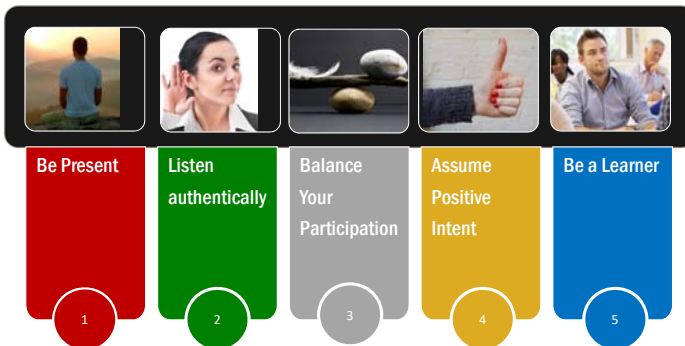
Wed. Nov. 28, 2018
11:30-2:00 p.m.

Session Outline

- 01 Executive Limitations - A Brief Overview of Key Concepts and the Connection to Risk
- 02 An Executive Limitations Best Practice Example - Good, Bad, and the Ugly
 - Analysis of an Example
- 03 Building an Effective CEO Interpretation of an Executive Limitations Policy
 - Critical CEO Interpretation Components
 - Analysis of an Example
- 04 Reviewing an Executive Limitations Policy Monitoring Report
 - Dissection of monitoring principles for Executive Limitations
- 05 Key Takeaways from the Session
 - Group Insights



Working Together Principles



01

Executive Limitations - A Brief Overview of Key Concepts and the Connection to Risk

- Where Boards Struggle with Executive Limitations
- The Connection to Risk and Risk Boundaries

By: Karen Fryday-Field

What is an Executive Limitations Policy?

- It is a Board value, agreed upon by Board decision, which therefore becomes a Board policy.
- Executive Limitations Policies provide operational risk boundaries and are designed to give limits to the CEO - in that they direct the CEO.
- Executive Limitations Policies establish the boundaries of accountability for operations, within which staff methods, decisions, and activities can be responsibly left to staff to lead and manage.



What is an Executive Limitations Policy? (con't)

- These boundaries limit the range of choices available to staff in terms of running operations. The choices are limited by the Board's values related to ethics, prudence, effective business practices, and governance of risk.
- The Board needs to identify the major risk areas that it believes it needs to govern (i.e. speak about in its policy).



What is an Executive Limitations Policy? (con't)

- Within the boundaries/limits, the staff can make any reasonable decision and take any reasonable actions/process they choose (based on the CEO's interpretation).
- The accountability loop exists as the CEO is required to provide accountability Monitoring Reports back to Board to demonstrate operations are running in compliance with the Executive Limitations Policies.



Effective Board Principle/Behavior Identify & Govern Risk

Principle: Executive Limitations Policies

- Delegate all authority and decision-making needed to achieve Ends other than to limit what the Board's limits or expectations are in terms of prudence ethics, and risk.



Board Challenge #2 - “PREscribe or PROscribe”

PREscribe (“approval syndrome”)

PROscribe (set parameters for what conditions CEO is to avoid)

GOVERN IMPACT

The Most Robust Approach to Positively Control/Govern Operations

- The Board’s best control over staff means is to limit, not prescribe how to do the work and not to directly make the operational decisions.
- Instead the Board makes a high-level values decision that requires all organizational decisions to line-up with the Board’s values decision.
- The Board should formulate policy by determining the broadest values before progressing to more narrow ones.

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The Board should address Ends and how to achieve Ends (MEANS) differently

The Board should PRESCRIBE THE “ENDS”.

