Non-executive directors

Practices and fees trends report

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Editor's note

In our interactions with non-executive directors (NEDs) of South African companies, it is clear there has been a dramatic increase in their workloads. Board and sub-committee meetings are more intense and frequent. Directors' duties have increased: driven largely by increased complexity brought on by sudden shifts in the business landscape, increased pressure from stakeholders to grow, the obligations brought on by environmental, social, and governance (ESG) obligations, the need to respond to changes in the regulatory environment while also providing high levels of oversight and governance in a more demanding and dynamic arena.

Whilst governance has perhaps become synonymous with "compliance", the reality is that governance is an overarching "duty" requiring more context and insight into key issues, adding additional burdens to boards and non-executive directors with certain boards being forced into more formal, sometimes, reactive roles, guided by best practice, risk management, and the threat of litigation.

Where does this leave NEDs sitting on South African boards?

In the 16th edition of our Non-executive directors: Practices and fees trends report, we provide an overview of the profile of NEDs of the Johannesburg Stock Exchange (JSE) Top 100 companies and fees paid to NEDs of the JSE Top 200 companies for the period 1 November 2021 to 31 October 2022. We also tackle four current topics central to the role of being a NED:

Building trust: Building multi-stakeholder trust does not challenge or undermine boards' obligation to serve shareholders. Rather, it reflects the growing understanding of how a multi-stakeholder view contributes to shareholder value creation. To guide boards' thinking on how they can enhance trust with multi-stakeholder constituencies, we take a fresh look at each of the key stakeholder groups, discussing why trust matters, as well as how to build it and keep it.

Diversity and inclusion: Heightened expectations of director conduct and continuing calls for board diversity will increase pressure for accelerated board refreshment. The pressure is on boards and NEDs to create diverse, supportive, and inclusive environments. Diverse boards not only include members of different cultural and economic backgrounds, but also multigenerational members. There are five generations in the workforce, each bringing their own perspectives and experience. To encourage diversity, sometimes we need new and inexperienced directors – how do they become good directors and how do we support them?

The question of board rotation and independence remains valid and with the already relatively small pool of NEDs in South Africa, the question of successful board rotation and diversity becomes more relevant.

Discretion: It is probably fair to say that many boards (and remuneration committees in particular) were required to apply discretion to existing incentive structures both during the COVID-19 pandemic and its associated aftermath. Other global and local "shocks" have added a further layer of potential discretion to be considered. The application of discretion when it comes to remuneration decisions will continue to be debated in boardrooms and perhaps more importantly judged by shareholders, labour, and other critical stakeholders. The board as a whole, therefore, needs to regularly discuss and review the factors driving performance variances against budget and incentive targets, the intention and motivation around these, and stakeholder expectations. Consideration must also be given to how unplanned occurrences, such as the Ukranian war, shifts in currency and commodity prices, and the continuing electricity crisis in South Africa can influence results.

Board fees: Ad hoc or additional meetings have become commonplace in South African boardrooms, and the question of how to pay non-executives for their time is one that bears considering ahead of time for South African boards. Is it time for boards and companies to tackle the risk versus reward question head-on with shareholders?

We trust that non-executive directors, boards and other stakeholders will find this publication of interest and will gain a better understanding of the issues, challenges and trends that we have raised and identified.

Karen Crous
Editor
PwC Reward: Governance, Legal & Tax Lead

Abbreviations

AGM	Annual General Meeting
AltX	Alternative Exchange (division of the JSE)
B2B	Business-to-Business
B2C	Business-to-Consumer
Companies Act	Act 71 of 2008
ESG	Environmental, Social and Governance
ICB	Industry Classification Benchmark
ISS	Institutional Shareholder Services
JSE	The Johannesburg Stock Exchange
King IV™	The King IV Report on Corporate Governance for South Africa
KPI	Key Performance Indicators
LQ	Lower Quartile
NED	Non-Executive Director
M	Median
RemCo	Remuneration committee
UQ	Upper Quartile

Information used in this report

This report focuses primarily on non-executive directors of the Top 200 companies listed on the Johannesburg Stock Exchange.

Data presented is drawn from information publicly available on 31 October 2022 (the cut-off date) and is valid for the period from 1 November 2021 to 31 October 2022 (the 2022 reporting period).

The analysis in this year's report is based on actual fees paid to non-executive directors of the JSE Top 200 companies as disclosed in the annual financial statements of JSE-listed companies for the period under review (rather than forecast fees disclosed in the notices of AGMs). This analysis excludes preference shares, special-purpose listings, and suspended companies.

Directors' fees

As in previous years, we have analysed remuneration data using quartiles/percentiles rather than averages and standard deviations that assume a normal distribution. We include averages as a point of interest or where there are not enough data points to perform a quartile analysis.

We have restricted our analysis to active directors at the cut-off date, as opposed to all directors that have been reported on in the annual financial statements of companies. Therefore, in instances where non-executive directors have resigned from their roles, we have excluded them.

In the event that non-executive directors were appointed to their roles after the financial year end, they too have been excluded from the analysis. We also have not shown comparator figures.

Quartile/percentile ranges used in our analysis

- LQ – Lower quartile (25th percentile) 75% of the sample earns more and 25% earn less than this fee level.
- M – Median (50th percentile) 50% of the sample earns more and 50% of the sample earns less than this fee level.
- UQ – Upper quartile (75th percentile) 25% of the sample earns more and 75% earn less than this fee level.
- Average – Calculated by dividing the sum of the values in the set by the number of data points in the set.

Company size

In our experience, there is no definitive correlation between the market capitalisation of a company and the remuneration of directors. However, we have found that market capitalisation is a good proxy for size and complexity. It is also an appropriate metric to use when identifying comparator groups for benchmarking purposes. It is within this context that remuneration data of JSE's Main Board listed companies are analysed in terms of:

- **Super cap:** The Top 10 JSE-listed companies valued by market capitalisation
- **Large cap:** 1 to 40 JSE-listed companies valued by market capitalisation
- **Medium cap:** 41 to 100 of the JSE-listed companies valued by market capitalisation
- **Small cap:** 101 to 200 of the JSE-listed companies valued by market capitalisation.

AltX is the alternative public equity exchange for small and medium-sized companies operated by the JSE in parallel with the Main Board. AltX companies have been included in the above classifications to the extent that they were included in the JSE Top 200 by size.

Industry classification

This analysis applies the ICB, as used by the JSE. Fees paid to chairpersons and NEDs appointed to JSE-listed company boards have been categorised according to the company's ICB classification.

- Basic Materials
- Consumer Discretionary (previously Consumer Services)
- Consumer Staples (previously Consumer Goods)
- Energy
- Financials
- Health Care
- Industrials
- Technology
- Telecommunications

1 The board's role: building trust in a multi-stakeholder world

Trust is a firm belief in the reliability, truth, or ability of someone or something, in this case, the board. For organisations that aim to inspire confidence, it is essential to build trust and deliver sustained outcomes among a broad group of stakeholders – from investors, employees, and customers to local communities and regulators – and to offer a broad set of valid data ranging from financial statements to ESG analysis. In this chapter, which has been taken and adapted from PwC's Governance Insights Center[1], we take a closer look at why trust matters and how boards can influence trust among multi-stakeholder constituencies.

Trust matters

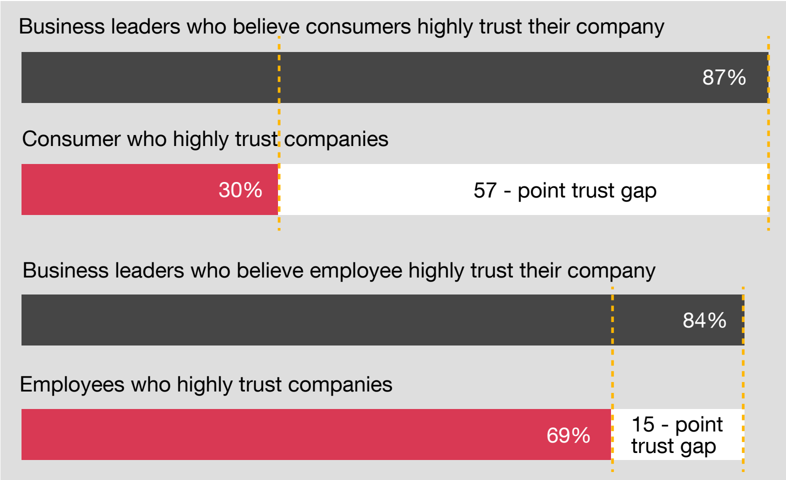
There's a growing realisation that companies must consider a broader group of constituencies in a different way than they may have in the past. Executives are increasingly recognising that in order to effectively serve shareholders, they must manage the benefit of all stakeholders. To achieve effective management, boards and directors must not only grasp who their stakeholders are, but also know what their stakeholders expect of the company. Boards and directors must also acknowledge to their stakeholders that keeping trust matters to the company.

Boards influence trust

The board's role in creating trust is two-pronged. They must be intentional about understanding the needs of each group of stakeholders and take action to develop trust with each. Simultaneously they must understand how management is doing the same, ensuring alignment. PwC's 2022 Consumer Intelligence Series Survey results also showed that management may overestimate the level of trust when it comes to certain stakeholder groups. Trust is not easily measured, nor is it immediately obvious when it begins to erode. Rather than treating trust-building as a discrete initiative, boards should consider the impact that all major strategic decisions have on stakeholders.

1 PwC Governance Insight Centre, June 2022 https://www.pwc.com/us/en/services/consulting/library/consumer-intelligence-series/trust-new-business-currency.htm

Figure 1.1: **Business leaders overestimate how much consumers and employees trust them**



Trust supports shareholder returns

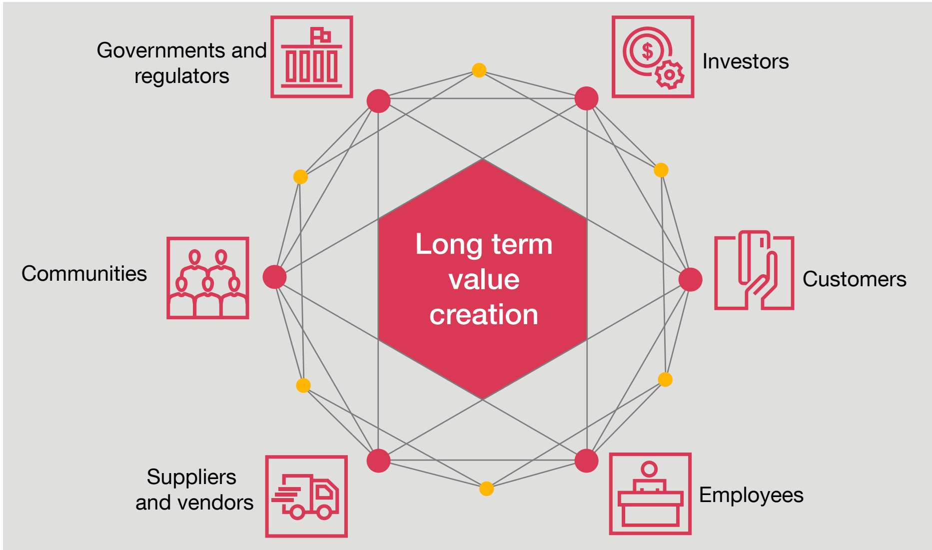
Building multi-stakeholder trust does not challenge or undermine boards' obligations to serve shareholders. Rather, it reflects the growing understanding of how a multi-stakeholder view contributes to shareholder value creation. Companies have long sought to balance stakeholder interests and competing timeframes to support long-term profitability. But many boards now recognise that establishing trust throughout the business cycle and across key parties can lend itself to sustainable shareholder returns. PwC's 26th Annual Global CEO Survey found that trust helps institutions and individuals "go far together" – winning today's race while running tomorrow's.[2] Advanced analysis of data from last year's CEO Survey[3] uncovered a statistically significant relationship between customer trust and financial performance. The analysis indicates that after industry conditions, levels of consumer trust are the biggest determinant of performance variance. These findings were remarkably consistent: industry by industry and across the board, analysis of the data from thousands of CEOs provides hard evidence that trust and performance is intrinsically linked.[4]

Focusing on trust can guide decisions

Stakeholders' interests often conflict. That's to be expected. For example, shareholders' desire to maximise earnings more often than not conflicts with employees' calls for higher wages, at least in the short-term. This has become even clearer in light of the higher-than-usual inflation rates. It can also be seen with regulatory demands for more stringent environmental impact studies and resulting in increased costs and/or time to do so (or for adherence), which could stand in direct conflict with a community's desire for the jobs that come with building a new manufacturing facility, for example.

Boards and management teams won't be able to resolve the inherent conflict among stakeholders. What boards can do is ensure that the strategies they and their companies implement for building trust with one group isn't developed in a vacuum. Using a multi-stakeholder approach to understand and harmonise, where possible, can result in better outcomes overall.

Figure 1.2: **Building trust with each stakeholder group**



To guide boards' thinking on how they can enhance trust with multi-stakeholder constituencies, we take a fresh look at each of the key stakeholder groups and discuss why trust matters, as well as how to build and keep it.

2 PwC's 26th Annual Global CEO Survey https://www.pwc.com/gx/en/issues/c-suite-insights/ceo-survey-2023.html

3 PwC surveyed 4,446 CEOs in 89 countries and territories in October and November of 2021

4 PwC, 2022. Translating trust into business reality https://www.pwc.com/gx/en/issues/trust/translating-trust-into-business-reality.html

	Why trust matters	How to build trust	Examples of trust	Questions for boards to ask
Investors In addition to having a fiduciary duty to represent shareholders, boards are broadly responsible for other investors central to the company's success, such as lenders and bond holders.	Investors provide the capital the company needs to operate. Shareholders and asset managers are attentive to ESG factors which can influence the company's reputation.	Improve transparency and engagement. It's extremely difficult to build trust when your stakeholders don't know what is happening behind closed doors. Consider whether your disclosures could be more targeted and impactful for investors and other users.	Organisations have to balance the needs of different types of investors such as equity versus debt holders and short versus long-term shareholders. Example: Shareholders pushing decarbonization initiatives may be comfortable with a 30-year payoff, but bondholders with a 10-year maturity may be less interested in the company risking the capital.	• Who are our key investors, and how can we balance their competing interests? • Is our shareholder engagement program reactive or proactive? • How does the company provide transparency both in engagement and disclosure? • In light of South Africa's greylisting by the Financial Action Task Force (FATF) , what measures does the company have in place to adhere to the anti-money laundering and counter-terrorist financing control frameworks?
Customers Customers not only provide demand, they also validate the company's value proposition by choosing to purchase their goods or services over competitors.	When trust is high, businesses and customers build mutually beneficial relationships. Customers benefit from knowing the company's offerings can reliably satisfy their needs. In turn, businesses earn loyalty, recognition, and endorsements – which could translate into revenues.	*Build a healthy relationship:* Whether B2B or B2C, customers respond better to companies they know, understand, and can communicate with effectively. Companies should evaluate their customer relationship management programs and compare the against their broader strategic priorities. Have these programs been updated in the last 1–2 years? How well-aligned is the company's PR /communications team with the customer management team? *Be honourable and responsible:* Consumers increasingly appreciate products and services that are produced responsibly, by a company whose values align with their own. Companies need to consider how their actions and choices align with their stated values as well as the values of their customer base.	Building customer trust from a strong value proposition often entails investment and agility. Example: The travel industry has earned trust during the pandemic by offering flexibility on bookings and change fees.	• How do we consider and provide transparency when it comes to our products or services? • How do we show that we value our customers? • How do we measure successful customer interactions? • How is customer feedback considered in strategic decision-making? • Do we protect our customers as envisioned in the Consumer Protections Act or the Protection of Personal Information Act?

