

Institute of Corporate Directors

Podcast Topic: **Be It Resolved: Canadian directors should know the Australian director's playbook.**

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Rahul Bhardwaj (0:06 - 1:09): Welcome to Be It Resolved, Season 2, where bold ideas meet courageous leadership. I'm Rahul Bhardwaj, President and CEO of the Institute of Corporate Directors in Canada. Each episode explores the issues that influence directors, governance, and decision-making in the boardroom.

As we begin a new year, boards are entering 2026 with high expectations, rising complexity, and a governance environment that rewards foresight, discipline, and clear judgement. My guest today is Mark Rigotti, Managing Director and CEO of the Australian Institute of Company Directors, the AICD. Before joining AICD, Mark served as the global CEO of Herbert Smith Freehills, where he chaired the firm's global executive, amongst other roles.

Mark is a non-executive director of Smart Group Corporation Limited and chair of the global network of director institutes where we first met. Welcome Mark.

Mark Rigotti (1:09 - 1:12): Thank you, Rahul. Good to be joining you today.

Rahul Bhardwaj (1:12 - 2:35): We're on opposite sides of the planet, so I really appreciate you getting up early. Now for our listeners today, our resolution is Be It Resolved: Canadian directors should know the Australian director's playbook.

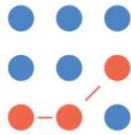
Some folks will wonder why. Well, which way will you vote? And Mark, a little later, you're going to get to vote on this too.

Mark, recently you and I crossed paths in Singapore, and we had some great conversations with directors on all sorts of issues, raising familiar ones like AI, geopolitical uncertainty and ESG, disclosure expectations, plus of course the new trade and tariffs reality. Directors everywhere are facing similar external forces, but their governance tool and their market dynamics are producing very different board responses. And when I think about Canada and Australia, we're far apart geographically, but not so much in other cases. Commonwealth, common law, you've got China in your backyard. We've got the US in ours. So, the premise is though, is that we can learn from each other and especially on the matters of corporate governance.

But where I've got to start on this item is in Australia, you've got something called the two strikes rule. In Canada, it's three strikes and you're out in baseball, but we're not talking about baseball today. What is your two strikes rule?

Mark Rigotti (2:36 - 4:13): Yes, you're correct. We do have a two strikes rule. In fact, it's been part of the corporate landscape since 2001.





It's a say on pay mechanism. It applies to listed companies, and it allows companies to go to the investors, their shareholders once a year and get a non-binding yes or no vote on executive remuneration. The two strikes refers to a 25% threshold.

So, if a company has a no vote in two years of 25% in each year, so 25% no in the first year for the strike, 25% no vote in the second year, then the shareholders can effectively spill the board and the whole board has to stand for re-election. There's about somewhere between 30 and 40 strike votes every year during the AGM proxy season. However, it has really been distorted, and it now becomes a way for investors to express their dissatisfaction with the board.

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The directors, I think, find it really quite a difficult exercise. It's not really about executive remuneration anymore. It's around the board's performance and leading the company.

A lot of board time goes into it. The interesting thing about it is you probably got two sides of the debate. The large pension fund investors and the proxy firms like it because it gives them a voice.

The director community in the listed companies think it's a misuse of director time and company funds to respond. The middle ground, of course, is that it's been a mechanism for greater engagement between investors on the one hand and directors on the other hand. It's probably a net positive, but that's how two strikes work.

Rahul Bhardwaj (4:14 - 4:21): Interesting. It sounds like a bit of a blunt instrument. Has it actually changed board behaviour in any meaningful way?

Mark Rigotti (4:21 - 4:45): I think it has. I think it's required boards to engage with their investors in a more meaningful way well ahead of time. There's a good example at the moment of one of our big four banks.

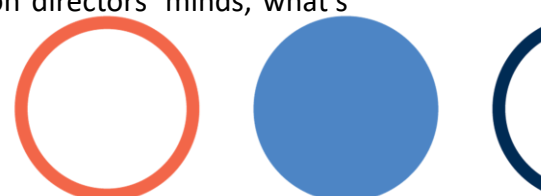
They have taken \$32 million of unvested bonuses off their executives because of underperformance and dissatisfaction with a range of things. And that was an investor led movement, for want of a better word. I think it has changed behaviour.