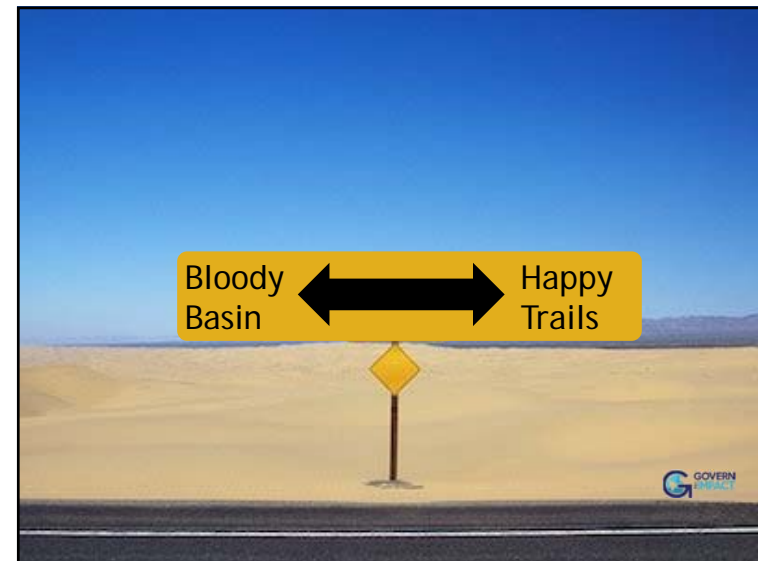
And, as to staff “MEANS”

(a) Stay out of them, except

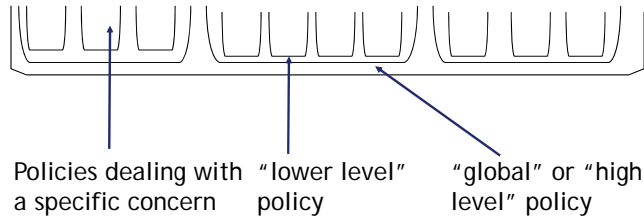
(b) To say WHAT IT WON’T PUT UP WITH.

eg. can’t break law

GOVERN IMPACT



The Protective Nature of the Executive Limitation (Proscriptive) Policy Structure



Steps to Make a Policy Statement

Step 1: Articulate the policy issue requiring policy direction (to satisfy the Board’s governance of risk).

- Start blank sheet for your organization - what are the biggest relevant risks (a governance risk register helps).

Step 2: Determine if the Board really needs to set limits on this matter and why, i.e. the rationale for needing a governing policy in the area.

- Ask what could keep the Board awake at night?

Step 3: Define the Board Policy at the highest level on the matter.

- Define narrower executive boundaries as needed down to the level that the Board can live with any reasonable interpretation of the policy by the CEO. (There could be many reasonable interpretations).



Risk Register Categories

- Risk Area
- Risk Insights
- Relevant Policy Values to Limit Means
- Likelihood of Occurrence
- Impact of Occurrence
- Proximity of Risk
- Risk Score
- Any Further Governance Actions Required Beyond Policy Controls on Operations and Strategic Focus on Clear Ends



Excerpt of Example Risk Register

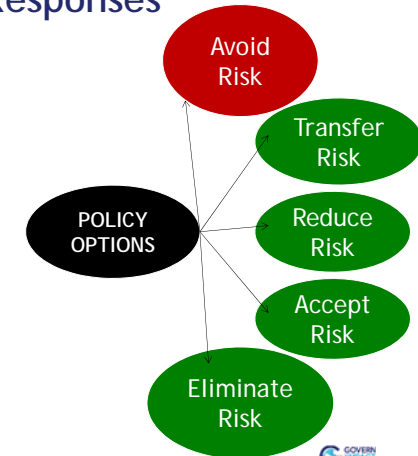
Risk Area	Risk Details
Strength in People and Culture	• Lack of leadership depth and quality
	• Loss of leadership
	• Lack of available qualified staff
	• Lack of cultural alignment with values/strategic direction
	• Insufficient staff development
	• Insufficient succession planning



Range of Risk Responses

Board's governance response to risk is through:

- Environmental Scanning
- Policy formation (risk areas, risk tolerances, boundaries)
- Monitoring Achievement and Compliance



Steps to Make a Policy Statement

Step 4: Fully debate the values outlined in the policy and related risk tolerances of Board.

Step 5: Build consensus and agree on the Board direction through a formal policy decision motion.