	Why trust matters	How to build trust	Examples of trust	Questions for boards to ask
Employees Employees can be a company's greatest asset. But when they feel undervalued, it can erode trust between the company and its employees.	Success flows from the company's collective talent, including the skills of its individuals and the collaborative power of its teams. Trust affects the company's ability to attract and retain talent. Employees seek companies whose values align with their own. Loyalty and motivation are paramount, particularly in a labour market where talent competition is strong. Losing employee trust – through unfair practices or poor treatment – can be more than a disruption. It places both their employee relationships and brand reputation at stake.	*Invest in employee growth:* Employees want growth, meaning, and team spirit – not just compensation. Companies should invest in training and cultivate an environment where people can thrive. *Lean into purpose when addressing controversial topics:* Companies can build trust through authentic efforts to promote their values, listen to their employees, and take ethical stands.	Employees' interests need to be balanced with all other stakeholder groups. Example: A company that moves an office or operating facility out of a smaller community could erode the local tax base and diminish the quality of life for employees left behind.	• How do we measure employee satisfaction? How do we incorporate employee satisfaction into strategic decision-making? • How do we manage training, corporate culture, and equity of opportunity to build the best possible team? • How does leadership directly engage with all levels of employees? • How do executives create a company whose values, purpose, and opportunities are transparent and understood throughout the organisation? • Do we have a fair pay policy in place to ensure we pay our employees fairly and responsibly?
Suppliers and vendors Suppliers, vendors, and other collaborators – including distributors, advisors, consultants, and agencies – have symbiotic relationships critical to the company's business.	Suppliers and vendors want to partner with companies who operate at the same or higher standards hey hold themselves to. Trust in the relationship suffers when a collaborator or the company mistreats employees, violates regulations, or suffers a data breach.	*Respect the interests of both sides:* The company can build trust with collaborators by taking a long-term approach towards building strong, mutually beneficial business relationships.	Example: A company that resists the temptation to boost prices due to temporary pandemic supply shortages burnishes its relationship with distributors.	• How do we protect assets such as data received from and given to a collaborator? • How do we consider culture and values as part of the a collaborator's due diligence, contracting, and ongoing evaluation process? • Does brand alignment feature in the strategic business decisions when selecting collaborators throughout the value chain?

	Why trust matters	How to build trust	Examples of trust	Questions for boards to ask
Communities In addition to the people living near a company's headquarters and manufacturing facilities, companies need to build trust with all people affected by its entire supply chain, including retail locations and distribution routes.	A company's relationship with the community underpins its social licence to operate. That social licence is tendered to a company through trust. Under the broader interpretation of stakeholder interests, the community plays a more prominent role than in the past. Communities now exercise more influence on corporations than ever due to the relatively quick access that social media provides to widely spread messages and opinions.	*Support the community:* The company can build trust by supporting local initiatives and considering community interests in its mission and values. *Engage the community and remediate differences:* The company must address controversies and unintended consequences resulting from its activities. The address must not only be made without undue delay but also thoroughly thought out.	The company may simultaneously negatively and positively affect the community, causing divisions or tension. The community may welcome jobs and income but reject congestion, pollution, and cost-of-living increases. Example: Large employers can consider investing in affordable housing in areas where their wages drive up real estate prices.	• How are we connected to local communities? • How do we monitor the perception of our organisation in the communities we serve? • Are we identifying local suppliers to uplift the community to curb the abnormally high youth unemployment? • How are we considering the community when we are addressing the 'S' in our ESG strategy?
Governments and regulators Lawmakers, regulators, and enforcement agencies provide guardrails within which companies operate. Governments can promote standardised frameworks and a level playing field.	Amid deep partisanship, the the regulatory agenda is likely to be less stable. Trust helps the company ensure that its perspective is considered. Taxes, licensing and disclosure requirements, and other regulatory fees can impact on the company's earnings and ability to operate. Ensuring the company has a voice in legislative, regulatory, licensing and disclosure conversation, can create a more cooperative relationship between, the company, industry and applicable regulatory body.	*Act responsibly:* Showing that the company will do what is right can lend itself favourably to public perception. *Collaborate effectively:* Communicating openly and finding common ground with regulators can create a working relationship with positive outcomes for all parties.	Example: A tech company that provides transparency and proactive measures to protect users' interests may have a greater influence in shaping new privacy and data-sharing regulations.	• How are we staying on top of current and proposed rules? • Are we acting responsibly in the eyes of regulators, and are we establishing working relationships with officials? • Is management commenting publicly or privately on new or proposed laws and regulations?

Trust: more than an agenda item

Viewing trust as simply another item to add to the board's already crowded agenda would be a mistake. Rather, trust is a theme and a strategic imperative that should shape all the board's deliberations and serve as a beacon to guide management. Using our framework as a starting point, the board can assess the nuances of how these principles come to life in its industry.

Most companies accept and acknowledge that shareholder trust matters. Thinking through how trust with other stakeholders might affect returns and broader shareholder relationships is an extension of that concept. Identifying key stakeholders, evaluating relationships with them, and undertaking activities to build those relationships may take time and expense, but can be an investment in greater future stability. Stakeholder trust is complex but paramount. The erosion of trust can undermine the company's reputation and ability to deliver sustainable, long-term value for shareholders. Incorporating a trust lens into oversight responsibilities represents one of the powerful ways boards can strengthen their companies today.

2 New perspectives in the boardroom

Continuing calls for diversity of board membership will increase pressure for accelerated refreshment of board composition.

In South Africa, the proposed mandatory re-election sanction of RemCo members on a failed shareholder vote on the renumeration implementation on report, adds another succession challenge to the already small pool of NEDs in South Africa.

The Companies Act Amendment Bill proposes various changes to South Africa's business sector and the proposed remuneration related changes are of particular interest. The proposed section 30A(9) states that where the implementation report is not approved by ordinary resolution:

- The RemCo of the company shall, in the following annual general meeting, present an explanation on the manner in which the shareholders' concerns have been taken into account.
- The NEDs that serve on the RemCo shall be required to stand down for re-election every year of such rejection of the implementation report.

The bill is unclear as to whether RemCo members will be required to stand down for re-election to the committee or to the board, but as the remuneration committee is not a statutory committee, we assume that members will be required to stand down from the board as a whole.

It is common for RemCo members to sit on other committees as well, and the proposed amendment brings forth the possibility of an exit of directors. In the 2022 edition of this report, we surveyed 51 NEDs and a quarter of survey respondents were reconsidering their membership of RemCos as a direct result of the perceived burdens and risks arising from the proposed amendments to the Companies Act in their current form. This would mean that new directors will enter the boardrooms of various public and state-owned companies. In previous editions of this report, we have stressed the importance of board composition and diversity. While the fresh perspectives of new directors are welcome, the question must be asked, how can new directors become great directors?

In this article we explore what boards think about refreshment and succession, we take a look at the skills, competencies, or attributes that boards are seeking, the importance of onboarding and in particular the tools that can be deployed to assist new directors.
We also look at actions that can be deployed for strategic succession planning in the boardroom.

What do boards think about refreshment?

PwC's 2022 Annual Corporate Directors Survey[6] indicate that almost half of directors (48%) think at least one director on their board should be replaced. Nineteen percent would replace two or more of their fellow directors. Directors are also more likely to identify performance related issues with their peers. In 2022 almost one in five (19%) say that fellow board members are reluctant to challenge management – up from 12% in 2021. Directors are also more likely to identify peers who overstep the boundaries of their authority (17%, up from 11% in 2021).

However, despite discontent, boards reject refreshment tools. It could be argued that a **mandatory retirement age** can be a strong tool to encourage refreshment, but only 14% of directors think their board would be willing to adopt a retirement age of 72 or younger, while (62%) think they would not be willing to adopt such a policy. **Mandatory term limits** are even more unpopular. Seventy percent of directors say their board would not adopt term limits of 12 years or less. Just (7%) have such a policy in place, and less than a quarter (23%) think their board would be willing to adopt it. Implementing an **individual assessment process** may be one area that could make a difference in board refreshment. More than one-third of directors (37%) say their board uses the practice, and another (35%) think their board would be willing to adopt it.

A similar survey has not been conducted in South Africa and notwithstanding the differences in the landscape, we believe the research points to frank and sometimes opposing questions that South African boards and nomination committees should be thinking about, for example:

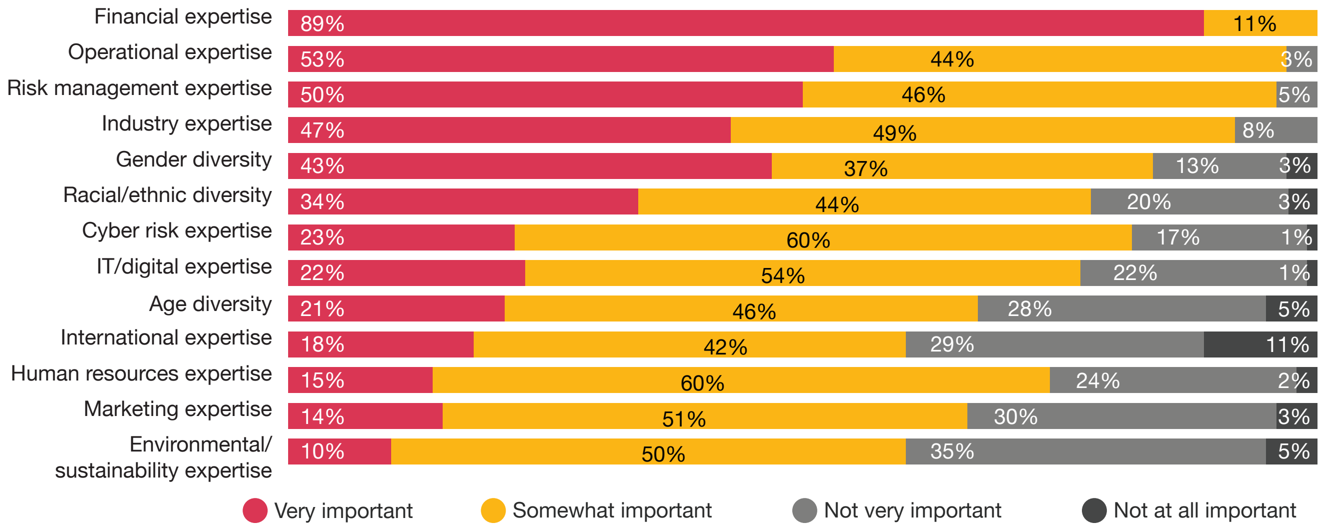
- Are board assessments robust enough or a mere compliance box-ticking exercise?
- Do we need to conduct individual performance assessments of each director?
- Is enough being done to promote diversity on boards?
- How does the talent drain in South Africa influence our thinking about board refreshment and succession planning?

6 PwC's Annual Corporate Directors Survey has gauged the views of public company directors from across the United States on a variety of corporate governance matters for more than a decade. In 2022, 704 directors participated in our survey. The respondents represent a cross-section of companies from over a dozen industries, 72% of which have annual revenues of more than $1 billion. Seventy-three percent (73%) of the respondents were men and 27% were women. Board tenure varied, but 64% of respondents have served on their board for more than five years.

What skills, competencies, or attributes are boards seeking?

Participants in the survey were asked to describe the importance of the following skills, competencies, or attributes on their boards:

Figure 2.1:



Due to rounding, not all rows will add up to 100%

Will South African directors give similar responses to these questions? We expect that South African boards will rank ESG experience and diversity higher and we explore these two themes further below.

PwC's 26th Annual Global CEO Survey shows that companies across Sub-Saharan Africa are taking action on climate and social risk issues. However, more needs to be done.

The PwC Africa Business Agenda: ESG Perspective 2023, looks at some of the survey results related to the 'E' and 'S' components of ESG; specifically, CEOs' concerns and actions around climate and social risks and opportunities. The region's business leaders have told us that they are concerned about climate change and social instability.

The JSE listings requirements provide that the board of directors (or the nomination committee) must implement a policy on the promotion of a "broader diversity at board level, specifically focusing on the promotion of the diversity attributes of gender, race, culture, age, field of knowledge, skills and experience".

Companies are further required to disclose in their annual report the methods used by the board in considering and applying this policy in the nomination and appointment of directors, to explain why any of the diversity indicators have not been applied and to report on the progress they have made in respect of the agreed voluntary targets.

These principles are also included in King IV™ which states that a company's board should have *"an appropriate balance of knowledge, skills, expertise, diversity, and independence for it to discharge its roles and responsibilities objectively and effectively"*.

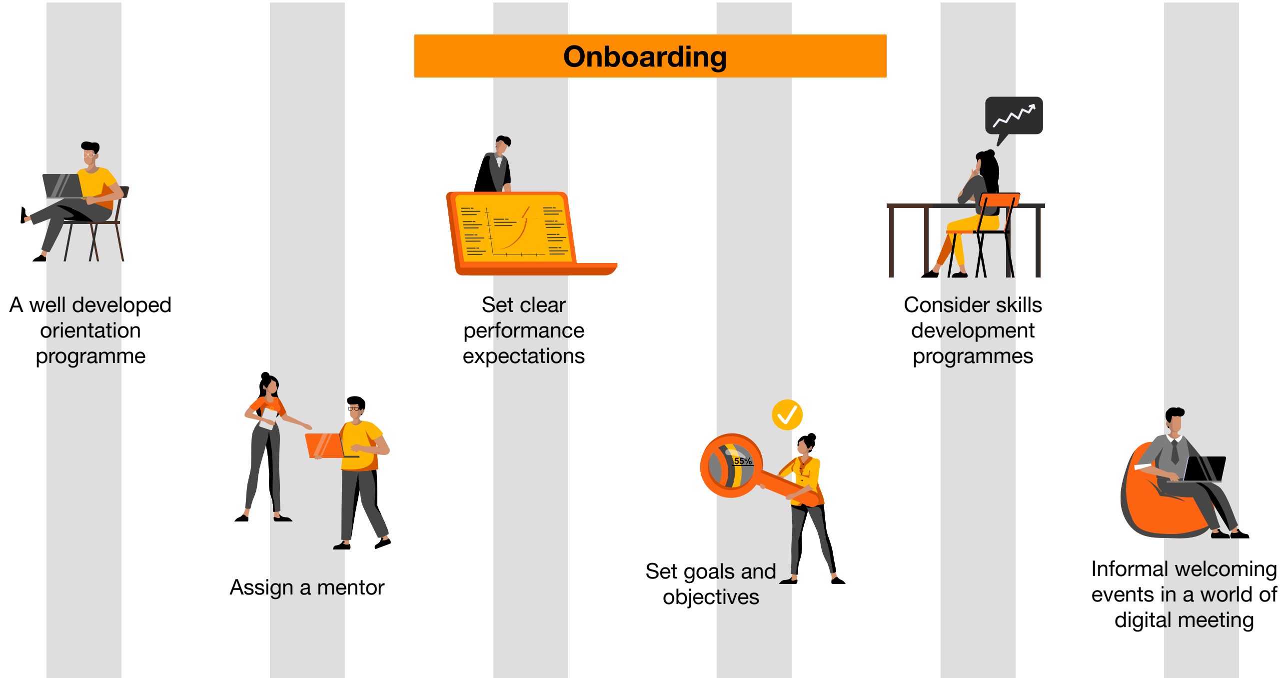
The two largest proxy advisor firms state the following regarding gender diversity:

The ISS updated its South African voting guidelines for gender diversity recommendations in October 2022 whereby one woman director on the board is the minimum requirement. The diversity policy will take effect for meetings on or after 1 October 2023, providing companies with a one-year grace period to consider the guideline, failing which the ISS may recommend a "no vote" against the re-election of the nomination committee chair (or, if not on the ballot, the board chair or other appropriate director). Glass Lewis has not updated their voting recommendations since 2022, but their voting guidelines already state they will consider voting against the nomination committee chair and/or its members if the company failed to adopt a gender diversity policy or targets and/or has no female board members.

