ADMINISTRATRICES
ET ADMINISTRATEURS
ENGAGÉS

From Start-ups to Unicorns: aiming for a Growth-Promoting Governance

LES RAPPORTS DE L'**IFA**

With this document, our goal is to provide keys, drawn from experienced practitioners – entrepreneurs, investors, Board members – to help start-up CEOs and their entourage develop their companies over time.

Some will reach scale-up status, then unicorn, others won't. Some will go public, others will turn to other forms of funding.

Whichever path is chosen, we profoundly believe that Governance is a major lever, unfortunately often misunderstood and therefore discarded, to accelerate the growth and guarantee a company's perpetuation.

May entrepreneurs seize this opportunity to adopt the good practices recommended by those who walked the difficult and exhilarating paths of entrepreneurship. This report would then have reached its goal: contributing to the growth of a larger number of start-ups, and to their success in France, in Europe and throughout the world.

> *"Governance fitted to a start-up's every stage of development is indeed an essential condition for growth and success."*

For the last dozen years or so, France has become aware of the role young innovative companies play in the renewal and dynamism of its business ecosystem. Economic players and public authorities have initiated numerous actions to foster and support the emergence of start-ups from the French Tech, to bring out new gems Made in France and to promote their development. Yet, it is clear that very few reach the mythical unicorn status and succeed in establishing themselves on a European and global scale. As a matter of fact, very few companies created since the early 2000s have reached the rank of innovative AND sustainable mid-size company with the international reach France so badly needs.

The very notion of start-up has changed a lot over the last few years. Start-uppers were initially considered as a new archetype of entrepreneurs, a form of heroes of modern times aiming to create tomorrow's big companies, or, more prosaically, to make a fortune thanks to an IPO or to the rapid sale of the company they created, even before it had proven its capacity to create sustainable value and to expand internationally.

The 2020 health crisis and its economic consequences have put start-ups under severe strain. But the worst crises can also be very fertile ground, providing new opportunities for products or services, changing consumers habits, giving rise to new market segments and new business models for the most agile companies.

The awareness and rising importance of imperatives linked to climate change as well as societal challenges are reinforcing the need and attraction for innovation in every domain: R&D, organization, production and distribution processes, customer relationships… Altogether, a very stimulating context for entrepreneurial vocations.

Clearly, more and more entrepreneurs are working to find and provide solutions for a better world. At the same time, there seems to be a certain loss of interest for IPOs, no longer considered as the holy grail.

The key question, debated many times but still unresolved, is that of scaling-up, of growing at a sustained pace, maintained over time, well beyond the scope of the national market. Racing and fighting for talents on tight skills and difficulties in accessing capital are often mentioned as major obstacles. But is that all? Some economic players sometimes consider start-ups as a form of financial product, admittedly risky but benefitting from a favorable ecosystem, especially thanks to numerous support programs. They are also perceived by corporate groups as a way to increase their innovation capacities at a low cost. These elements are not always conducive to the creation of sustainable business models aiming for long-term value creation.

All this begs the following question: beyond funding, is there not another critical lever to foster the growth of these young companies? It is our conviction: Governance fitted to a start-up's every stage of development is an essential condition for growth and success.

Taking an interest in the Governance of these innovative start-ups means committing to companies with a capital C, to those destined to develop sustainably, over a long time, by creating value not only for their founders and shareholders but for all their stakeholders.

How then can we raise and promote this awareness, to convince people of the importance of effective Governance to transition from start-up to unicorn? This is the objective of this practical guide intended for entrepreneurs, investors, Board members and more generally, all stakeholders involved in these growth companies.

START-UP GOVERNANCE, A NEW CONCEPT?

The IFA (French Institute of Non Executive Directors) didn't wait for 2020 to address this subject. In 2011, Business Angels and Governance, published with France Angels, underlined the importance and decisive contribution of said Business Angels in the initial phase of business creation, both as first investors and coaches, mentors for the founders.

In 2015, the IFA published, together with bpifrance[1] "Governance, a lever for start-ups development" to support the structuring of the ecosystem in which these young companies evolve.