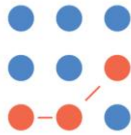
Rahul Bhardwaj (4:45 - 5:13): One of the interesting thing about our roles, and I enjoy talking to you about this, is we both have an interesting perch in pretty big land masses. We get a sense of what the director communities in both your case, Australia, and our case, Canada, are thinking on key issues. And your AICD does a wonderful sentiment index on a semi-annual basis.

And I got a chance to review the last one in 2025. It was remarkable. I'm really curious to know what you took from that.

Mark Rigotti (5:13 - 7:12): What really struck you in that index? It's called the director sentiment index. It's done independently twice a year, and it's been going for several years.

And there's a couple of things I get out of that. One is what's on directors' minds, what's keeping them awake at night. And secondly, the trends over time.





And it's been interesting. It has really changed in recent years. Things like cyber, which were very elevated for a few years, are still up there, but it's number three.

Climate is number four, in that sort of range. What has really changed in recent times is director concern about the degree of regulation, the degree of intervention by government in markets. And that has come through very, very strongly.

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And it's quite an issue for Australia as a general rule, because a lot of countries, including Canada, are running better regulation or deregulation or reducing red tape, clutter, whatever kind of word around it, an agenda around those sorts of themes. Australian directors are worried that Australia is falling behind. And a bit of work we had commissioned by a research house showed that Australia is second last in the OECD in terms of regulation.

It is something which is front of mind for directors. And it's not just a sentiment around life being difficult for directors because there's a lot of regulations to comply with. It's actually that they're not serving their purpose.

They become self-sustaining for their own purpose. One electricity company was telling me that they now reported to 16 different regulators. One similar thing that Australia and Canada have is both a federal government, but then provincial governments as well, and then local governments as well.

If you put in regulatory tickets around each of those levels of government, you get a very, very dense forest that directors have to try and navigate. That's one thing that's on their mind. And of course the other thing that's on their mind, like everyone in the world is AI and how to tap the opportunity, but manage the risk associated with AI.

That gets a lot of airtime with Australian directors.

Rahul Bhardwaj (7:12 - 7:58): Let's unpack a little bit that. And Mark, where you started, I think a lot of Canadian directors with big grins on their faces when they hear you say that we're doing a lot to reduce regulation in Canada, because I think a lot of folks will be saying, wait a minute. We're not so sure about that.

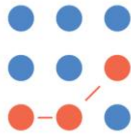
It's interesting that from your perspective, you're seeing a bit of momentum at that in Canada. And to be fair, that is a big part of the conversation now. And it's not necessarily the quantity, but it's the quality and the integration and the sensibility of regulations.

I love the way you described this as a dense forest. And I think that's something that both our countries know something about. What I'm curious to know though, is there a momentum in Australia to review regulations?

Is this a part of the conversation in Australia?

Mark Rigotti (7:59 - 8:57): It is. We have a centre left government in Australia. Probably our directors are similar to your directors in the sense that there's a lot of rhetoric.





There's some positive intent, but there's a bit of a gap to action. And there's a question about whether the resolve is wafer thin or deep. That's one of the things that the AICD is pushing very hard to represent the interests of our members than the directors is to strengthen that resolve, to take it beyond the rhetoric and turn the kind of the rhetoric into action.

So, I think it is, I love the way you express it. If you, a couple of your directors were come and walk in my shoes for a week, it had come up two, three, five, 10 times during the week. But the actual action is less.

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Look, we're hoping for a 25% target, a little bit like the UK. Hoping the federal government will adopt that. They're doing things, they're reducing nuisance tariffs.

They're trying to streamline planning, all of the things that I guess directors would like to see. But whether it's sufficient to move the dial, let's wait and see.

Rahul Bhardwaj (8:57 - 9:22): One of the things that struck me in the sentiment survey connected to this was that about almost 80% of your directors linked that regulation directly to productivity. In other words, reduced regulations and increased productivity. Now I thought that number eight out of 10 was on one hand, not surprising, but anytime you get 80% of a big group of people thinking anything, that's a statement in itself.

Mark Rigotti (9:23 - 10:21): It is. It's sort of, there's a national issue. Then it comes down to the individual company level.

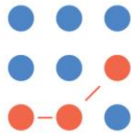
I guess most of the developed economies in the world have productivity issues and growth is hard to come by. It's particularly acute in Australia because we sit on the edge of Southeast Asia, where it's not uncommon for five, six, 10, 12% per annum sort of growth. We're trying to work out 2%.