It will be interesting to see if these guidelines and the voting recommendation power that comes with it, will influence gender diversity on South African boards favourably.

How do new board members become successful board members?

New directors can accelerate their onboarding and be prepared to contribute to board deliberations more quickly if they follow a comprehensive onboarding process:



Being prepared and adequately equipped is a vital part of becoming a successful board member.[7] A well-organised induction programme can provide a solid platform for new directors to contribute meaningfully and to add value to the board.[8] Such induction is of critical importance and is also highlighted by Principle 7 of the King IV™ Report.[9]

7 5 Ways to Become a Great Board Member' Jane Stevenson & Tierney Remick, https://www.kornferry.com/insights/this-week-in-leadership/5-ways-to-become-a-great-board-member?utm_campaign=07-22-21-twil&utm_source=marketo&utm_medium=email&mkt_tok=NDk0LVZVQy00ODIAAAF-bDXplLLTJKTQtg1zOn_zH8QEC-cvellIgAfpKCz704-WIpzKTyCgD7Rz_UA7cHGG_BAn8X5W8k0Sot65mRuTOfNvDVWxDDKkD6ZUUPH4ihUknsM (15 September 2021).

8 'Onboarding of new directors' Parmi Natesan and Prieur du Plessis, https://www.iodsa.co.za/news/558354/Onboarding-of-new-directors.htm (4 October 2021).

9 'Why Effective Onboarding Is More Important Than Ever' Meighan Newhouse https://www.forbes.com/sites/forbeshumanresourcescouncil/2020/12/02/why-effective-onboarding-is-more-important-than-ever/?sh=35601d853f66 (3 November 2021).

A typical orientation programme should provide an overview of the following:[10]

- the company's industry, strategy, competitors and market position;
- organisational structure, operations and key personnel;
- key business issues, risks and legal matters;
- key regulators and their area of focus;
- overview of applicable JSE listings requirements (if applicable);
- board operations, legal requirements and duties, committee structure and charters, typical meeting schedule, and the rhythm or cadence of meetings;
- review of director duties of care and loyalty, and the business judgement rule;
- policies that impact directors (ethics, conflicts of interest, NED fee policy etc.);
- key applicable policy under the remit of an applicable board committee;
- management financial reports, critical accounting policies, capital structure and liquidity;
- earnings trends, earnings guidance practices;
- interviews with the company's auditors and other advisors;
- analyst interactions and shareholder engagement strategy.

10 PwC: "New director orientation to the board"

A recipe for succession

Succession planning is defined as the process of passing on leadership roles.[11] The King IV™ is clear that a succession plan is important for both executive and non-executive directors.[12] Boards often tend to defer succession planning, however[13], this could create challenges and boards can be stuck in limbo in the case of the passing of time, board failure, or death.

Some of the reasons why boards make use of succession planning include: the opportunity to get a headstart in obtaining top talent, the prevention of "groupthink"[14], to ensure diversity amongst the board, maintaining an institutional knowledge balance regarding institutional knowledge, the enhancement of shareholder and stakeholder trust, maintaining board power balance and to ensure that shareholders and stakeholders are unaffected by changes in leadership.

Five actions that can be adopted by boards toward strategic board composition are quoted below from a joint global study by PwC and Spencer Staurt[15]:

- **Make board refreshment and succession planning priorities on the agenda** – Boards are unlikely to tackle these topics in a rigorous way unless it is explicitly part of their agenda. It is therefore critical to regularly carve out time on the nomination committee and board agendas. Board culture also has a role to play. The culture has to allow for frank and candid dialogue about board composition, director tenure and independence, retirements, and the need for different director skill sets. These are sensitive, difficult discussions, which make strong board leadership all the more essential. Furthermore, shareholders also have a critical role to play when voting for new directors.

- **Assess skills and attributes, and incorporate results from performance assessments** – As companies are innovating, implementing new technologies, and entering into new markets, their business models may call for directors with new or different skill sets. Boards shouldn't focus on adding a director with just a singular new skill set (e.g., cyber or human resources) – directors need to be able to contribute in all areas of board oversight.

- **Set directors' expectations around tenure** – Board leadership sets the tone about the length of director service at the outset. They ensure directors understand that re-nominations are not simply assumed – they are based on the evolution of the company and board and sustained high performance at the individual director level as well as the need to remain independent. Most South African boards are staggered with one-third of the board elected each year. Some proxy advisors view staggered boards as less accountable than boards that stand for re-election each year.

- **Take a multiyear view toward departures and address upcoming leadership changes** – A key part of strategic board refreshment and succession planning is anticipating and proactively addressing planned and unplanned vacancies in the boardroom. Without a plan, the board may feel pressure to waive or change board policies, including mandatory retirement ages, or simply recruit a director with the same profile as the one retiring. This ad hoc approach doesn't allow the board to think more broadly about alternatives that may result in a better fit or better board performance.

- **Agree on a succession plan that prioritises needs and builds a talent pipeline** – Strategic board refreshment will bring in discussions around director departures, tenure evaluation, skill set assessment, and performance assessment results to agree on a multi-year succession plan.

The process of introducing new directors on the one hand and succession planning on the other is an iterative process. The shrinking talent pool in South Africa[16] adds another layer of complexity and the need for new directors is apparent. Companies should be aware that these new directors need support on their journey to becoming great directors. A proper onboarding process should be carried out and opportunities for skill development should be made available. A succession plan rooted in diversity is crucial for the sustainable development of the company and diversity across the board.

11 'Succession Planning' Will Kenton, https://www.investopedia.com/terms/s/succession-planning.asp (3 November 2021).

12 The King IV™ Report on Corporate Governance for South Africa.

13 'Overlooked succession planning needs to be at top of a board's list' Parmi Natesan & Prieur du Plessis, https://www.businesslive.co.za/bd/opinion/2021-02-02-overlooked-succession-planning-needs-to-be-at-top-of-a-boards-list/ (1 October 2021).

14 Groupthink is a phenomenon that occurs when a group of individuals reaches a consensus without critical reasoning or evaluation of the consequences or alternatives.

15 https://www.pwc.com/us/en/governance-insights-center/publications/assets/pwc-board-composition-the-road-to-strategic-refreshment-and-succession.pdf

16 'South African business in a panic over emigration' Business Tech https://businesstech.co.za/news/lifestyle/671311/south-african-businesses-in-a-panic-over-emigration/ (22 March 2023)

3 Applying discretion: A balancing act?

One of the important lessons which we have learnt during the COVID-19 pandemic is that the ability to adaptability is crucial for business survival. The setting of incentive targets is a challenging exercise for board and remuneration committees and the current volatile and uncertain environment makes this process an even more demanding endeavour. In addition to global disruption and uncertainty, South African boards also face the ongoing energy crisis with load shedding having affected the profits and the global competitiveness of many businesses as well as having to consider the impact of South Africa's recent greylisting.

Most boards may have been faced with unusual circumstances which require the use of discretion for the adjustment of incentive targets or incentive vesting outcomes. Boards and RemCos in particular should remain agile when applying discretion in relation to incentive targets, and perhaps consider the principles underlying the scheme as the first priority. The need to retain key talent while also taking into account the risk-reward relationship of various stakeholders when making these adjustments.

Although boards are encouraged to stick to the script when evaluating targets of executive remuneration arrangements, deviations may be required in certain instances. In this chapter we investigate the key questions boards should be asking to assist with their deliberations and investigate if it is possible to balance the needs of all stakeholders.

To adjust or not?

From a governance perspective, principle 14 of King IV™ states: *"The governing body should ensure that the organisation remunerates fairly, responsibly and transparently, so as to promote the achievement of strategic objectives and positive outcomes in the short, medium and long term."*[21] This is the fundamental principle related to remuneration and should act as a constant check when designing remuneration structures, and should also be considered when applying discretion as to when to adjust targets.

King IV™ Recommended Practice 34.3.1 states that when designing that structure of incentives plans: *"The structure of variable pay for executives should seek to moderate the impact of positive or negative factors that are completely outside of their control, but influence the overall performance of the organisation. The issue of affordability in the determination of incentives cannot be ignored, and incentive plans need to take into account an organisation's financial constraints or distress."*[22]

Proxy advisors (as is the case of many institutional shareholders), have strong views on the application of discretion to incentive outcomes: The ISS[23] recommends a vote against remuneration reports where discretion has been used in a manner which is not consistent with shareholder interests.[24] This is consistent with Glass Lewis[25]' view, who go as far as saying that they may recommend voting against an entire committee in the case of inappropriate use of discretion in determining variable remuneration, or sustained poor pay-for-performance practices.[26]

What are the key considerations boards and RemCos need to consider when faced with the question if incentive targets should be adjusted?

21 Principle 14 of King IV™

22 Principle 14 of King IV™

23 Institutional Shareholder Services group of companies (ISS) is a proxy advisory firm

24 'South-Africa-Voting-Guidelines' ISS 'https://www.issgovernance.com/file/policy/active/emea/South-Africa-Voting-Guidelines.pdf?v=1 (accessed on 8 February 2023).

25 Glass, Lewis & Co. is a proxy advisory firm

26 '2022 Policy Guidelines' Glass Lewis https://www.glasslewis.com/wp-content/uploads/2022/09/Voting_Guidelines_ZAF_GL_2022.pdf?hsCtaTracking=4c5ee25e-9843-440f-a327-2af813e6b20c%7Caed8fa0f-379b-40a0-98ce-309bb37126dc

Don't act too quickly

Collective corporate governance principles advocate that boards and RemCos should not act too quick to endorse management's requests to adjust incentive targets. This means boards might prefer to wait and further assess the impact of the situation they find themselves in before making changes half-way through a performance period, for example. This will allow boards to paint a clearer picture on whether target adjustment is needed and the extent of such adjustment.

If a decision is made to adjust targets, boards should consider all facts and stakeholders carefully. The limited use of discretion is further confirmed by the fact that the forces responsible for uncertainty generally affect results both positively and negatively and tend to balance out over time – this means that in times of declining performance vesting outcomes will invariably be lower but targets will also be set off a lower base.

Look at the bigger picture

If a holistic remuneration package promotes the view that adjustments are not required to one particular element of pay, the need for adjustments could be avoided. Before taking the decision to adjust targets, it might be worth looking at all components of reward to assess the overall impact, for example:

- Review the nature of the adjustment. Adjustments should generally only be made for non-recurring items that were unplanned, uncontrollable and could not have been reasonably anticipated.
- Consider the ten-year performance history outcomes of short- and long-term incentives to determine if there is a history of a strong correlation between pay and performance. If targets are frequently exceeded resulting in maximum incentive pay-outs, it could be a signal that targets are not sufficiently stretching, this in turn would trigger the question if an adjustment to targets can indeed be justified.
- Investigate the quantum of fixed and variable executive remuneration relative to the selected peer group – both from an actual and policy perspective.
- Examine if executives have "skin in the game" via shares that they own in their personal capacity. In other words, is there strong shareholder alignment due to executives' shareholding providing them with the same experience as other shareholders?

Is the scheme design fit for purpose?

The reliance on discretionary adjustments may be limited where issues underlying the design of the schemes are addressed in the first instance. For example:

- Does the design of the incentive scheme drive the behaviours we are looking for? Typically, remuneration packages can be structured as:
  - **Higher-risk, highly-geared:** in such a design, guaranteed pay is modest, with more gearing on long-term incentives, thus providing a modest guaranteed portion, with great potential for upside in the event of outperformance
  - **Low-risk, low-geared:** in this design the total reward is tilted towards guaranteed pay, with commensurately less opportunity for upside in the variable pay.
  - **Balanced approach:** this approach sits between the other two approached and balanced guaranteed and variable pay.
- Is the design itself fit for purpose? For example: should executives be remunerated if they fulfil some of the KPIs (this is typically the case in an additive bonus scheme), or are we applying an "all or nothing" approach where failure to achieve one measure leads to no incentive at all (this is typically in case in so-called multiplicative bonus schemes). Therefore, instead of adjusting targets, consider if the scheme design can be adjusted for future awards.
- Consider if absolute measures should be balanced with relative measures to reflect peer group performance.
  The basic categories of measures which companies are able to utilise in setting appropriate targets are absolute and relative measures. Absolute measures are based on the company's annual performance while relative measures are based on how companies perform relative to its peers.[27] A variable incentive scheme which uses a combination of relative and absolute measures could mitigate the need for adjustments. The use of relative measures is however challenging in the South African market due to the small number of companies to compare against and should be considered with caution.

27 'Setting Goals for Executive Incentive Plans' David Wang https://www.shrm.org/resourcesandtools/hr-topics/compensation/pages/settinggoalsforexecutiveincentiveplans.aspx (accessed on 8 February 2023).

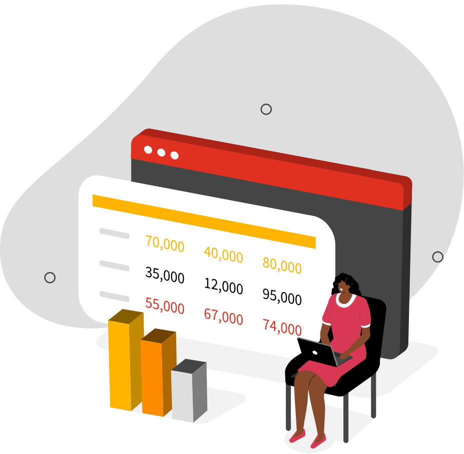
Maintaining the balance

Shareholders have generally frowned upon the use of discretion, however in a time of crisis it could act as a saving grace to promote renewed focus and a stronger future.[28] The instances where discretion needs to be applied by boards, usually form part of a long, tough decision making process where the interests of all stakeholders should be considered, including that:

- The retention of key talent is necessary to drive the success and growth of the business.[29] However, discretion should not be used as a tool to reward executives inappropriately in periods of under-performance.
- A pay for performance philosophy suggests that if shareholders are experiencing poor results, then management should share in the burden, and vice versa.
- The current economic environment has led to an increased focus on the principle of fair and responsible remuneration and its application across an organisation.[30] As such, any exercise of board discretion is likely to be scrutinised to understand whether it was applied in a balanced manner which will not disadvantage the company, its employees or shareholders.

Be transparent about it

Where discretion is applied to adjust performance targets, boards and RemCos must provide a clear indication and adequate justification of the adjustments, the rationale for their adjustment and how they arrived at the adjusted outcomes. The annual remuneration report should contain this detail to allow all shareholders to determine the appropriateness of any discretion that was applied in this regard.



28 'What to Do About Annual Incentive Plans in the Pandemic' Harvard Law School Forum on Corporate Governance https://corpgov.law.harvard.edu/2020/09/11/what-to-do-about-annual-incentive-plans-in-the-pandemic/ (accessed on 8 February 2023).

29 'COVID-19 issues for remuneration committees' Lexology https://www.lexology.com/library/detail.aspx?g=fe309168-353e-44cf-8130-002711b91040 (accessed on 6 February 2023).

30 'COVID-19 Is Rewriting the Rules of Corporate Governance' Harvard Business Review https://hbr.org/2020/10/covid-19-is-rewriting-the-rules-of-corporate-governance (accessed on 6 February 2023).