From the initial launch to the step of opening-up to venture-capital, this report emphasized the importance of managing risks early on and preparing to move to other types of funding. It highlighted the need to lay the foundations of what a virtuous and pragmatic Governance at the service of French entrepreneurs should be. The proposed framework remained flexible as needed while formulating practical recommendations and good practices dedicated to creative and collective intelligence.

The context has changed dramatically over the past 5 years: for example, IPOs are no longer systematically considered as the grail of the entrepreneur. Start-uppers have also evolved with the times and feel increasingly concerned by society's push and demand for more responsibility, more ecology and for a company purpose that makes sense and contributes to the common good.

[1] French Public Investment Bank

So, are these 10 recommendations still relevant? Have they been applied and followed up on? Which recommendations should be formulated for years to come? That's the subject of this new publication:

Governance, a lever for start-ups development: 10 recommendations

#1. The main role of Governance is to help deal with human, strategic, financial and risk management issues, both short and long term

#2. Supporting the executive team to broaden its scope beyond short term concerns

#3. For the executive team, taking the time to seek outside advice and insights, by accepting challenging views

#4. Getting assistance from specialized legal counsel for the drafting of the Shareholder's Alliance and Articles of Association

#5. Establishing structured Governance upon entry of the first external investors (the strategic Advisory Board may precede the Board of directors)

#6. The Advisory Board or the Board of directors must gather all the key necessary skills for the start-up's development and benefit from useful networks

#7 The Executive team must rely on its governing body to prepare and negotiate the best conditions for a professional investor's input

#8 Bringing in at least one independent director is recommended to provide unbiased perspective, in the social interest of the company and all its stakeholders

#9 Identifying and monitoring risks, a permanent issue for the start-up

#10 Preparing for the IPO carefully, by leading the company's compliance to regulation and Governance Codes

IFA – bpifrance (mars 2015)

02 A 2020 GUIDE BUILT ON THE FEEDBACK OF EXPERIENCED PRACTITIONERS

CONTRIBUTORS

A working group (see Annex 1) made up of fourteen entrepreneurs, Board members, investors and professionals working in the service of young companies was set up by IFA. It conducted around forty individual interviews (see Annex 2) from October 2019 to February 2020 with founders and managers of the French Tech and Next 40 who have known success, failures and rebounds, investors from business angel to growth-capital, Board members supporting young companies in their growth as well as influential figures of the French and international ecosystem (Europe and California, for additional insights).

THE GOAL

The goal of these in-depth interviews was both **to provide feedback on the 2015 recommendations** and to **identify courses of action for the future, factoring in the changes in the environment in which start-ups and scale-ups evolve.** Therefore, these interviews covered a wide scope to get a better understanding of every interlocutor's concrete experience on the following themes:

- The structure, role and mode of operation of the governing bodies they have experienced (*Advisory Board* for the SAS that have one, and *Board of directors* for limited companies),
- The structure of the Executive team and the nature of its interaction with the Board,
- The profile and role of the members sitting in the governing body,
- What worked and what didn't,
- And, in light of these lessons, what they would do differently today.

03 UNEVENLY FOLLOWED 2015 RECOMMENDATIONS

First, we focused on understanding whether our 2015 recommendations were still relevant, whether they had been followed and if they had had the expected impact.

Judging by the content of the interviews we conducted, it is clear that while they were "generally understood" they have not been systematically adopted. They are sometimes perceived by entrepreneurs as somewhat theoretical compulsory instructions rather than a real asset in their quest for growth.

Some founders, when they recall the beginning of their entrepreneurial adventure, recognize that they had a very short-term vision, driven by an imperious feeling of urgency, by a sometimes-blinding enthusiasm and by the necessity to generate their first results. They now see these cognitive biases as obstacles to the much-needed step back as soon as the company is born and even more so in the phases of acceleration and internationalization.

By revisiting these recommendations from 2015 with key players of French start-ups and scale-ups, one can identify trends, although lacking statistical value.

Specific support for founders by watchful and challenging third parties

The first three recommendations from 2015 established the support of the founders by third parties as the first embryonic form of Governance.

This was often followed by the setup of a more formal support structure and the establishment of a first set of rules of the game, enabling the creation of the fertile ground needed to activate the four fundamental levers for good growth and development: talents, strategy, funding and risk management.