Step 6: The CEO then interprets and implements the Executive Limitations policy and reports on compliance of policy over time.




Board Challenge #3 - Defining Risks

What are the 'buckets' or areas of significant risk with which the Board may be concerned?

... and choose to limit operational means thereby governing risk.



What is risk?




- “The possibility of event (“X”) impacting on Ends achievement (“Y”) or strategy (“Z”).

AND

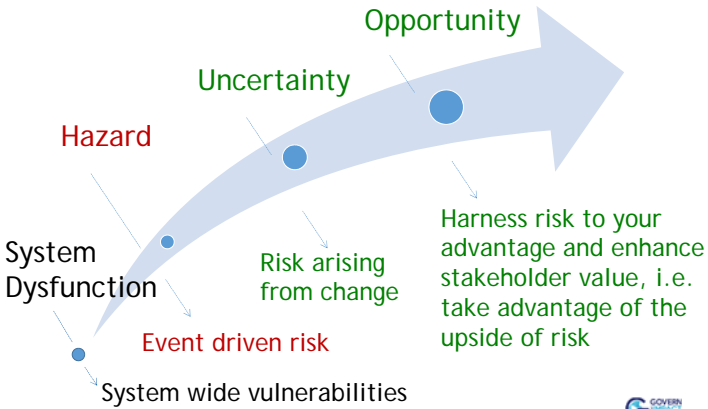
- Risk is “uncertainty of hazardous events and/or circumstances impacting on Ends achievement (outcomes/results for specific groups at a meaningful return on investment”.

Image courtesy of [muck2happy](#), published on 12 October 2011
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There is a “Risk Continuum”

Risks can be positive or negative



Hazard

Uncertainty

Opportunity


System Dysfunction

Event driven risk

System wide vulnerabilities

Harness risk to your advantage and enhance stakeholder value, i.e. take advantage of the upside of risk

Image courtesy of [Zuzanna](#), published on 16 March 2012
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You must take on some risk to operate.....

And more risk to innovate.



Image Source: <http://www.knowledge4innovation.eu/sites/default/files/Eco-Innovation.jpeg>



What Board leadership needs to know: (leader accountability)

- What are the significant risks facing the organization?
- Is the Board governing effectively in each of these risk areas?
- Is Management managing the risks effectively in each of these risk areas?
 - What is the organization’s track record in managing/controlling the impact of risk? (Monitoring Reports)






Image courtesy of [Zuzanna](#), published on 16 March 2012
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Board's Role in Governance of Risk

- Ensure **strategic environmental trends** are scanned and understood, strategic purpose, vision for impact (Ends) is crystal clear.
- **Control operational and financial risk** at an oversight level via executive boundaries.
- Ensure **governance processes are highly effective** to minimize 'governance risk'.
- **Monitor rigorously** to ensure you are getting:
 - The organizational outcomes the Board requested
 - Within the executive risk boundaries for prudence and ethics.



Board's Role in Governance of Risk

- Identify major areas of possible risk.
- Establish **risk tolerances in Board policy**.
- Review and evaluate report from management on **compliance** with risk tolerances.
- Evaluate reasonableness of management's assessment of:
 - Top risks,
 - The Board's risk tolerances, and
 - Mitigation outcomes
- Determine any other policy or action required by Board to address risk (occasional third party review).

02

An Executive Limitations Best Practice Example

- What Does it Look Like When this Concept within Policy Governance® is Used Well?
- What Processes Do You Use to Identify the Values the Board Holds for What It Considers Unacceptable?

By Richard Stringham

Treatment of Trade Members Executive Limitations Policy

Problematic Version

1. The CEO shall not allow unacceptable treatment of members.

Accordingly, the CEO shall not:

- 1.1 Fail to inform members of their membership rights.
- 1.2 Violate laws regarding members' privacy.
- 1.3 Fail to protect members' data.
- 1.4 Create public positions without first consulting with members on issues that may affect them.
- 1.5 Do any of the following regarding members' issues:
 - 1.5.1 Allow members to be without a clear and readily accessible channel for expressing complaints or concerns.
 - 1.5.2 Respond to members' concerns and complaints in an untimely and incomplete manner.