Conclusion

Boards work hard to promote and oversee fair, responsible and transparent remuneration, however unexpected challenges may prompt the need for the use of discretion. By its nature and definition, the application of discretion is not an exact science. However, applying the principles above can go a long way in ensuring fairness in exercising discretion.

4 Is it "paying off" to be a non-executive director?

The world keeps getting more complex and being a non-executive director goes far beyond merely attending and preparing for board meetings, in fact, the scope and mandate of a NED is broad and perceived as all-encompassing. From the perspective of investors, NEDs play a vital role in the oversight and control of a company's activities and are expected to provide expert and independent guidance on specific matters. It is essential that the remuneration of NEDs is not structured in a way that jeopardises this vital role.[31]

RemCos spend an increasing amount of time discussing executive pay with shareholders, but the issues pertaining to their own pay as NEDs are hardly ever discussed during these engagements. The shareholder vote on the remuneration policy and the remuneration implementation report is currently non-binding. This means that although a shareholder engagement process is triggered where the remuneration policy and/ or implementation report is not approved by at least 75% of shareholders who cast a vote, companies can proceed to implement their remuneration policies and essentially pay executives accordingly, despite not having the necessary approval of shareholders.

31 ICGN Guidance on Non-executive Director Remuneration

The approval of NED fees on the other hand is subject to a special shareholder resolution and the non-approval thereof has serious ramifications that could result in the inability to pay NED fees. In terms of the provisions of the Companies Act, a company may only pay remuneration to NEDs for their services to the extent that such a special resolution was approved by shareholders within the previous two years[32]. The non-approval of NED fees might therefore trigger an extraordinary shareholder meeting leading to additional costs for shareholders.

NED fees consist of ordinary fees to cover the "normal" contribution of each director for attending to their duties, including attending board and subcommittee meetings, meeting preparation, stakeholder management, and any other agreed tasks. In the South African market, NEDs are either remunerated on an annual retainer fee only, an annual retainer fee including a per meeting fee, or on a per meeting fee only basis, with the former being more prevalent. We have however observed an increased trend to seek approval for special purpose fees (also known as ad hoc fees) in response to identified business needs - most notably payable under "business unusual" or special circumstances. These fees are either structured as an hourly rate, daily rate, or per meeting rate.

In this chapter, we investigate under which circumstances shareholders and proxy advisors may oppose the payment of special purpose fees, what merits special purpose fees and consider practical tips to ensure NED fees are approached in a transparent manner.

32 Section 66(9) of the Companies Act

Shareholder and proxy advisor views

From what we have observed, shareholders oppose the payment of special purpose fees in the following circumstances and for the following reasons:

- Shareholders generally oppose the payment of special purpose fees due to the lack of proper disclosure and engagement of what would merit such payments. We attribute this due to hesitance to prospectively approve "blanket" ad hoc fees, or retrospectively where the detailed rationale for the payment of such fees is not disclosed. Remuneration policies generally contain transparent disclosure of executive remuneration arrangements but more often than not, boilerplate language is used to disclose the fee policy applicable to NEDs. In our view, transparent disclosure by companies setting out the rationale and circumstances under which additional fees may be payable would assist investors to make more informed decisions.

- Corporate governance standards indicate that directors should not provide consulting services to the company of which they are a director. This is not intended to preclude a director from undertaking assignments for the board which properly fall within the definition of a director's duties. It is therefore important that NED fee policies make a clear distinction between consulting fees (which are generally not encouraged) versus fees for carrying out additional duties.

- Increased board responsibility and expanding regulatory demands mean higher expectations for board performance. The board is collectively responsible for leading and directing an organisation's activities and supervising any delegated functions to management and/or board committees. The board also has a responsibility to guide the organisation's strategic direction, set performance objectives and oversee investment decisions. Ongoing development and bespoke training as a means of strengthening their knowledge is therefore important.

  While shareholders acknowledge that companies benefit from properly skilled directors and that companies need to reimburse or cover the costs of such training, there is a general opposition to paying additional fees for the time spent by non-executive directors for attending training or upskilling themselves.

The voting policies of institutional investors do not expressly oppose ad hoc meetings, but such opposition may be inferred from their resistance to approving general ad hoc fees on a prospective basis or "blanket basis" where the rationale might lead to the payment of such fees not being disclosed. There are some proxy advisors who go as far as to say that they categorise hourly rates paid to NEDs as "consulting fees" that may compromise the independence of a NED, and therefore, they disapprove of this fee structure, for example:

Glass Lewis' updated voting policy for South Africa[33] declares NEDs non-independent and it states that *"if the value of any professional or consulting services provided directly by the NED exceeds 30% of fees paid to them, the related party transaction will be considered material and the NED will not be considered independent".*

As a result of the (potential) impact on director independence, the ISS voting guidelines for South Africa also advises against the open-ended authorisation of ad hoc or consultation fees of NEDs.

It is therefore important to make a distinction between what would constitute a consultancy fee versus ad hoc fees for additional duties that would be classified as "board fees". Boards need to evaluate these matters carefully and ask critical questions, not only about the nature of the services but also around the timing of the thereof. For example:

- Did the services go beyond typical director responsibilities to merit the payment of an ad hoc fee?

- Are there instances where the lines between consultancy fees and ad hoc fees are "blurred" for example: if a board member negotiates with lenders on behalf of the company where this duty would traditionally be the responsibility of the CEO and CFO.

- Should ad hoc fees be approved on a prospective or retrospective basis and what are the risks of both alternatives? What additional benefits have shareholders received as a result of the additional duties?

- Whether additional board meetings were held for a specific business purpose (such as a potential merger or acquisition) and/or whether additional meetings were the result of inefficiency.

Where does this leave NEDs who are putting in the time and effort over and above their general duties in dealing with extraordinary circumstances in respect of a company's business? We believe the answer lies in proper engagement and disclosure – this will assist investors in making informed voting decisions. These issues are explored in further detail in the next section.

33 Glass Lewis, 2022, South Africa Policy Guidelines, https://www.glasslewis.com/wp-content/uploads/2022/09/Voting_Guidelines_ZAF_GL_2022.pdf?hsCtaTracking=4c5ee25e-9843-440f-a327-2af813e6b20c%7Caed8fa0f-379b-40a0-98ce-309bb37126dc, 1 February 2023

What warrants the payment of special purpose fees?

There are differing views when it comes to determining whether NEDs should be remunerated beyond the agreed annual retainer fees and/or per meeting fees for serving on the board/board sub-committees. In South Africa, we rely on the King Code, more specifically, King III™ Code on Corporate Governance ("King III™") and King IV™, which do not define special meetings and ad hoc meetings. The general consensus defines these meetings as 'meetings held as a result of exceptional circumstances'.

King III™ included specific principles and recommendations regarding NED fees which have been reinforced and strengthened with the introduction of King IV™. The King III™ Remuneration Practice Notes allow for supplementary fees to cover additional workloads assigned to NEDs, subject to the required approval being obtained.

Special purpose fees should therefore be considered only where directors are required to contribute time over and above what would be considered an 'ordinary' commitment, and with appropriate justification from the company. Such fees are not the norm and are only considered in exceptional circumstances as extraordinary requests. Examples of exceptional circumstances could be:

- Situations requiring significant director involvement in a specific and time-limited major issue, such as establishing or restructuring a company or a major acquisition or during a time of crisis; or
- The establishment of a special committee to deal with matters that are not covered by ordinary board or sub-committees; or
- Directors representing the company on relevant industry committees or boards, where the commitment is significant.

Practical considerations

To mitigate any anticipated opposition to special/ad hoc fees, the following practical steps may be considered:

1. Develop a NED fee policy

The board mandate or NED policy needs to be clear as to what work or services count as exceptional in the light of the ordinary course and scope of a NED's duties. What is considered exceptional will ultimately depend on the NED's mandate. The following additional guidelines may be applied in defining whether a meeting qualifies as a special/ad hoc meeting warranting the payment of additional fees:

- Define if fees will be paid on a prospective or retrospective basis and ensure that the necessary shareholder approvals are in place;
- A minimum length of the meeting should be defined, e.g. a 15-30 minute phone call amongst sub-committee members may not be viewed as a meeting;
- The reason for the additional meeting or time spent - i.e. whether it was for a strategic purpose (such as a project which is linked to the company's strategic objectives with the goal of improving performance which requires additional meetings or a temporary separate sub-committee) or a result of NEDs not being able to fully discharge their duties in the allotted number of scheduled ; and
- Requirements that will constitute an extraordinary meeting, for example, attendance of a minimum number of members to constitute a special/ad hoc meeting.

It is common practice for companies to pay additional fees for travel and other disbursements. In addition to the payment of special purpose fees, a well-defined NED fee policy should contain sound policies and clarify all matters concerning board remuneration and benefits available, board expenditure, and the payment and authorisation process for directors' fees and expenses. The policies and procedures for directors should include the following, where applicable (the list is not exhaustive):

- travel (domestic and international),
- accommodation and expenses
- training and development of directors
- car parking, use of personal motor vehicles, rental vehicles and taxis
- entertainment and hospitality
- communications and telephone usage, including mobile telephones, internet/data
- insurance (e.g. key person insurance)
- secretarial support for board members

2. Disclosure

Once adopted, a detailed overview of the NED fee policy should be presented to shareholders in the annual remuneration report, including the rationale for special purpose fees and the parameters in terms of which such fees would be payable as well as the timing of the approval of such fees (that is prospectively or retrospectively). This allows shareholders to give their input as well as clearly set out the circumstances under which such meetings should take place, for the benefit of all relevant stakeholders.

3. Engagement – address the elephant in the room

The appropriate representative at the company should engage with investors ahead of the AGM where there are changes in the fee structures - this could either be abnormal increases or to discuss the rationale behind the payment of special purpose fees, be in prospective or retrospective approval. Where conflicts of interest could arise, the company secretary could lead the engagement sessions with shareholders on board fees. The responsibilities of the modern-day company secretary have evolved from that of a "note taker" at board meetings to one which encompasses a much broader role of acting as "board advisor" and having responsibility for the organisation's corporate governance and is therefore ideally placed to lead such engagements.

Conclusion

Many NEDs question whether the complexity and the increased breadth of their responsibilities is adequately reflected in their own remuneration. Detailed reviews of NED fees should therefore be undertaken to assess this from time to time - this will enable parties to assess the risk versus reward trade-off. The review of normal fees should however be distinguished from special purpose fees which should be payable in extraordinary circumstances and in line with a NED fee policy. We believe the answer to the payment of additional NED fees under exceptional circumstances over and above "normal" fees, lies in adequate engagement and disclosure.

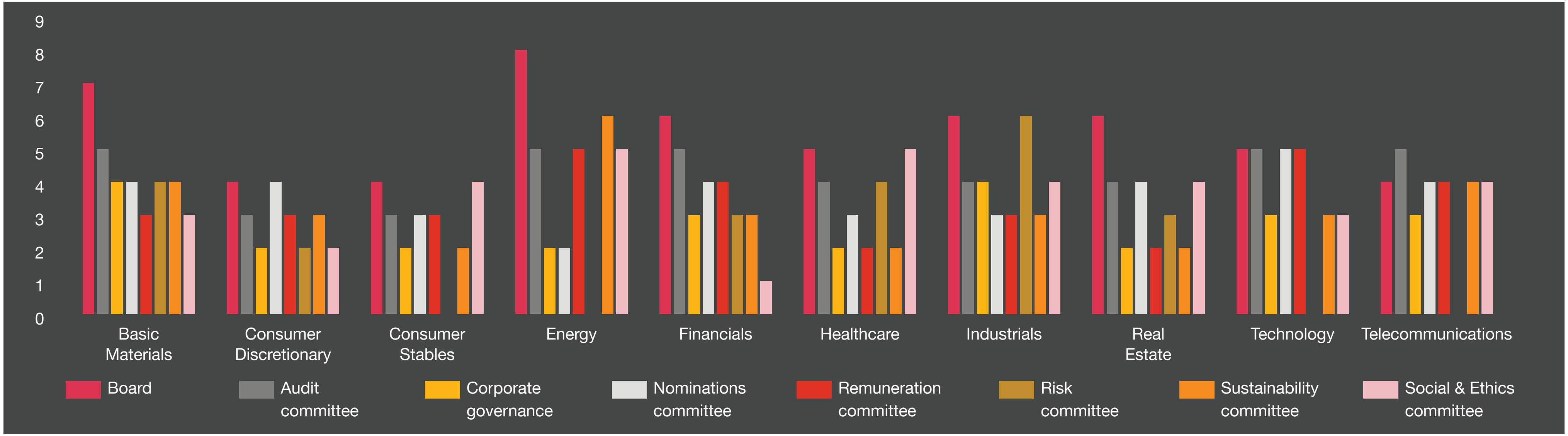
5 Profile of a JSE non-executive director

In this chapter, we outline the profile of a JSE NED as observed among the Top 100 companies on the JSE. We consider the number of meetings held as well as diversity.

Number of meetings

The figure below sets out the average number of meetings held by the boards and all major subcommittees of the JSE Top 100 companies.

Figure 5.1: JSE Top 100: Average number of meetings held by industry



Source: PwC analysis

Diversity

According to the JSE listing requirements, issuers are required to adopt a policy on the promotion of broader diversity on the board, focusing not only on race and gender but also on the promotion of other diversity attributes such as culture, age, field of knowledge, skills, and experience. The company must annually publish its performance against the policy in its integrated report. Although many companies report on their adherence to the adoption of such a policy, very few report on their progress and diversity composition.

We have analysed the racial diversity among the JSE Top 100 companies, and have included additional analysis on the nationality of non-executive directors.

Nationality and race

By role

As of 31 October 2022, there were 997 NEDs for the JSE Top 100 companies, of which 714 (71.6%) were South African residents.

Within the South African NEDs group, the breakdown of NEDs by race has been classified in terms of the following categories:

- Black African
- Coloured
- Indian/Asian
- White.

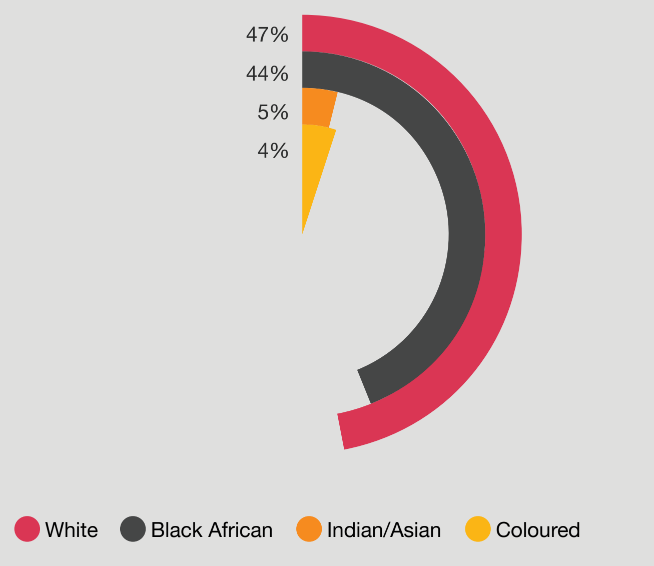
The analysis has been performed by role (for chairpersons and other NEDs: Figure 5.2, 5.3 and 5.4) and by size (for large-cap and medium-cap companies: Figure 5.5 and 5.6).

While the majority of the South African NEDs (including chairpersons) remain White (2023:47% vs 2022:50%), we have noted a slight improvement in diversity, with Black Africans now making up 44% (2022:40%). The remaining two categories registered low levels of representation, with Indian/Asians at 4%, and Coloureds at 5%.