These principles are sometimes met with **wariness on the part of the founders towards the third parties who are supposed to support them.** One of them bluntly states *"I'm very disappointed with the low added-value of my Board"*, another *"the Governance of the funds is very weak on the business side"*, and a third *"the representatives for the VCs are too young and at least half of them did not read the document that was sent"*. Another one mentions that the Governance can tend to value risk over opportunity *"Governance often has an overly risk-focused approach and it can limit ambition. I don't regret forcing their hand a little to impose a decision they were very reserved about."*.

These testimonies show that, in order to be effective, Governance must satisfy two prerequisites: **the founder and CEO has to be open to constructive challenge** from the people who support him, and **Board members have to demonstrate their capacity to listen, skills, real work and a position that truly brings value to the entrepreneur** through a balanced vision of risks and opportunities.

The contribution of structuring expertise

The 4th and 5th recommendations formulated 5 years ago underlined the importance of the legal framework – Articles of Association and Shareholders' Alliance – that should be prepared with the help of experts, especially legal counsel, and should be set up from the company's first months of existence or as soon as the first external investor enters the capital.

This initial approach is all the more structuring if it sets the ground for the Governance's future evolution: gradual implementation of certain formalities with, for example, a clear notion of the scope of the governing body's responsibilities and prerogatives (distribution of decisions between the Executive team and the Board, which decisions should be submitted to qualified majority voting, threshold of approval for incurring expenditures…). The frequency, topics covered, preparation of formal and informal meetings and of course, composition of the governing body, its members' profile and who gets to chair, are all key elements of the Articles of Association and of the Shareholders' Alliance.

The legal form of SAS (simplified joint-stock company) favored by French start-ups doesn't require a formal governing body (whether a Board of directors or a supervisory Board). Therefore, reflection on the appropriate form of Governance to ensure the success and growth of the company over time is often eluded and gives way to topics related to the prerogatives of the founders and first investors when drafting the Articles of Association and the Shareholders' Alliance. Thus, frequently, short-term reasoning prevails and structures the company's first years.

Our interviews show that this stems from **the founders' insufficient understanding of Governance Codes,**

"Governance should be taught in business and engineering schools, or at least be accessible afterwards in some kind of school of Boards."

their purpose and logic, reinforced by some investors' "blind spot" which pushes them to prefer their short-term interests (maintaining a form of control overs the founders, supremacy over minority shareholders such as "family and friend" investors, anti-dilution provision…) to the long-term interests of the company they're investing in.

The interviewed practitioners emphasize the fact that **the understanding and practice of Governance cannot be improvised. *"Ideally, we should arrive already trained, but in reality, very few start-ups or scale-ups CEOs know how to work effectively with their Board."*** Another one says ***"CEOs are not sufficiently trained in running a Board at the start of their relationship with investors"***. Others point out that Governance is seldom taught, and therefore, ill-understood: ***"Governance should be taught in business and engineering schools, or be accessible afterwards in some kind of school of Boards."***

These comments clearly show that **establishing a structured and evolving Governance Framework is perceived as a key success factor, but that very few entrepreneurs have been trained for it.** Choosing the legal form of a SAS – which presents many advantages for a start-up for that matter – does not encourage them.

Fostering an alternate perspective is essential in the Board's composition and evolution

Recommendations 6, 7 and 8 highlighted the importance of the governing body's composition and the trap set by uniformity and group think.

The often informal support of the beginnings (business angels, mentor…) evolves and consolidates with the arrival of new investors and ideally, with the appointment of independent Board members. Formalizing the Governance comes naturally and the contribution of all stakeholders is expected. The Board becomes a place of questioning, confrontation and critical listening, all decisive in the decision-making process. It especially helps align the vision and the understanding of reciprocal needs when new investors enter the capital for the long haul.

The founding team then goes through a critical phase – which often challenges their first habits and reflexes when exercising power – from strategy development to its implementation. For lack of sufficient knowledge and preparation, the Executive team often leaves the field to overly protective interventionism from the investors, who sometimes assimilate the Board to a purely controlling body. This is probably why so few entrepreneurs and managers consider their Board as a real place of strategic support.