I think why directors are worried is that if the nation's doing well, their companies will do well. If the nation's struggling, then it's harder, not impossible, but it's harder. I think directors expressing a concern through that answer, both at the national level, we're not as productive as we should be as a country and that's impacting growth, but also at the company level, companies are finding it hard to establish and maintain growth, particularly where there's so much regulation to navigate, there's just less board time at board meetings to talk about value creation rather than regulatory compliance.

Rahul Bhardwaj (10:22 - 10:33): How about on the AI front, you shared an article with me recently, which was really intriguing and sounded like AI regulation was front and centre on directors' minds and legislators' minds at the same time.

Mark Rigotti (10:33 - 11:58): It is. I think, again, the sentiment from Australian directors is they're pretty much convinced and all in on the power and opportunity of AI, but at the same time as the kind of the futurists, if you like, the leaders of the enterprise, they've got to be thinking, well, what could go wrong and how do we make sure AI adoption is responsible and meets the needs of all stakeholders? We've kind of got a two-speed approach to AI around boardrooms in Australia.





One of the things that they were worried about, and we were worried about, was that as government sort of leans in more, they would try and choke it with more regulation to manage the risk side of the equation, which would have a very chilling effect on the opportunity side of the equation. Pleasingly, the Australian government's come out and said they'll basically fill the gaps, where there are gaps in current legislation, they will look to strengthen regulation sensibly, rather than putting European style, another whole umbrella piece of legislation over AI. I think that is very much in step with where Australian directors would think it should be.

Now that's the policy statement. Things may change if something bad happens, it tends to be what happens, but it feels like it's a good regulatory setting, then responsibility is back with the boards and directors to work out how they then use AI responsibly at their individual board levels.

Rahul Bhardwaj (11:58 - 12:39): One of the other things that jumped out on the index as well, and it speaks to short-termism or long-termism, and there are a number of ways of looking at this, but what struck me was that it appears that directors seem to be spending more time on risk oversight and long-term resilience rather than short-term growth. I think everybody acknowledges that long-term value creation is the aim of this. There are those that who would say, you don't get the next quarter and the next quarter, right?

Getting that balance between long-term and short-term is quite an important thing for directors to be focused on. How are Australian directors thinking about that?

Mark Rigotti (12:39 - 14:38)

It's such a great observation. And maybe it's one of those things where there's no perfect answer. It's attention that boards have to manage.

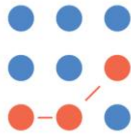
Again, that's the job of directors, that the job of directors sometimes is to do the hard stuff. So how do you put enough attention on the short-term priorities? Your quarterly earnings reports, your annual growth, your returns to shareholders, but not ignore the long-term direction of the company and making sure everything's calibrated so that future generations of stakeholders benefit from the company.

It's a hard one. A lot of the debate centres on the listed markets where there are quarterly reporting requirements, but we also see it elsewhere. There's two things I would point out as trends in our market.

One is a massive shift to private capital away from public markets. I think that's probably pretty similar in Canada. That's because there's not the same reliance or focus on quarterly earnings in private capital markets, private equity, institutional capital, sovereign wealth funds, different styles of investors in those markets.

The second thing is you can kind of complain about it. You can say, we don't have enough time to look at this, the long-term or the short-term. I think where I'm seeing the debate go is that's the role of the chair and the CEO to set the right proportions and to build the cadence of the board discussion out so that you can find time for each.





Now, the difficult thing you can't control there, for example, if you're a bank or a financial institution that's regulated, there is just a massive regulatory burden. They talk about the thousand-page board pack each month for some of those organisations. There's some interesting things like more aggressive use of committees to try and manage that balance.

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Yes, it's an issue. Private capital is, and private capital markets are becoming more and more a place where capital is being deployed and directors are active, but also there's a recognition that the way to solve a problem is to solve it yourself and not complain about it to others.

Rahul Bhardwaj (14:38 - 14:55): You'd mentioned the sovereign wealth funds. I'd be curious to know about the impact or influence that pension have in Australia, because I'm guessing it would be rather large in Canada. Of course, we've got the maple five that have been extremely successful and actually a badge of honour for Canada in a lot of ways.