Treatment of Trade Members Executive Limitations Policy

Better Version

1. The CEO shall not cause or allow conditions, procedures or decisions related to the treatment of members that are unsafe, disrespectful, or unnecessarily intrusive.

Accordingly, the CEO shall not:

- 1.1 Allow members to be unaware of their membership privileges and responsibilities.
- 1.2 Permit violation of member confidentiality and privacy, except where specific disclosure is required by legislation or regulation.
 - 1.2.1 Use methods that elicit information for which there is no clear necessity.
 - 1.2.2 Use methods of collecting, reviewing, storing or transmitting member information that inadequately protect against improper access.
- 1.3 Take public positions on issues which would be unnecessarily harmful to members' businesses.
- 1.4 Permit unfair, inconsistent, or untimely responses to member concerns or complaints.
 - 1.4.1 Allow members to be unaware of the process for registering a complaint or concern

Building an Effective CEO Interpretation of an Executive Limitations Policy

- An Example of Modern, Effective CEO Interpretation
- Discussion on the Example
- Current Way CEOs and Boards Struggle with Executive Limitations Interpretation
- Learning and Sharing Key Insights on Executive Limitations Policy Interpretation Concepts

Introduction by: Karen Fryday-Field

Example By: Richard Stringham

Board Challenge #1 - Lack of Understanding of Policy Interpretation Basic Ingredients

- **The Concept of the Operational Outcome**
 - The specific observable condition/or operating definition defined.
- **The Target**
 - What compliance or achievement of the policy will look like in a quantifiable or qualitative description.
- **The Measure/Metric**
 - How the CEO will provide evidence of compliance/achievement (the 'ruler' or 'measuring tape').
- **The Rationale**
 - Why this interpretation (observable condition and target) is reasonable.

Board Challenge #2 - What's Reasonable?

... is that a reasonable interpretation?



YES



NO

Reasonable Interpretation Defined (Operational Definitions)

- Outlines a conceptual outcome - defines what will it look like if the Ends or Executive Limitations Policy is achieved.
- Is an observable condition to measure an abstract outcome/impact/concept.
- Explains how an impact/outcome/compliance will be measured, i.e. metrics.
- Needs rationale, i.e. why that operational definition and target was chosen, why it is reasonable.
- “Achievement or compliance will be demonstrated when...”
(Board monitors actual results against this interpretation)



CEO's Interpretation of the Board's Policy Further Defined

- Operational Definition:
 - Speaks to what will be observed that will demonstrate achievement or compliance (the observable condition regardless of who is inspecting for evidence).
 - Supported with rationale (i.e., why the interpretation is reasonable)
 - Comparative where appropriate (e.g., similar organizations, industry standards), or
 - Opinion of unbiased expertise



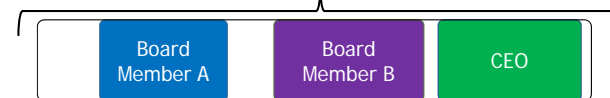
CEO's Interpretation of the Board's Policy Further Defined

Clarifies which *alternatives* from a range of possible reasonable interpretations the CEO has chosen



Any Reasonable Interpretation is Agreeable

Range of any reasonable interpretation



All of these interpretations are reasonable within the “range of reasonable”.



Some Observations About: Any Reasonable Interpretation

- May be different than the interpretation preferred by Board Members either individually or collectively.
- Board must assess and make a decision (via motion) determining if the CEO's interpretation falls within the range of reasonable interpretation from Board's perspective.
 - Does it line up?
 - Is it enough?



When is an Interpretation Reasonable?

When it provides a **defensible observable condition, target/measure and rationale** against which policy achievement can be assessed.

The Question for the Board

ASK

"Is this a reasonable interpretation?"

DO NOT ASK

"Is it the way I would do it?"