In order to avoid these failings, the 2015 report recommended at least one independent director as a key factor to achieve balanced Corporate Governance. Said independence enables this particular Board member to play the role of a catalyst in bringing to light and resolving misalignments of interests between the founders and the investors – who often join the company's capital at various moments with different valuation levels –, but also in helping build a strategic vision shared between parties. The independent Board member brings an outside and free perspective, his or her position allows them to intervene as a link and a go-between able to diffuse tension and resolve conflicts.

"It's very rare to find a Board member who has a really independent role, with a true capacity to bring value, to be above parties"

The interviews carried out by the work group highlighted three problems. First, **a concrete difficulty in making the governing body operate in an efficient way.** ***"The Board is too often heterogeneous, each member having their particular interests in mind rather than the interests of the company"***. Or ***"There are many conflicts of interest, Board members must be reminded that their role is to protect the company rather than their own interests"***. This is largely the consequence of the aforementioned Governance's lack of initial structure: excessive focus of the founders and/or investors on their particular interests, poor group dynamics leading to sterile confrontations or to the neutralization of the governing body, and consequently, key subjects being dealt with in bilateral discussions outside the Board when it becomes inoperant.

The second problem mentioned is **the difficulty to find good independent directors.** This is obviously a source of frustration, but there are also strong expectations regarding the right skills for efficient Governance. ***"It's very rare to find a Board member who has a really independent role, with a true capacity to bring value, to be above parties"***. But also ***"it must be someone with Board experience, who understands the issues of both founders and investors, otherwise***

“No to know-it-alls overacting their role. Yes to seasoned entrepreneurs, already been through every phase of business development and truly involved in their mission as Board members.”

he or she ends up taking sides which is not healthy”. And finally, ***“we don’t want a know-it-all who overacts his role, we want a seasoned entrepreneur who has already gone through all these phases and feels really involved in his function as a Board member.”***

Finally, the third point is the **necessary evolution of the governing body’s composition as the company develops.** Indeed, an embryonic Governance – often limited to founders and business angels for starters – may be relevant at the very beginning, but it must evolve with the arrival of the first venture capital funding, then with the growth capital. The various types of investors carry specific expectations and that must be reflected in the composition of the Board, without it becoming overabundant, which would clearly lead to dysfunction. One of the persons we questioned suggests ***“limited mandates with much faster renewal than in large companies”***. All those points must be taken into account from the outset in the Governance Framework outlined in the Articles of Association and Shareholders’ Agreement.

Taking risks and managing them, the alpha and the omega of growth

The 9th recommendation stressed the utmost importance of risk management. Taking risk goes hand in hand with entrepreneurship and some founders regret some of their Board members’ aversion to risk, which they perceive as a hindrance.

As a matter of fact, one of the major challenges of start-up Governance is to help the Executive team anticipate and define the impact of factors influencing its performance over time, whether they be external – regulatory changes, evolution of customer expectations, competitive shocks, innovations and technological breakthroughs, changes in supply conditions – or internal – process structuration, strategical analysis, critical resources management, especially that of key people, cash management, shareholders alignment). This approach must be part of a balanced perspective on risk-taking, which must not result in a crippling aversion for risks.

“One of the major challenges of Governance is to help the Executive team take a step back, anticipate and visualize the impact of risk factors and opportunities.”

Access to capital: a structuring constant for the company's evolution

In 2015, the 10th recommendation regarded the necessary preparation for an IPO

At the time, it was considered as the holy grail for any entrepreneur, and required anticipation and specific structure. Considering the often short-term pressure implied by a listing and the emergence of alternative sources of financing (big ticket investors able to bring more than 100 million euros to the table, industrial backing), IPOs have become less systematic nowadays. The fact remains that these alternative investors have, as they should, strong requirements when they enter the capital of a scale-up, not only financially and strategically, but also regarding Corporate Governance. Progressively building an effective and efficient Governance is therefore an imperative – as well as a significant element of valuation – whether one is aiming for an IPO or to welcome a very large investor into the capital.

"IPOs might come back as a major lever for value-creation. Whatever the case, preparing to welcome a large investor into the capital or aiming for an IPO are key moments to adapt a company's governance."

CONCLUSION

To conclude this feedback, the content of our interviews shows that, if the principles laid down in 2015 are not contested, they have in fact been applied very unevenly. This may explain, at least partially, why so many innovative start-ups go into bankruptcy in the 4 years following their creation, and why there are so few unicorns in France.