Mark Rigotti (14:56 - 16:33): Yeah. We're very similar to two countries this way. Maybe just for your listeners who might not be familiar with Australia, we have a compulsory pension scheme.

12% of everyone's salary must be put into pensions. It accumulates at some extraordinary billions of dollars every week. It would just flow into their coffers. To give you a feel for it, the superannuation pool, Australia is 55th in terms of global population. The superannuation or the pension pool is number four in the world. It's very large.

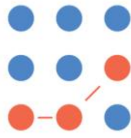
It's worth about 4 trillion Canadian. The superannuation funds are big and they're all consolidating. The top four superannuation funds are bigger than the Australian companies they invest in.

They're not bigger than Google, but they're pretty big entities, so very powerful. And that has been, as in Australia, they have got more and more interventionists on governance issues, rather than just being pure financial investors and looking for a return, they do have a view on ESG, they do have a view on good corporate governance. A number of those funds really push boards to, I guess, explain their posture, their actions, what they're achieving in those areas, rather than just looking for a financial return at the end of the year.

The dynamic that creates is, is that boards in Australia very much have to engage with those funds. Even some of the funds that aren't yet investors, because chances are with this river, this torrent of money coming into their coffers, they will one day be an investor in your company. There's very established engagement plans around those funds by the better boards, the better companies.

Rahul Bhardwaj (16:33 - 17:20): It's quite the image, rivers of money and torrents of it. I think that's going to stick with people for a while. It's something to keep an eye on.





And I think really highlights the importance of good corporate governance, to be able to do all of that in an accountable, responsible fashion. You'd mentioned a little bit earlier about being in Southeast Asia. And I'm mindful that the analogy being, US is about 80% of our trade and about 30% of our GDP.

Order of magnitude, China, I understand is about 25% of Australia's trade and about 11% of your GDP. But it is your largest trading partner. And I'd be curious to know that in this time of trade and tariffs, what we're seeing in North America, how are you seeing Australia respond to the pressures in Southeast Asia and how are directors responding?

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Mark Rigotti (17:20 - 18:33): Australia has always liked to think of itself as a springboard into Asia. And China is by far and away, the dominant importer of Australian goods, but it is concentrated in resources and in agriculture, whereas Southeast Asia, it's much broader, it's across services and a whole range of different things. The answer to your question is, it depends who you ask, who you talk to.

How are we thinking about it? Trade with Southeast Asia is all through FTAs, it's open markets. China has always been difficult.

Way before the Trump administration, China was putting tariffs or shutting down trade on various things, including things like wine or barley or malt. Those things have been progressively relaxed as the governments have become closer. It's difficult because there's the geopolitical angle on that as well.

Australia seems to be treading the line in managing and having a relationship with China, even if it's tense. In terms of how boards think about that, there is definitely in the last 10 years been a greater focus on geopolitical issues and boards wanting and needing to be apprised of what's happening in geopolitics and how that impacts their company, their markets and where it might affect them in terms of strategy going forward.

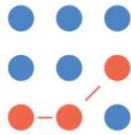
Rahul Bhardwaj (18:34 - 18:54): Mark, earlier you mentioned board agenda is being really full. I just want to follow up on that in this context. There's only a limited amount of time any board has when they start thinking about things like geopolitics, it can be that proverbial rabbit hole to go down.

Are there mechanisms and ways that boards in Australia are taking this in and responding in kind?

Mark Rigotti (18:55 - 19:25): Yes, I think so. It depends. The larger companies with lots of resources will put their boards on planes and do educationals in Silicon Valley, although they'll actually dedicate usually dinners or lunches the night before a board meeting or the lunch to actually having someone come in and talk about these issues.

It's a part of the board agenda, but it's not a formal piece with a resolution and a paper, etc. It's much more around getting experts in to tell them things that they should be thinking about.





Rahul Bhardwaj (19:26 - 20:07): It sounds in a lot of ways, the playbook that we're hearing is very informative, not dramatically different in some respects, which is good news. It's really intriguing to hear about the dominance. In fact, if you're talking about pension funds or the superannuation funds and the influence that they're having, I'm also curious to hear a little bit more from you about decline in size of public markets in your neck of the woods and what impact is that having on the director community itself?

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Are you still having a lot of directors wanting to serve on boards? Are they still having the same level of support education? Things like that, that I think are really core to the business of AICD as well.