Treatment of Trade Members Executive Limitations Policy Interpretation

Better Version	Potential Interpretation
<p>1. The CEO shall not cause or allow conditions, procedures or decisions related to the treatment of members that are unsafe, disrespectful, or unnecessarily intrusive.</p> <p>Accordingly, the CEO shall not:</p>	<p>With the exception of "unsafe", this policy is comprehensively interpreted by the Board in its subsequent statements. Consequently, my interpretations and evidence will demonstrate compliance for those parts of this policy addressed in the subsequent section of this report.</p> <p>With regard to "...not cause or allow conditions, procedures, or decisions related to the treatment of members that are unsafe...", compliance will be demonstrated when, at the beginning of any session with a member or group of members, the audience is instructed regarding proper procedure for orderly evacuation in the event of an emergency.</p>

Refer to Pre-reading Package



Treatment of Trade Members Executive Limitations Policy Interpretation (con't)

Better Version	Potential Interpretation
<p>1.1 Allow members to be unaware of their membership privileges and responsibilities.</p>	<p>Compliance will be demonstrated when 85% of members confirm that they are aware of:</p> <p>a) How to access members' only services (which is reasonable because this provides a complete list of membership privileges);</p> <p>b) Their voting rights at general members meetings (which is reasonable because this is where they can exercise their official authority as a collective group of members); and</p> <p>c) Their responsibility to update their member profile annually when renewing their annual dues (which is reasonable because this is data is an important factor for determining the types of services we offer our members).</p> <p>85% awareness is reasonable because regardless of how much we communicate, it is reasonable to expect that 15% of member respondents will not pay attention to the communications.</p>

Refer to Pre-reading Package



Treatment of Trade Members Executive Limitations Policy Interpretation (con't)

Better Version	Potential Interpretation
1.2 Permit violation of member confidentiality and privacy, except where specific disclosure is required by legislation or regulation.	<p>In addition to my interpretation and evidence for 1.2.1 below, compliance will be demonstrated when documentation verifies that we have fulfilled the following elements of the federal Personal Information Protection and Electronic Documents Act (PIPEDA):</p> <p>a) We have appointed an individual as our Information Privacy Officer;</p> <p>b) We clearly state the purpose for all information that we request from members;</p> <p>c) Our requests for member information include explanations regarding consent for how the information will be used and such information is not used for purposes other than the consent provided;</p> <p>d) If information is no longer needed for the intended purpose it is securely destroyed;</p> <p>e) Upon request, members may access and correct their data</p> <p>f) Upon request, members shall be informed as to whether their data has been shared with third parties and, if so, which ones.</p> <p>g) We have a clear and accessible process for members to challenge our adherence to privacy legislation.</p> <p>These are reasonable as our legal counsel has verified that fulfilling these and items 1.2.1 and 1.2.2 will satisfy the PIPEDA.</p>

Refer to Pre-reading Package

This is a fictional example for educational purposes of the GOVERN for IMPACT session. Legal counsel has not been consulted on this interpretation.

Treatment of Trade Members Executive Limitations Policy Interpretation (con't)

Better Version	Potential Interpretation
1.2.1 Use methods that elicit information for which there is no clear necessity.	<p>Compliance will be demonstrated when the only information collected from our members includes:</p> <ul style="list-style-type: none"> • Business name • Business sector, number of employees, and stage of business growth. • Business address • Business representative's name and business contact information • Credit card numbers when needed for payments of fees <p>These are reasonable as they are the information needed to communicate and determine which business needs we will be addressing for each of our members.</p>

Refer to Pre-reading Package



Treatment of Trade Members Executive Limitations Policy Interpretation (con't)

Better Version	Potential Interpretation
1.2.2 Use methods of collecting, reviewing, storing or transmitting member information that inadequately protect against improper access.	<p>Compliance will be demonstrated when:</p> <p>a) Members can enter their member and payment information online only by using encrypted software on our website;</p> <p>b) Hard copy member information received is copied into our electronic data system, following which the hard copy is destroyed that same day;</p> <p>c) Member data is kept in password protected files available only to those who need access according to their job responsibilities;</p> <p>d) External contractors with access to the member data have signed contractual agreements preventing unauthorized use or sharing of the data;</p> <p>d) Broadcast communications to groups do not expose contact information for members of the group unless necessary for the interchange of communications within the group.</p>