The representation of Black Africans as non-executive chairpersons increased from 35% to 37%, with White non-executive chairpersons remaining at 58%. The Indian/Asian category decreased to 3% (2022:5%) while the Coloured category increased to 3% (2022:2%).

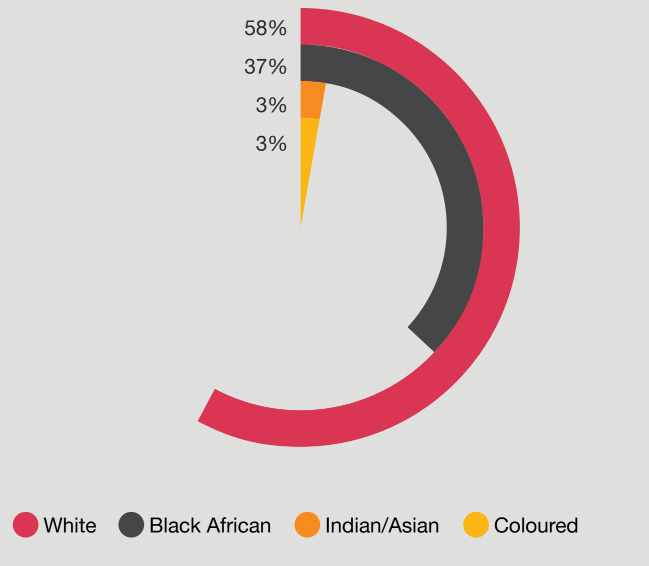
Among NEDs, there was also some diversity improvement, with White NEDs decreasing to 46% (2022:49%) and Black African NEDs increasing to 45% (2022:41%). Indian/Asian NEDs decreased to 4% (2022:6%) and Coloured NEDs increased to 5% (2022:4%).

Figure 5.2: Racial representation: All NEDs, including chairpersons (Top 100)



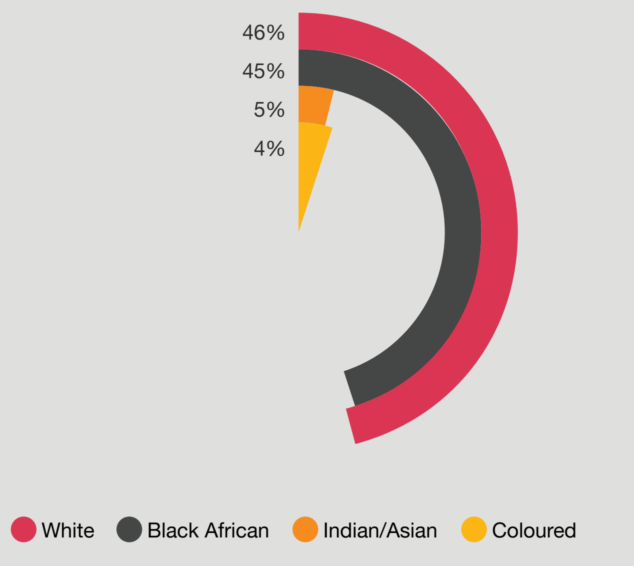
Source: PwC analysis
Due to rounding, the percentages reflected may not add up to 100%

Figure 5.3: Racial representation: Chairpersons (Top 100)



Source: PwC analysis

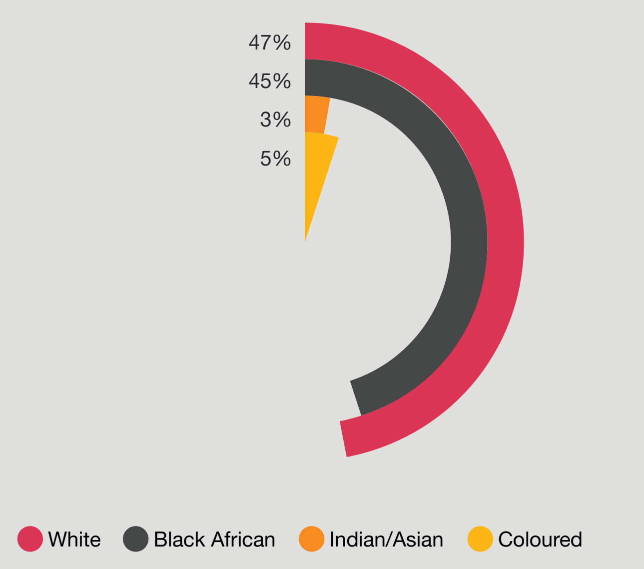
Figure 5.4: Racial representation: NEDs, excluding chairpersons (Top 100)



Source: PwC analysis

By size

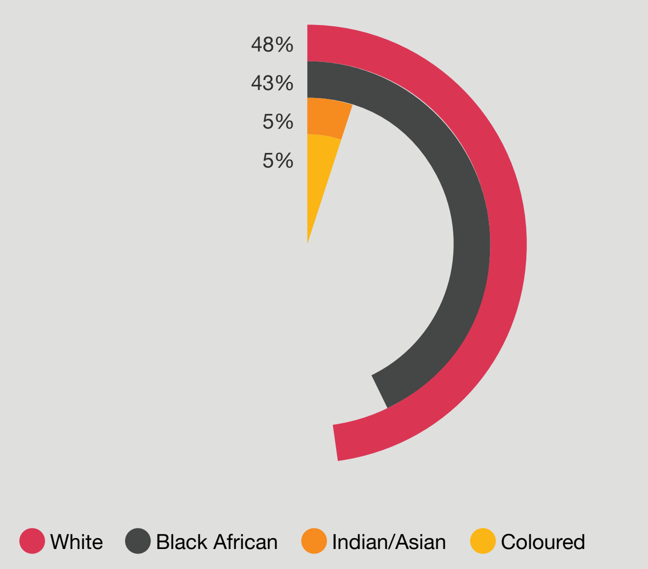
Figure 5.5: Racial representation: Large Cap (all NEDs) (Top 100)



Source: PwC analysis

Among the Large Cap companies, NEDs are predominantly split between White (47%) and Black African (45%) NEDs, with Indian/Asian and Coloured NEDs making up 3% and 5% respectively.

Figure 5.6: Racial representation: Medium Cap (all NEDs) (Top 100)



Source: PwC analysis
Due to rounding, the percentages reflected may not add up to 100%

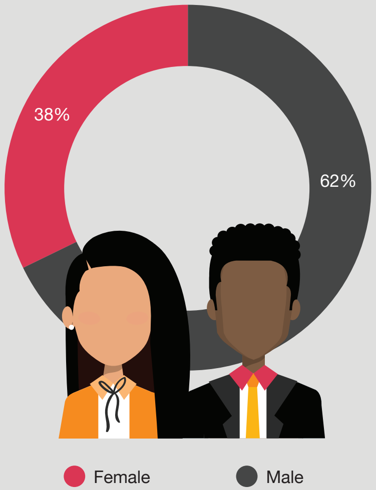
Among the Medium Cap companies, NEDs are predominantly split between White (48%) and Black African (43%) NEDs, with Indian/Asian and Coloured NEDs making up 5% each.

Gender

We have analysed gender diversity among the Top 100 JSE listed companies.

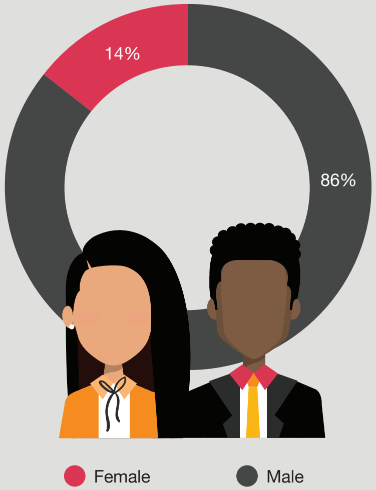
By Role

Figure 5.7: Gender representation: All NEDs, including chairpersons (Top 100)



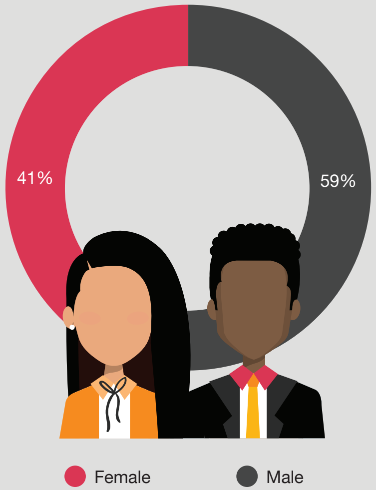
Source: PwC analysis

Figure 5.8: Gender representation: Chairpersons (Top 100)



Source: PwC analysis

Figure 5.9: Gender representation: NEDs, excluding chairpersons (Top 100)



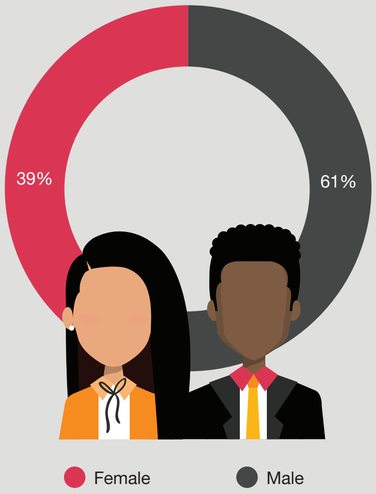
Source: PwC analysis

While our analysis shows that male NEDs (62%) are still heavily favoured, there has been diversity improvement from 2022 which reflected a 68% male to 32% female split.

We note that Males still continue to dominate the position of chairperson, with a 86% Male to 14% Female split.

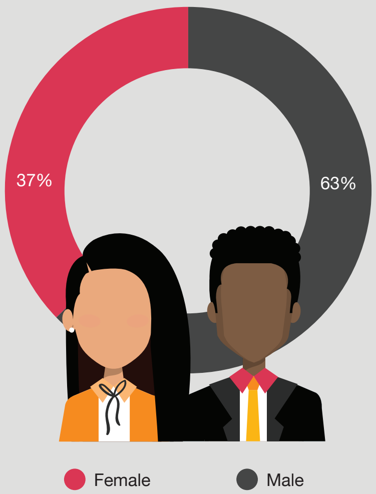
We note that the split between Male and Female among NEDs (excluding chairpersons) are less defined than that of the chairpersons, with a split of 59% Male to 41% Female.

Figure 5.10: Gender representation: Large cap (Top 100)



Source: PwC analysis

Figure 5.11: Gender representation: Medium cap (Top 100)

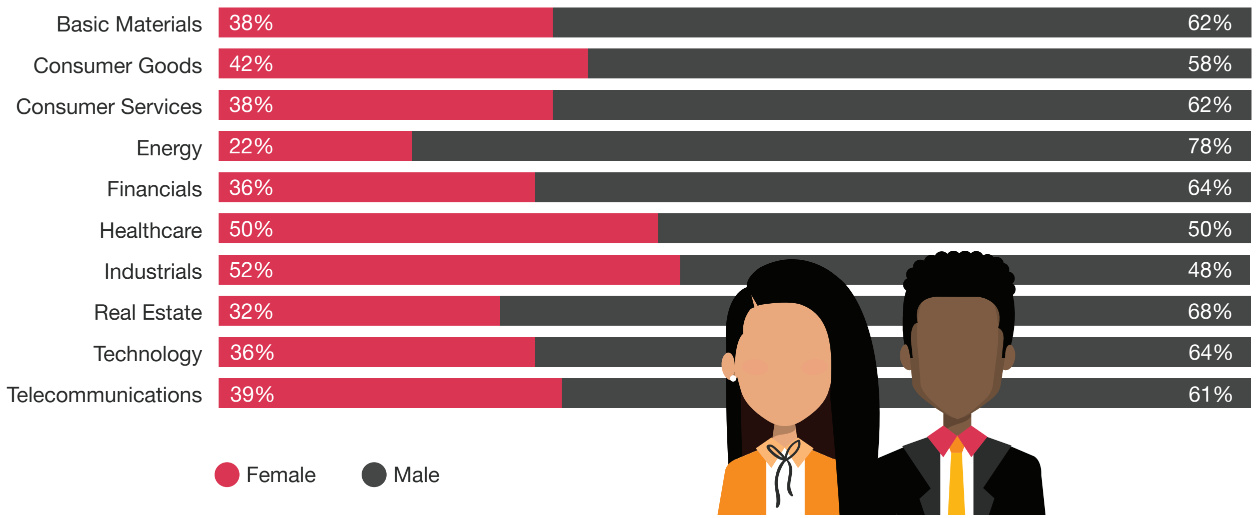


Source: PwC analysis

We have also noted a slight diversity improvement among large cap companies, showing a split of 61% (2022:64%) Male NEDs to 39% Female non-executive directors. There has been no detectable movement among medium cap companies.

In terms of the industries, the trends are consistent with those of the overall JSE Top 100 analysis, with an overall increase in female representation.

Figure 5.12: Gender representation: By industry



Source: PwC analysis

6 JSE non-executive directors’ fees

This section of the report provides an analysis of JSE non-executive director fees for the period 1 November 2021 to 31 October 2022. The analysis is based on actual non-executive director fees disclosed in the annual financial statements of the Top 200 JSE-listed companies for the period under review (rather than forecast fees as disclosed in the notice of AGM).

This analysis is based on active directors as of 31 October 2022. In instances where non-executive directors have resigned from their positions, we have excluded them. If the non-executive directors have been appointed to their roles after the financial year’s end, they too have been excluded from the analysis.

Where non-executive directors have been remunerated in foreign currency, their fees have been converted into South African rand using the exchange rates of the cut-off date (31 October 2022).

As previously mentioned, the Top 200 JSE-listed companies are used for this analysis as opposed to the full list of JSE-listed companies used in prior years. The analysis, therefore, uses a smaller sample in light of this and direct comparisons to 2022 should be avoided. Please also note that fees might appear slightly more inflated than in the recent two years, where remuneration was heavily affected by the COVID-19 pandemic.

Non-executive directors’ fees: JSE all industries and AltX

The four categories of non-executive board members analysed are:

- Chairperson
- Deputy chairperson
- Lead independent director
- Non-executive director.

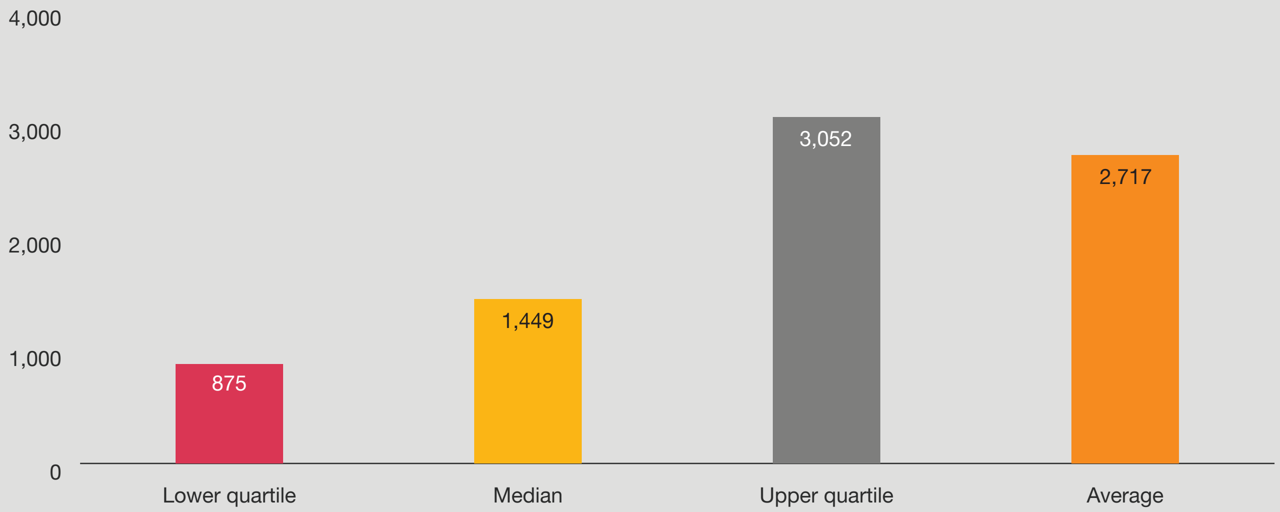
Chairperson

The role of a chairperson requires a large time commitment. The chairperson's involvement level has also increased due to additional work to be carried out between schedule meetings, organisational representation externally (or external organsitional representation duties), and interacting with fellow board members and employees.