Mark Rigotti (20:08 - 21:03): They are, if we were to look at it in decades rather than in single years, I think the director 10 years ago, the top two directors would have been looking at being on a listed board of a mining company, a bank, an industrial, and maybe one or two other non-listed things on to the side. That has shifted in recent times to most directors with professional directors, new portfolios, they've probably got one or two listed boards and the rest are unlisted. And it could be across a range of sectors, particularly with proxy advisors being very focused on busy directors being overboarded and not being, particularly chairs and a couple of the chairs of our prominent companies actually make a commitment not to take on any other listed companies while they're chair of BHP or the equivalent of tech or something like that in Canada.

I think it probably has changed and that's not necessarily a bad thing. That's probably a healthy thing.

Rahul Bhardwaj (21:04 - 21:10): How about in terms of overboarding or term limits, these issues that are front and centre on boards are problems?

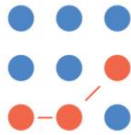
Mark Rigotti (21:10 - 22:09): They are, although they tend to subside and they're not an issue until they are an issue and then there's a big issue. Our financial markets regulator has just brought out a rule trying to limit turns to no more than nine to somewhere between nine and 12 years for directors on the banks and so forth. So yes, they are.

Overboarding tends to be self-regulated by individuals, or a good chair would be very worried about taking on someone who might be overboarded, but the proxy advisors and the investors are very focused on that. I mean, the problem with proxy advisors of course, is they have rigid rules and so they're not particularly context free. Someone might be technically overboarded, but in fact, there's a CEO succession and that chair or that director is going to move on in a year once the new CEO is selected and in place.

I think those sorts of issues are front and centre, probably a bit similar to what they are in Canada. They probably reach an equilibrium for most of the time, but every so often they pop up and become an issue of elevated importance.

Rahul Bhardwaj (22:09 - 22:25): I think that the listeners will recognise quite a bit of the language in the context. One of the things that's different is proxy season as well. You do proxy season before we do up here.





So maybe give a little bit of insight on some of the key things you might've seen coming up in proxy season for you.

Mark Rigotti (22:25 - 23:22): Yes, going back to where we started, a record number of strikes on remuneration as a way of expressing discontent by investors, but that has tended to be around transactions that companies have done and not sought shareholder approval. And so that's a question of the rules. Some transactions are so significant, you need to go and get shareholder approval.

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Other ones you don't. And when you don't, investors in Australia really look over it. If it's not kind of pretty much accretive straight away, that's the sort of issue that comes up in proxy season.

That's interesting because it's a very economic and performance related issue. Two years ago, if we were having this discussion, Rahul, it would've been all about climate, whereas climate's still there, but way less than it was two years ago, probably because people have got their plans and they're getting on with decarbonising, much more of a focus on performance, particularly transactions, which are difficult to explain or whose outcome is not yet clear.

Rahul Bhardwaj (23:23 - 23:57): This has been a fantastic conversation, Mark. I think you provided some real insights as to the Australian director's playbook. I'd say there's a lot of overlap, but there are some points where Canadian directors can pause for a moment and think about how they apply in the Canadian context.

Mark, thank you so much for joining us today. I'm going to ask our listeners to think a little bit about this and ask yourself about the resolution. Which way would you vote?

Be It Resolved: Canadian directors should know the Australian director's playbook. And Mark, if you had to vote on that today, which way would you vote?

Mark Rigotti (23:57 - 24:20): I would vote yes, because I think there's a lot of linkages between Australia and Canada, a lot of affinity. The other way, there's probably a lot of things in the Canadian director's playbook that we need to think about here in Australia, particularly we are at the end of the train lines. We're always looking to cousins in the North around what's happening in those markets, because it'll probably come to us at some point in time.

Rahul Bhardwaj (24:21 - 24:50): I think you just made a lot of friends in Canada with that statement and you 'outpolited' us. No surprise there knowing you, Mark. So great speaking with you today.

And to our listeners, I hope you enjoyed today's episode of Be It Resolved and that you've deepened your boardroom insights to stay ahead of emerging trends. If you found today's discussion thought-provoking, we encourage you to subscribe and leave a review on your preferred podcast platform. From the Institute of Corporate Directors in Canada, I'm Rahul Bhardwaj.

Until next time.

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