For new entrepreneurs, the notion of Governance remains too often associated with control, surveillance and frankly, a heavy dose of administrative formalism, which is not very useful or can even be detrimental to their entrepreneurial spirit. However, in retrospect, many founders consider that Governance is in fact a necessary source of inspiration for entrepreneurs, which leads them to acquire more maturity in the conduct of business, to channel their energy towards the right issues, to take a step back and to open their minds by relying on collective intelligence. In the end, all these elements help them navigate and drive their key stages of growth, such as fundraising, obtaining financing, negotiating partnerships, international development or key recruitments.

Actually, our interviews with founders whose companies have reached or are on the way of reaching unicorn status clearly show that Governance has been their ally – as well as that of their investors – for the sustainable growth of their company.

"Governing means anticipating, organizing and managing the interests of the company over time, to ensure its profitable and lasting growth. It gives a visible and reassuring framework to the company's environment and all its stakeholders."

This is what we will endeavor to illustrate in the next section, which offers keys and practical advice to implement a Growth-Promoting Governance in 2020.

04 SEVEN KEYS FOR GROWTH-PROMOTING GOVERNANCE

The interviews which provided the material for this guide aimed to draw lessons from past experience to project us into the future. The practitioners we interviewed suggested numerous paths of action, based on their experience. We have structured them in a coherent way in order to provide entrepreneurs, start-ups' and scale-ups' Board members as well as investors and any professional offering services to entrepreneurs, with clear courses of action, based on an empirical approach rather than a theoretical one.

Start-ups' and scale-ups' Governance cannot be approached the same way as big companies' Governance. The concept was initially developed for them in order to standardize their mode of interaction, especially the sharing of responsibilities and the decision-making process between the Executive committee and their Supervisory Board or Board of Directors, which role is in particular – but not only – to represent the shareholders. But Governance also aims at promoting transparency, opening a dialog with all the shareholders, defending the interests of minority shareholders by relying on legal and regulatory frameworks as well as on the applicable Governance Codes (in France the Afep-Medef Code and the MiddleNext Code).

Ever since the PACTE law[1] was promulgated in 2019, companies' missions, factoring in environmental and societal issues, as well as the consideration for internal and external stakeholders, have become central.

Of course, we must be careful not to reproduce the Governance of listed groups on start-ups and scale-ups. That would run the risk of constraining and restraining the crucial agility needed for these young emerging companies to develop: fast product and service adaptation to consumer needs that rarely align with the initial hypothesis, focus or broadening of the targeted customer segments, business model adaptation to optimize growth and profitability, evolution of distribution methods as the reputation and notoriety of the brand increases. These changes of direction, sometimes swift and significant, are inherent to start-ups' DNA and require great agility.

Access to capital is another evolution factor. Between the initial investment of founders and business angels and the IPO or the backing of an industrial or financial player, the company goes through many steps – personal down payment, crowd-funding, business angels, seed capital, venture capital, growth capital by series A, B and C – which represent as many types of investors, each with specific expectations and – legitimately – aspiring to pitch in the Governance.

Young companies, from start-ups to unicorns, should therefore set up an evolving Governance, suited to each stage, including – from the start – an incremental structure fit to support and sustain them without restraining them. This of course implies the evolution of the governing body's composition and members' profile over time, which is easier said than done.

The work group managed to identify **7 keys for an evolving Governance aiming to stimulate and promote growth in a long-term logic.**

[1] Loi Plan d'Action pour la Croissance et la Transformation des Entreprises: Action Plan for Corporate Growth and Transformation

7 KEYS

for Growth-Promoting Governance

#1
MENTORING

The foundation of Governance. Role and importance of the mentor from the company's launch to help the founder grow into his or her maturity; over time the mentor can become a key member of the Board.

#2
TRUST AND TRANSPARENCY:

A vital duality. There's no good Governance without these two ingredients. Trust cannot be decreed, it must be earned and built over time, and it cannot be established, nor can it thrive, without transparency.

#3
INDEPENDENCE

Defending the company's best interests above all others. Emphasizing the key role played by independent directors as a link between founders and investors from the very beginning of start-ups development to their growth into scale-ups.

#4
STRATEGY

The Board, an indispensable crucible. The founders' strategy must be enhanced by the Board's debates and the expertise brought on board by each of its members in a collective decision-making process.