Refer to Pre-reading Package



Treatment of Trade Members Executive Limitations Policy Interpretation (con't)

Better Version	Potential Interpretation
1.3 Take public positions on issues which would be unnecessarily harmful to members' businesses.	<p>Compliance will be demonstrated when member consultations confirm that, if there are negative impacts for a public position, the negative impacts are either:</p> <p>a) Minor in comparison to the expected benefits for those businesses; or</p> <p>b) Are acceptable to at least ¾ of the respondent members.</p>

Refer to Pre-reading Package



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Treatment of Trade Members Executive Limitations Policy Interpretation (con't)

Better Version	Potential Interpretation
1.4 Permit unfair, inconsistent, or untimely responses to member concerns or complaints.	<p>Compliance will be demonstrated when employee logs confirm that:</p> <p>a) All concerns or complaints are responded to directly by an employee within one business day. If the employee is not able to provide answers to the concern or complaint, the member is advised of a timeframe for response which is reasonable for the member's issue. This is reasonable as it is consistent with business standards in our industry.</p> <p>b) Responses to complaints and concerns are consistent with internal policies and procedures. This is reasonable as it provides a common basis for response regardless of which employee is addressing the issue (consistency) and regardless of who the member is (fairness).</p>

Refer to Pre-reading Package



Treatment of Trade Members Executive Limitations Policy Interpretation (con't)

Better Version	Potential Interpretation
1.4.1 Allow members to be unaware of the process for registering a complaint or concern	<p>Compliance will be demonstrated when at least 85% of members confirm that they can readily find the instructions to access the complaint process.</p> <p>85% awareness is reasonable because regardless of how effectively we communicate, it is reasonable to expect that 15% of member respondents will not pay attention to the communications.</p>

Refer to Pre-reading Package




04

Reviewing an Executive Limitations Policy Monitoring Report

- Overview of the Critical Components of an Executive Limitations Monitoring Report
- Clarify What the Board is Actually Judging
- Explaining an Example and Key Learning

Facilitated By: Karen Fryday-Field



5 Basic Concepts re: Important Board Monitoring of the CEO Ideas

1. All expectations, and therefore all criteria for performance, are defined in Board policies.
2. If the CEO is delegated the right to make further decisions, she/he is allowed to make "any reasonable interpretation".
3. Assessment of policy achievement (CEO performance) is done by the Board as a whole.
4. The reasonable interpretation holds the specific assessment criteria.
5. Measuring CEO performance is the same thing as monitoring organizational performance.



Anatomy/Structure of a Monitoring Report Summarized

- (1) Board's Policy Words (re-stated)
- (2) Interpretation
 - Operational definition with observable condition
- (3) Rationale (why this definition is reasonableness)
 - What would authorities, experts in the industry say?
 - How will this look in the reality of the organization?
 - What does research say?
 - What do other comparators/our benchmarks say?
- (4) Data (Evidence/Proof)
 - Must relate directly to the Interpretation
 - Metrics are best (can be quantitative or qualitative)
- (5) Statement of (non)compliance
 - CEO's conclusion (for Board insight)

Two Stages of Monitoring Assessment by the Board

STEP 1 - INTERPRETATION


Operational Definition → **INTERPRETATION**

1. Is definition reasonable and justified? (Yes/No)
2. Is measure an expected standard of performance (compliance) appropriate to interpretation? (Yes/No)

STEP 2 - EVIDENCE

DATA/EVIDENCE/PROOF

1. Does the evidence convince you that the standard defined by the CEO's interpretation has been met? (Yes/No)



Using an Appreciative Inquiry Approach

For Meaningful Monitoring and Evaluation





Appreciative Inquiry

PROBLEM SOLVING ORIENTATION ← Fill the Gap → APPRECIATIVE ORIENTATION → Realize the Possibilities

PAST CURRENT STATE FUTURE

GOAL

THE QUESTIONS	THE QUESTIONS
<ul style="list-style-type: none"> • What's wrong? • How do we fix it? 	<ul style="list-style-type: none"> • What's working? • What's possible? • What shall we do to achieve it?