Deputy chairperson

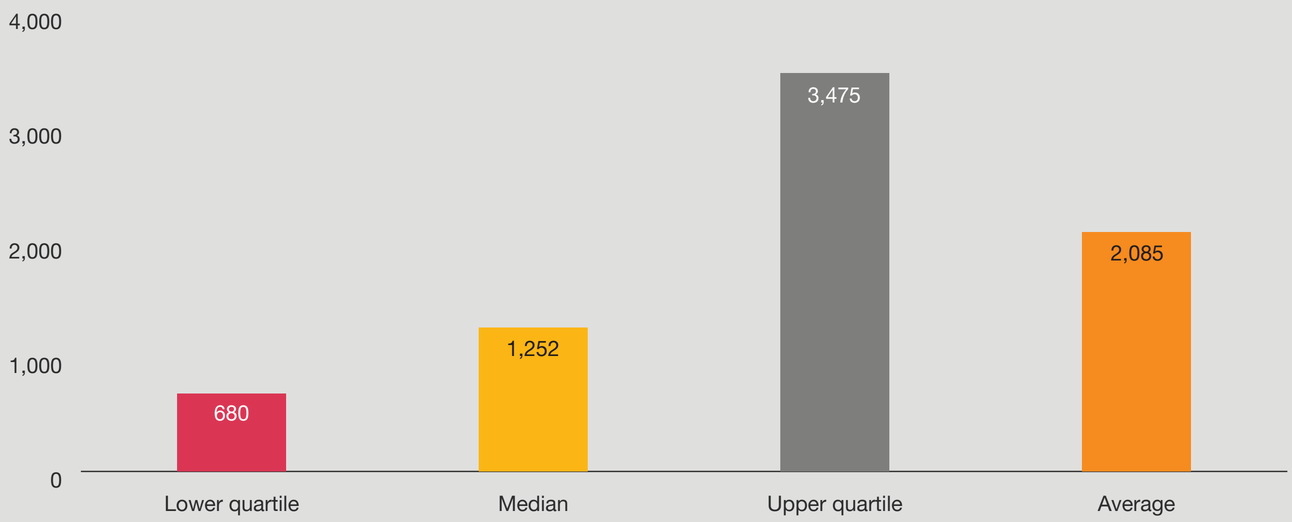
Some boards include the position of deputy chairperson. This person assists the chairperson and fills in at meetings if the chairperson is unavailable.

Figure 6.1: JSE Top 200: Chairperson (R'000) (all inclusive fee)



Source: PwC analysis

Figure 6.2: JSE Top 200: Deputy chairperson (R'000)



Source: PwC analysis

Lead independent director

The lead independent director is required to preside over all board meetings at which the chairperson is not present, or where the chairperson is conflicted, including any session of the independent directors.

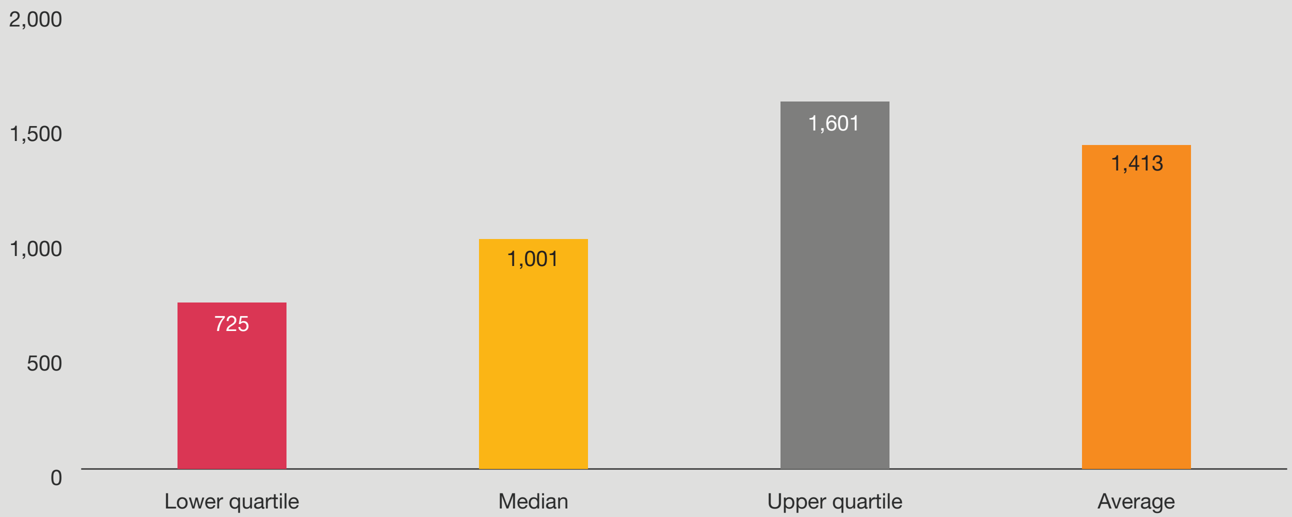
Their duties include calling meetings of the independent directors, where necessary, and serving as principal liaison between the independent directors and the chairperson. Their responsibilities would also include liaising with major shareholders if requested by the board in circumstances where the chairperson is conflicted.

Over the last few years, we have observed that lead independent directors have begun to play a larger role on boards, taking on greater prominence and responsibility in driving board independence. This has resulted in lead independent director fees increasing more rapidly than other positions on boards.

Non-executive director

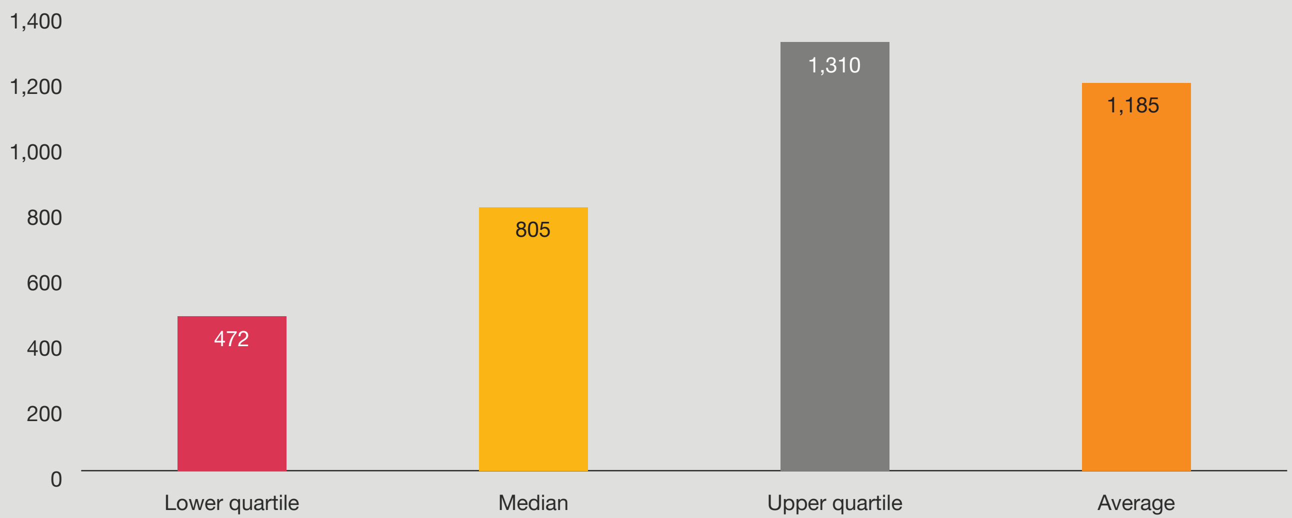
Non-executive directors are required to make up the majority of a board's membership. The majority of non-executive directors should also be independent.

Figure 6.3: JSE Top 200: Lead independent director (R'000)



Source: PwC analysis

Figure 6.4: JSE Top 200: Non-executive director (R'000)



Source: PwC analysis

Non-executive director fees among Super caps

Super caps represent the Top ten companies on the JSE. As at 31 October 2022, these companies accounted for 69.7% of the JSE's total market capitalisation.

JSE Super caps, 2021 vs 2022

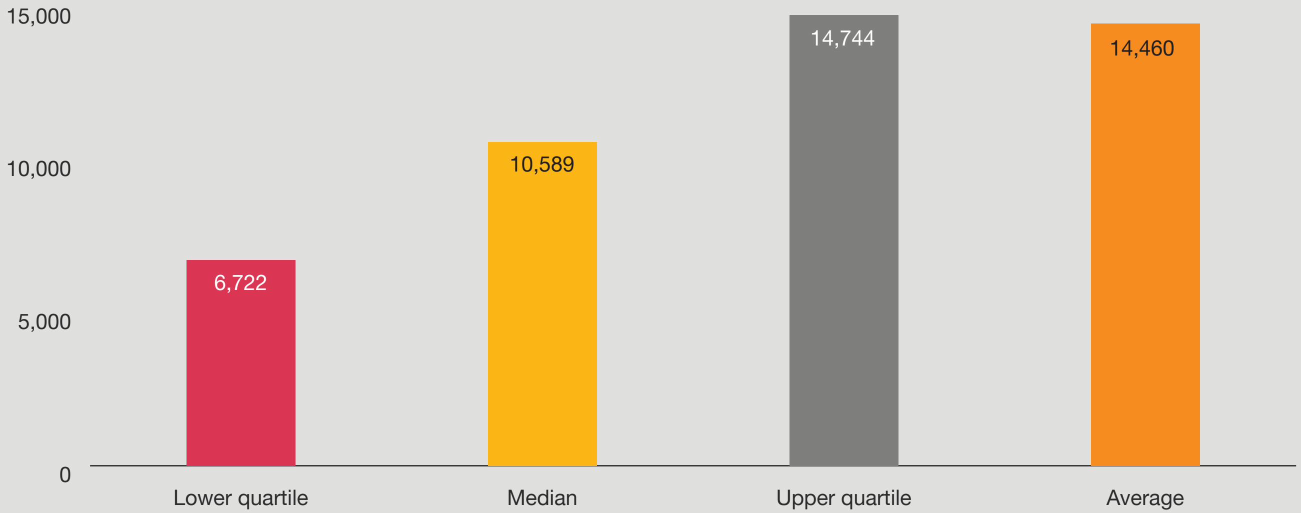
2021	2022
Prosus N.V.	BHP Group Limited
Anheuser-Busch InBev SA	Prosus N.V.
British American Tobaccoplc	British American Tobacco plc
Naspers Ltd	Anheuser-Busch Inbev S.A.
Glencore plc	Glencore plc
Compagnie Financiere Richemont S.A.	Naspers Ltd
BHP Group Limited	Compagnie Financiere Richemont S.A
Anglo American plc	Anglo American plc
Anglo American Platinum Ltd	Anglo American Platinum Ltd
FirstRand Ltd	FirstRand Ltd

Source: PwC analysis

The JSE Super caps have remained the same between 2021 and 2022.

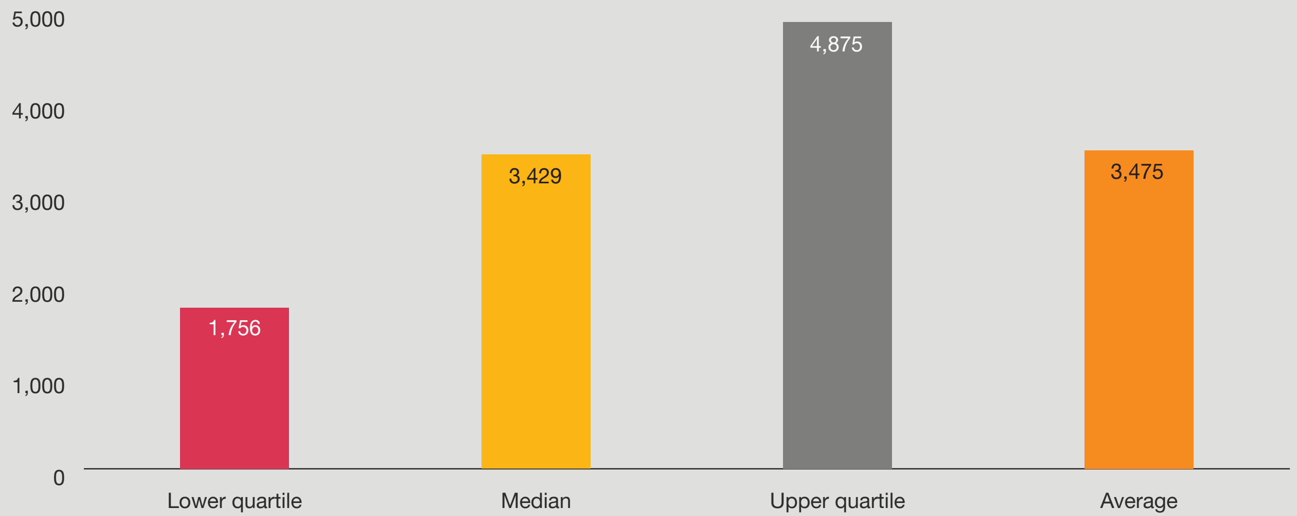
The quartile analysis (including median) for Super cap chairpersons and non-executive directors (excluding chairpersons) is set out on the right:

Figure 6.5: Super caps: Chairperson (R'000)



Source: PwC analysis

Figure 6.6: Super caps: NED (R'000)



Source: PwC analysis

Non-executive directors' fees by industry

In this section we analyse non-executive director fees for each industry. The table below outlines the industries analysed as well as their individual contribution to the total market capitalisation of the JSE, including the AltX.

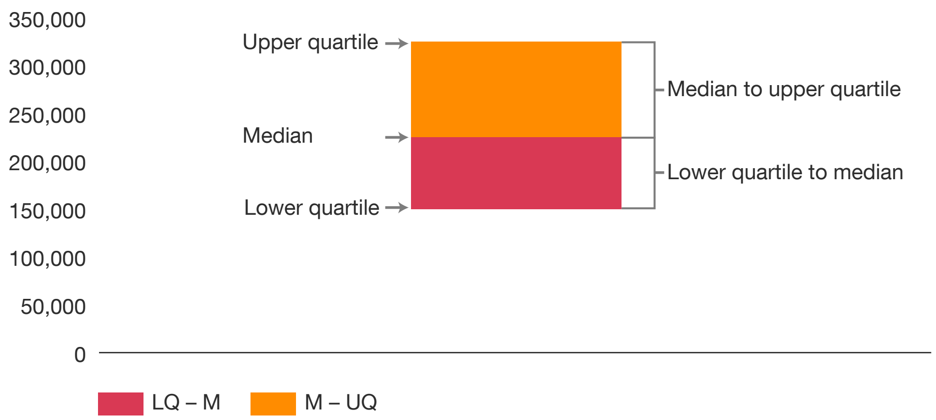
JSE market capitalisation by industry (%)

	2022	2021	2020	2019
Basic Materials	35.3%	26.7%	24.7%	26.3%
Consumer Staples*	20.5%	20.5%	25.3%	26.8%
Consumer Discretionary*	7.4%	8.5%	4.6%	10.4%
Energy	1.0%	0.4%	0.1%	0.0%
Financials	10.0%	10.7%	9.3%	18.1%
Healthcare	1.1%	1.4%	1.1%	1.4%
Industrials	2.0%	2.6%	1.2%	1.6%
Real Estate	2.0%	2.5%	2.1%	4.3%
Technology	17.5%	23.3%	29.0%	7.7%
Telecommunications	3.1%	3.5%	2.6%	3.4%

Source: PwC analysis
* The ICB classification for Consumer Staples (previously Consumer Services) and Consumer Discretionary (previously Consumer Goods) changed from the prior reporting period.

The figures that follow illustrate the non-executive director fee analysis. Where sufficient data points were not available, the average has been used.

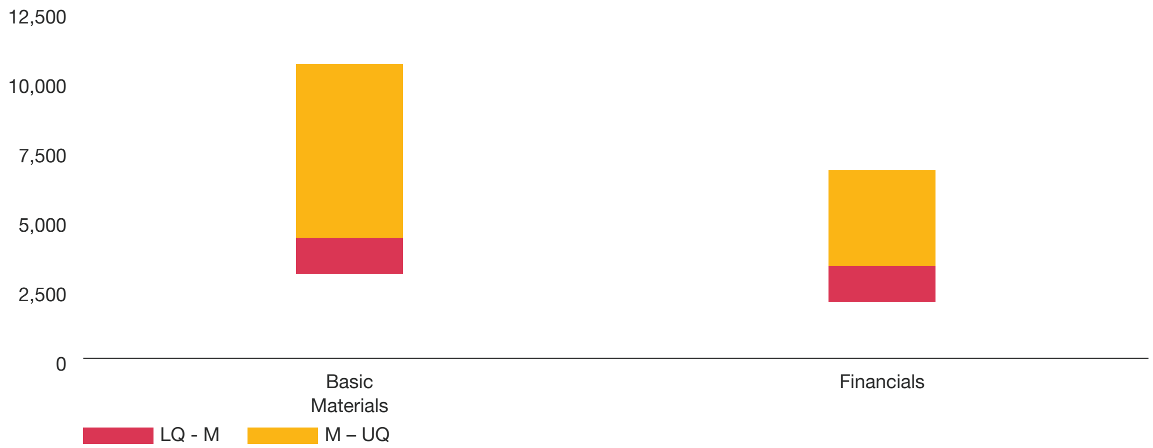
Guide to data presentation



Large cap

The quartile analysis for the Basic Materials and Financials chairpersons is shown below.

Figure 6.7: Large cap: Chairperson quartiles (R'000) (all inclusive)

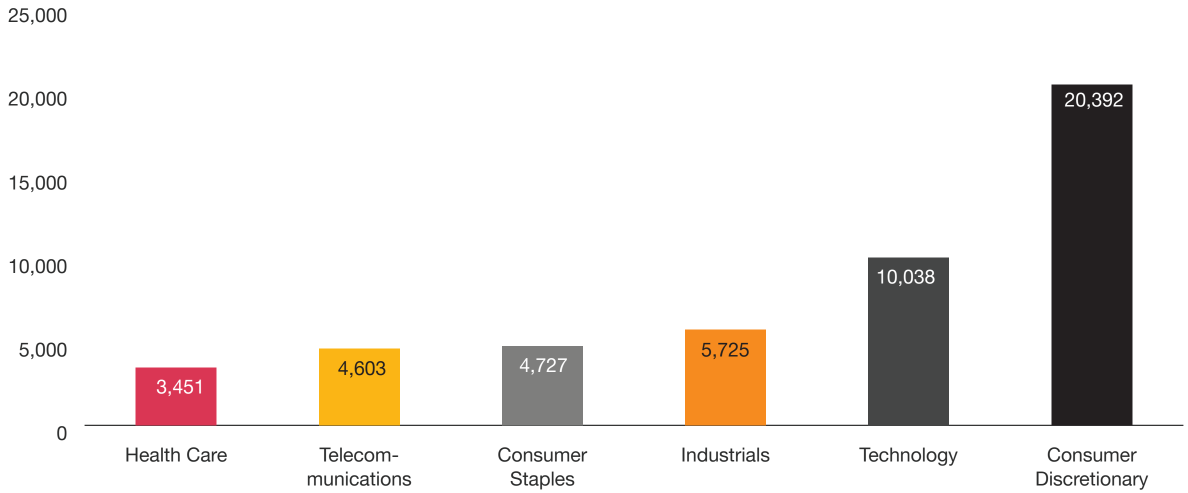


Source: PwC analysis

Large cap by industry: Chairperson quartiles (all-inclusive)			
Industry	Lower quartile	Median	Upper quartile
Basic Materials	3,031,750	4,328,038	10,596,867
Financials	2,025,383	3,307,000	6,790,050

The average fees for chairpersons in the Consumer Discretionary, Consumer Staples, Health Care, Telecommunications, Industrials and Technology industries are shown below.

Figure 6.8: Large cap: Chairperson, averages (R'000)



Source: PwC analysis

Large cap by industry: Chairperson averages (all-inclusive)	
Industry	Averages
Health Care	3,450,956
Telecommunications	4,603,058
Consumer Staples	4,726,703
Industrials	5,724,838
Technology	10,037,646
Consumer Discretionary*	20,392,415

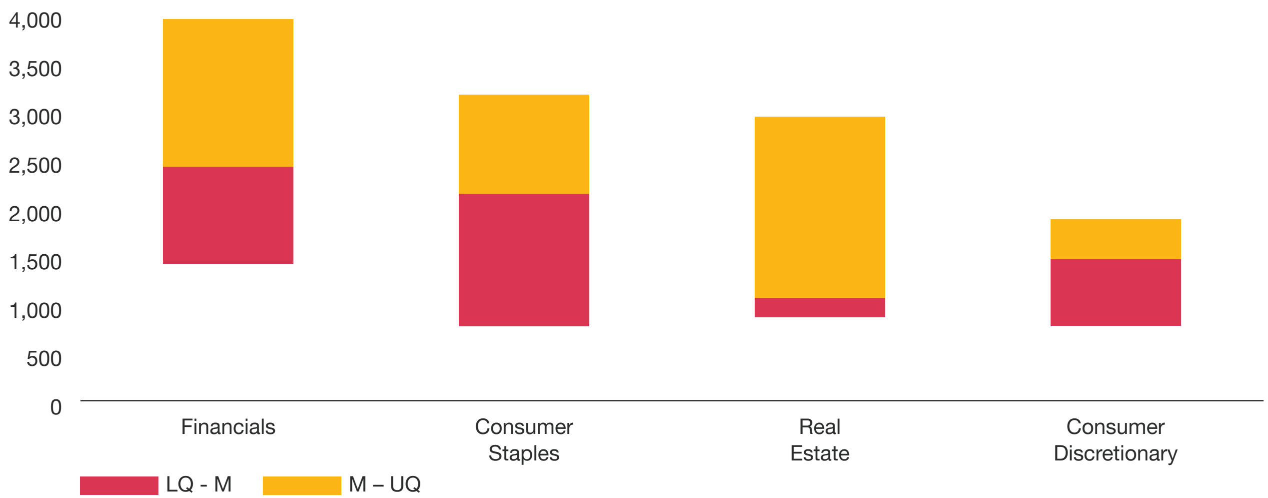
* Fees paid to chairpersons in the Consumer Discretionary industry relate to average fees using three data points and ne of the incumbents was paid in CHF

As there were insufficient data points, an analysis for the Energy and Real Estate industries has not been included.

Medium cap

The quartile analysis for Financials, Real Estate, Consumer Staples and Consumer Discretionary chairpersons is provided below.

Figure 6.9: Medium cap chairperson, quartiles (R'000)



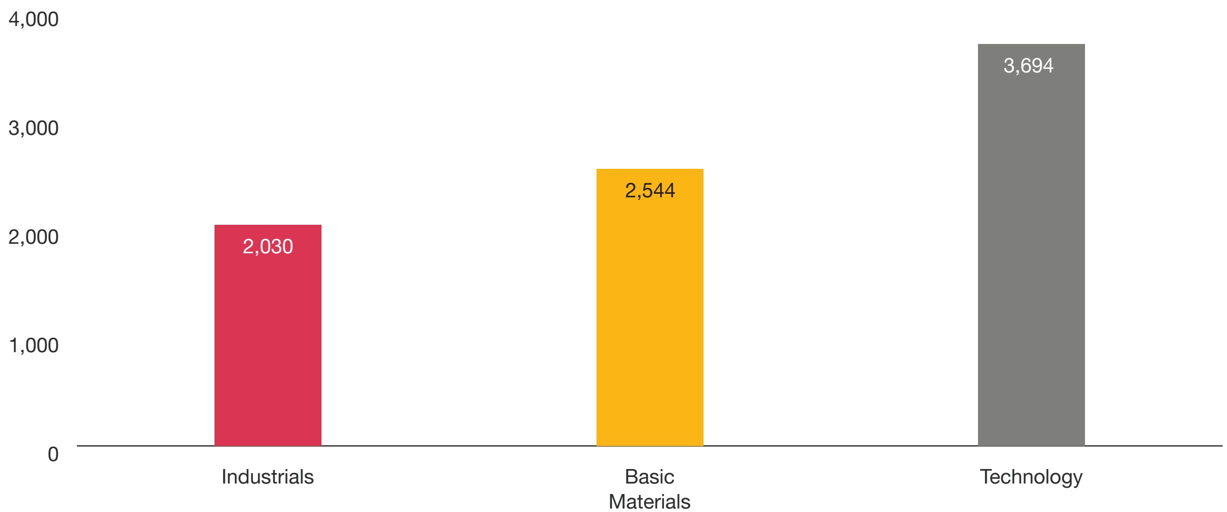
Medium cap by industry: Chairperson quartiles (all-inclusive)

Industry	Lower quartile	Median	Upper quartile
Financials	1,414,550	2,418,516	3,946,071
Consumer Staples	772,000	2,143,370	3,165,000
Real Estate	862,947	1,065,152	2,938,566
Consumer Discretionary	779,459	1,464,000	1,877,000

Source: PwC analysis

The average for chairpersons fees for Technology, Industrials and Basic Materials are shown below.

Figure 6.10: Medium cap chairperson, averages (R'000)



Source: PwC analysis

Medium cap by industry: Chairperson averages

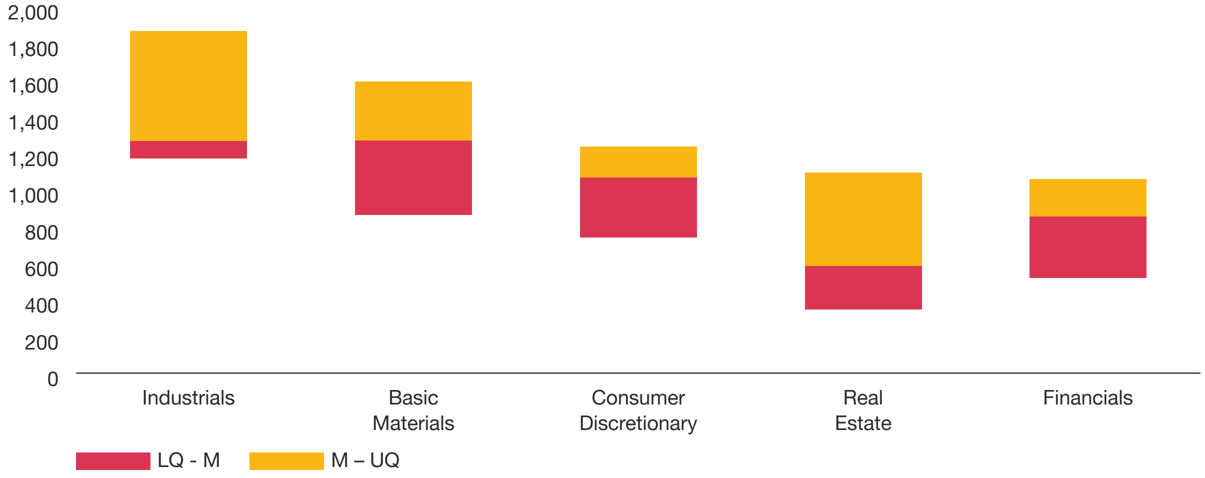
Industry	Averages
Industrials	2,029,903
Basic Materials	2,544,205
Technology	3,694,083

As there were insufficient data points, an analysis for the Energy, Health Care and Telecoms industry has not been included.

Small cap, including AltX

The quartile analysis for all industries, including AltX that are included in the JSE Top 200, but excluding Energy, Healthcare and Telecommunications is shown below.

Figure 6.11: Small cap chairperson, quartiles (R'000)



Source: PwC analysis

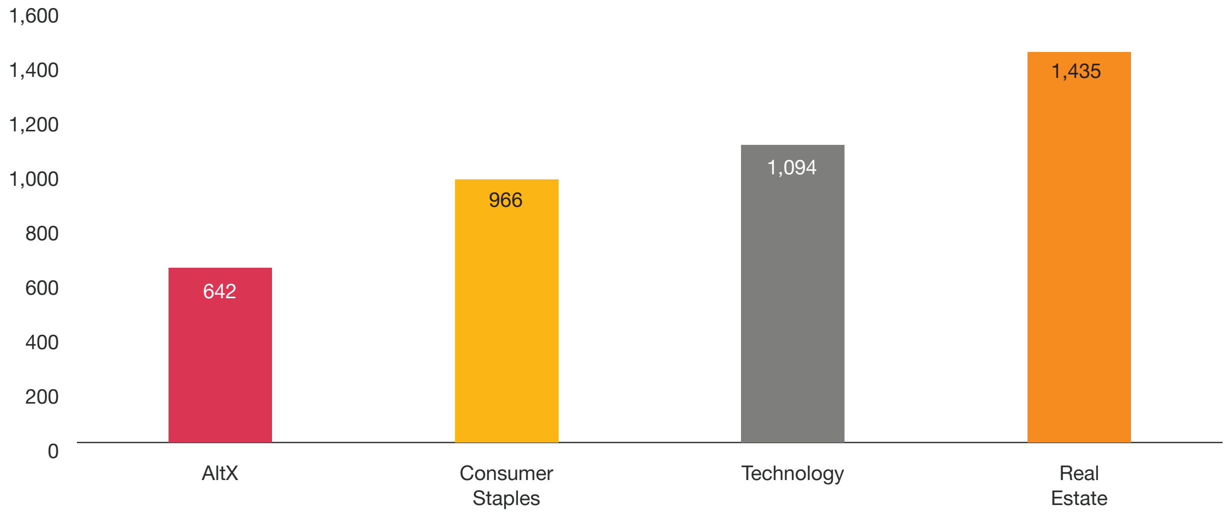
Small cap by industry, including AltX: Chairperson quartiles (all-inclusive)

Industry	Lower quartile	Median	Upper quartile
Industrials	1,172,000	1,265,000	1,864,000
Basic Materials	861,000	1,267,000	1,590,193
Consumer Discretionary	741,250	1,067,000	1,235,663
Real Estate	521,131	854,500	1,056,327
Financials	346,750	582,000	1,092,263

Source: PwC analysis

The average for chairpersons fees for the Consumer Staples, Technology and Real Estate together with AltX industries are shown below.