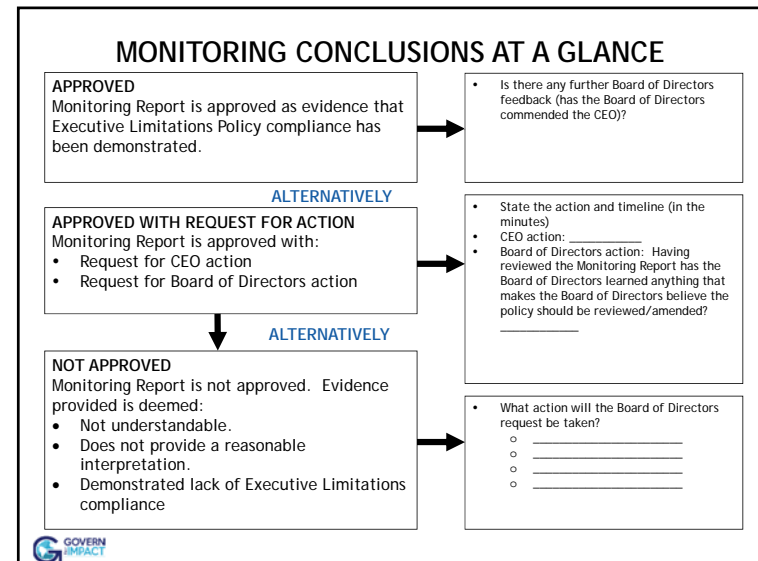


Board Monitoring Questions For Executive Limitations Policies

- Focus of the Monitoring Report**
 - Is it clear which Executive Limitations Policy/policy criteria is/are being monitored?
- A Reasonable Interpretation**
 - Do you believe the CEO has explicitly provided a reasonable interpretation of the policy? Is rationale needed? Is it provided and is it clear and relevant?
- Sufficient and Clear Evidence**
 - Do you believe the CEO has provided sufficient evidence that indicates that performance is in compliance with this limitation?
 - Compliance evidence should be present (not reports of activities).
- Feedback and Questions**
 - What feedback should the Board provide to the CEO?
 - Are there any questions/comments that should be asked at the meeting?

Monitoring Report Results Analysis Decision Tree

Interpretation Reasonable	Evidence Measures Achievement/ Compliance	Achievement/ Compliance was Achieved
NO	STOP	STOP
YES	NO	STOP
YES	YES	NO
YES	YES	YES



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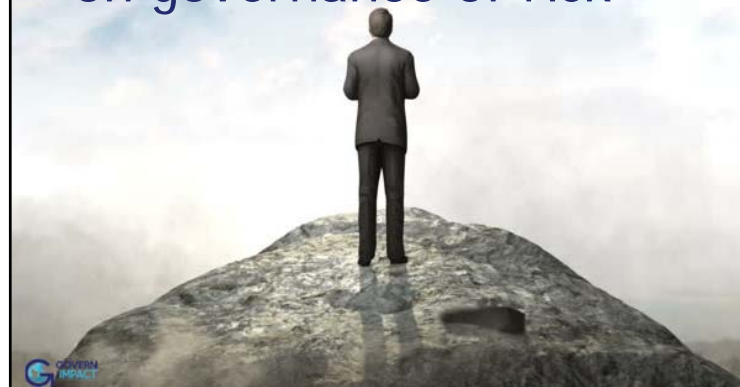
What About Non-Compliance?

- Expect the CEO to provide a date by which compliance can be expected
- Determine as a board whether you can accept this date or if the matter is more critical or time-sensitive
- Don't ask for CEO plans - just hold accountable for the date
- Record the board's decision in the minutes
- Track and follow up to ensure accountability



05

Last insights for today on governance of risk



Thank You for
Participating and Sharing
Your Ideas



Thank You to:

- Richard Stringham
- Karen Fryday-Field
- Michael Palmer