Figure 6.12: Small cap chairperson, averages (R'000)



Source: PwC analysis

Small cap by industry, including AltX: Chairperson averages

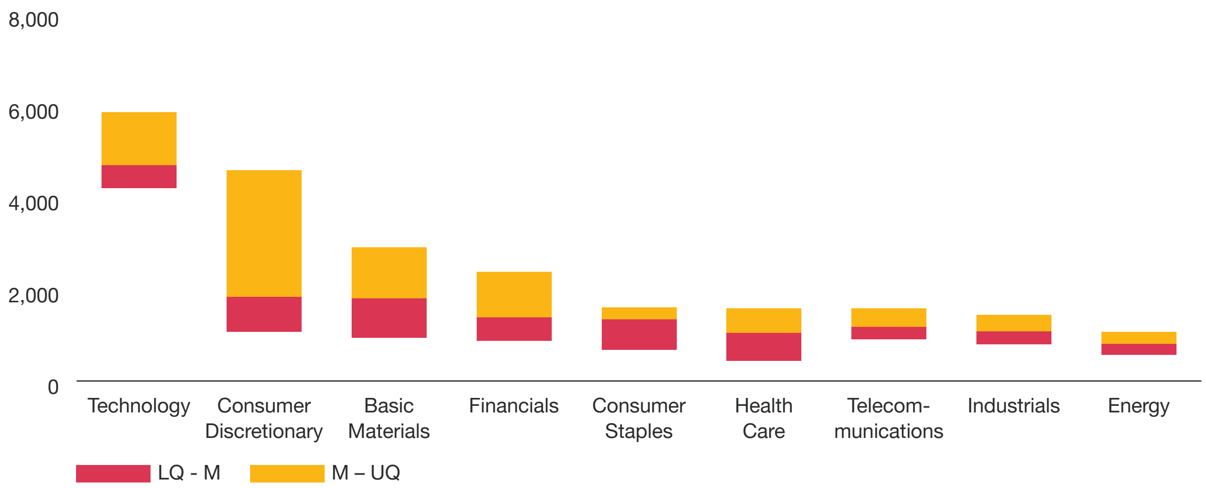
Industry	Averages
AltX	642,200
Consumer Staples	965,600
Technology	1,094,000
Real Estate	1,434,907

Non-executive directors, excluding chairpersons

Large cap

The quartile analysis for non-executive directors in the Technology, Consumer Discretionary, Basic Materials, Financials, Consumer Staples, Health Care, Telecommunications,, Industrials, and Energy industries is provided below.

Figure 6.13: Large cap non-executive director, quartiles (R'000)



Source: PwC analysis

Large cap by industry: Non-executive director quartiles (all-inclusive)

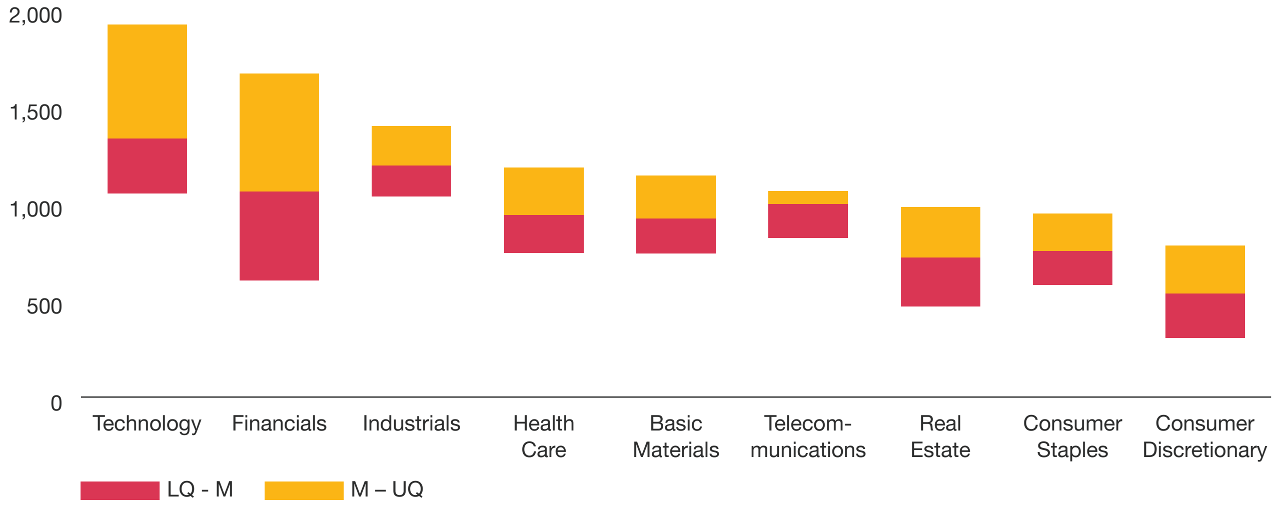
Industry	Lower quartile	Median	Upper quartile
Technology	4,510,645	5,009,829	6,161,100
Consumer Discretionary	1,071,500	1,832,468	4,585,112
Basic Materials	942,757	1,796,196	2,912,767
Financials	871,691	1,382,104	2,377,064
Consumer Staples	678,250	1,338,574	1,603,660
Health Care	433,614	1,044,007	1,578,773
Telecommunications	911 295	1,181,503	1,575,549
Industrials	802,750	1,079,859	1,435,691
Energy	572,224	808,999	1,063,695

Source: PwC analysis

Medium cap

The quartile analysis of non-executive directors of all industries, excluding Energy, is provided below.

Figure 6.14: Medium cap non-executive director, quartiles (R'000)



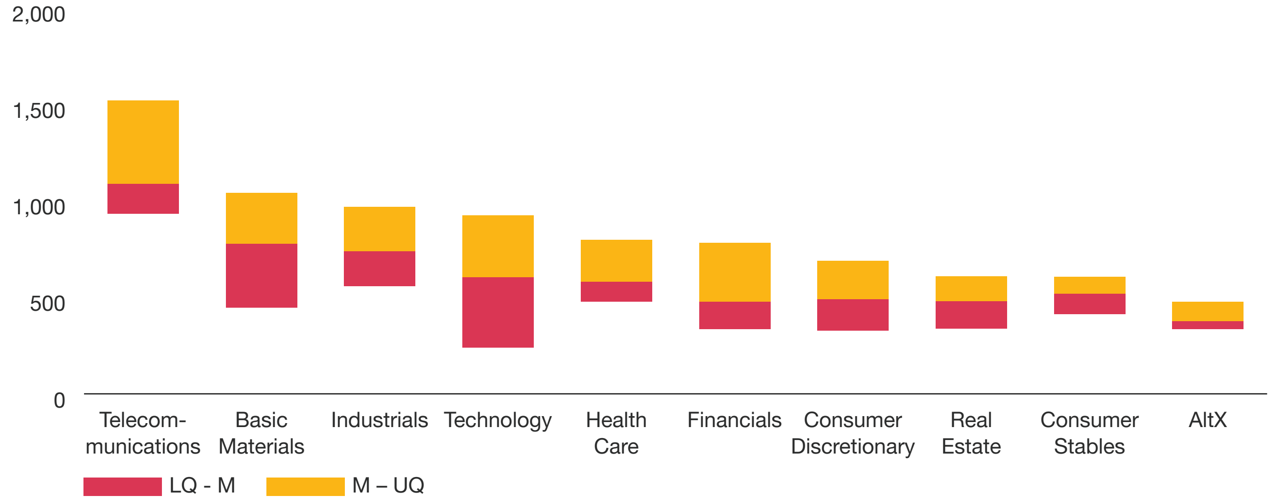
Source: PwC analysis

Medium cap by industry: Non-executive director quartiles (all-inclusive)			
Industry	**Lower quartile**	**Median**	**Upper quartile**
Technology	1,109,609	1,390,114	1,978,747
Financials	602,334	1,060,000	1,667,923
Industrials	1,034,345	1,192,992	1,395,816
Health Care	744,000	939,000	1,182,000
Basic Materials	740,361	918,000	1,140,643
Telecommunications	819,515	992,097	1,060,837
Real Estate	468,350	718,947	978,500
Consumer Staples	577,750	751,500	944,375
Consumer Discretionary	304,799	534,000	781,315

Small cap, including AltX

The quartile analysis for all industries, excluding Energy and including AltX that are included in the JSE Top 200, is shown below.

Figure 6.15: Small cap non-executive director, quartiles (R'000)



Source: PwC analysis

Small cap by industry, including AltX: Chairperson quartiles (all-inclusive)			
Industry	**Lower quartile**	**Median**	**Upper quartile**
Telecommunications	911,000	1,088,000	1,587,750
Basic Materials	447,804	778,000	1,057,594
Industrials	549,750	737,875	976,500
Technology	229,000	605,000	935,000
Health Care	467,156	580,330	811,956
Financials	333,000	476,000	794,000
Consumer Discretionary	327,600	490,092	696,850
Real Estate	334,750	480,000	617,000
Consumer Stables	403,000	516,500	613,500
AltX	317,846	375,331	488,823

7 Appendix

The South African Marketplace (285)

Trends included in the report relate to the JSE as a whole. Fees were analysed for JSE Top 200 companies while the profile of a NED was analysed for the JSE Top 100 companies.

Main Board	261

Basic Materials	34
Chemicals	4
Industrial Materials	2
Industrial Metals and Mining	14
Precious Metals and Mining	14

Consumer Goods	22
Beverages	2
Food Producers	12
Personal Care, Drug and Grocery Stores	7
Tobacco	1

Consumer Services	37
Automobiles and Parts	1
Consumer Services	3
Leisure Goods	2
Media	3
Personal Goods	1
Retailers	18
Travel and Leisure	9

Energy	4
Oil, Gas and Coal	4

Financials	52
Banks	8
Closed End Investments	7
Finance and Credit Services	1
Investment Banking and Brokerage Services	25
Life Insurance	6
Non-life Insurance	2
Open End and Miscellaneous Investment Vehicles	3

Healthcare	7
Healthcare Providers	4
Pharmaceuticals and Biotechnology	3

Industrials	43
Construction and Materials	10
Electronic and Electrical Equipment	5
General Industrials	9
Industrial Engineering	1
Industrial Support Services	8
Industrial Transportation	10

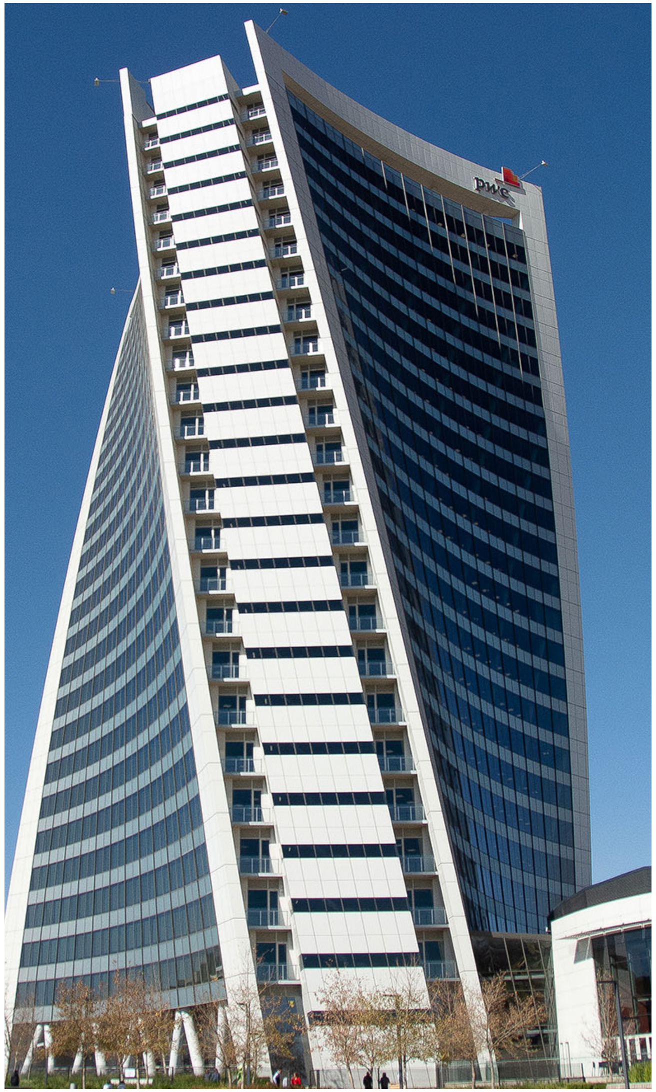
Real Estate	41
Real Estate Investment and Services Development	8
Real Estate Investment Trusts	33

Technology	15
Software and Computer Services	13
Technology Hardware and Equipment	2

Telecommunications	6
Telecommunications Service Providers	6

AltX	24
Basic Materials	3
Consumer Goods	2
Energy	1
Financials	5
Healthcare	2
Industrials	2
Real Estate	4
Technology	3
Telecommunications	2

8 About PwC



At PwC we apply our industry knowledge and professional expertise to identify, report, protect, realise and create value for our clients and their stakeholders. In an increasingly complex world, we help intricate systems function, adapt and evolve to benefit communities and society.

We achieve the aforementioned by being human-led and tech-powered – combining the best of people and technology to identify innovative solutions and opportunities for our clients.

About People and Organisation: Reward

With a global practice stretching over 75 global territories our expert teams have access to global market data and research. This allows us to provide proactive and reactive solutions and updates across people related issues, including but not limited to remuneration and reward, people analytics, employment tax and benefits, workforce capability, HR strategy and change management.

Our South African team (who drafted this report) consists of dynamic, agile and diverse problem solvers. With our broad range of capabilities and the utilisation of our global data and research, we are able to deliver multifaceted, relevant and bespoke reward solutions. These solutions are based on strong governance principles which speaks to each client's organisational strategy and provides for value to be added to the future. Through tech-empowerment, we can transform these solutions into digital products empowering our clients to operate with greater efficiency and versatility.

While our solutions are aligned with international trends and best practice, we remain locally focussed. We believe that for South Africa to achieve inclusive growth, remuneration structures should reward innovation and growth delivered by executive teams, while remaining rooted in fairness and transparency for all employees. To this end our team regularly engages with key industry players to ensure our knowledge on current market sentiments and developing trends remain up to date, allowing for proactive application to our client engagements, the addition of value and winning stakeholder approval.

The following page illustrates how our expertise can provide you with multifaceted, relevant and bespoke reward solutions.

Your requirements	Total Reward (total guaranteed pay, short-term and long-term incentive)	Variable remuneration (short- and long-term incentives (STIs and LTIs)	Fair pay analysis, implementation & performance condition review and recommendation	Remuneration reporting and Remuneration Committee involvement	Governance (policy and rules setting) and consultation	Additional consulting and advice
Our service	Executive and non-executive director benchmarking	Design and implementation of short- and long-term incentives	Equal pay and gender equality statistical analysis	Technical reporting on share-based payments and employee benefits	Initial public offering and corporate governance reporting assistance	Legal and regulatory compliance matters
Executive and non-executive director benchmarking	Pay progression models	Performance condition setting, calibration and testing	Calculation and analysis of wage gap ratios including Gini and Palma ratios	Remuneration policy and report drafting or review	Drafting / review of incentive plan rules and award letters	Tax opinions and cross-border incentive plans
	Executive and key talent lock-in analysis	Detailed incentive cost financial modelling and economic impact assessment	Strategic key performance indicators consulting and design	Single figure table (disclosure) review for inclusion in remuneration reports	Malus and clawback policy design and implementation	Stakeholder engagement on variable pay structures and remuneration reporting
		Market practice research and recommendation papers	Fair and responsible policy drafting	Remuneration and other committee meeting attendances	Minimum shareholding requirement policy design and implementation	Assistance with design of carried incentive schemes
				Trends presentations and training		

Acknowledgements

- PwC Reward

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