#5
EMPOWERMENT

The Board as a guarantee of the human resources required for development. Without the right talents, at the right time in the right place, there cannot be any sustainable growth. The Board must see to it, by supporting the founders.

#6
DEPLOYMENT

Governance as a key factor of success for international development. Aiming high, thinking of going international from the start, hence recruiting the right skills and assets for this purpose: the Board is there to help the founders set the right level of ambition and get ready for it.

#7
PERPETUATION

The Board's collective intelligence, an invaluable asset. The successful development of a company and its sustainable growth stem from the founder's and Executive team's work…but not only: the Board, through the sum of skills it represents, its collective experience and wisdom, must play a key part.

#1 MENTORING

The foundation of Governance

The vast majority of entrepreneurial successes are the result of a duality within the founding cell. It is composed of individuals sharing common ambitions, projects and values. This founding team is often obsessional by nature: it carries the genius of the project. And those traits, characteristic of the entrepreneur figure, also carry the risk of isolation, a limited capacity to listen and resistance to compromise. Very quickly, the introduction of a third party joining the project for the long haul, brings an outside perspective, the challenge and the distance needed by the young company. At that point, proximity and frequent interactions, preferably weekly, are crucial.

Mentoring is very popular with entrepreneurs. They experience it as a true support, which proves decisive when time comes to evolve towards Growth-Promoting Governance. A dialog of equals between the founders and their first advisor naturally takes place, where all subjects, even the most delicate, can be approached serenely. In the initial phase but also over the course of the key stages of the company's development, this support is crucial to avoid the pitfalls associated with lack of experience.

Legitimacy, benevolence, detachment, sharing experience without being a pontificator are the qualities required to be an efficient mentor. Those can be found amongst seasoned entrepreneurs, who have experienced trials and success. These qualities also lie in the art of advising, of making a young shoot grow, in the art of presenting a watchful yet demanding mirror, of maieutic, of constant testing & learning, and of productive questioning.

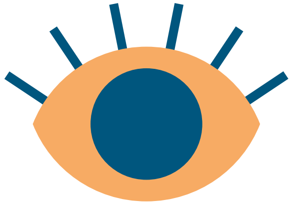
Mindful, attentive and available, the mentor devotes time with great responsiveness and knows when to be proactive in order to prompt discussion at the right time, in particular by detecting weak signals. He or she must be chosen by the founding team and be compatible with its first influential shareholders. He or she can even sometimes help gather a first roundtable through his or her network.

"Statistically, mentored start-up founders are much more successful than those who weren't."

This relationship can – if preserved and nurtured – prove decisive during the business acceleration phases. By being able to tackle difficult questions with the founders (valuation, dilution, profile and role of the new investors…), the mentor contributes to their reflection and decisions.

As the Governance gains structure and the Board takes its place, this trusting relationship generally proves invaluable if the mentor is in a position to act as a go-between, an honest broker between the founders and the new investors, rather than be perceived as standing with the founders against the new investors.

The role of mentor is therefore fundamental from the onset of the entrepreneurial journey and can be fruitful for a long time providing that the mentor manages to adapt over time.



#2 TRUST AND TRANSPARENCY a vital duality

We were struck during our interviews by the wariness expressed by many entrepreneurs regarding the intentions and practices of the Board members… and vice versa. Yes, the Board is a place of decision, sometimes unfavorable to the executive team’s recommendations. Yet, if entrepreneurs don’t feel confident enough to describe the reality of their situation and of their issues without preconceptions or calculation for fear of their Board members’ reaction, then the conditions for a progressive and profound divergence coalesce, often leading to a brutal landing. **Trust and transparency are absolute conditions for efficient Governance.**

It can only work if the Board has the means to fulfil its mission: getting the relevant information in good time, coming fully prepared to Board meetings, asking sensitive questions in a constructive spirit, ensuring the quality of the answers, monitoring the implementation of what’s been decided… **The start-up and its Executives should therefore devote the necessary time to prepare and provide the information needed for the Board to play its role,** without falling into the trap of detailed operational reporting. The Board, and especially the mentor when he or she is a member, can help the Executive team set up the essential ingredients for trust to be built, through transparency.

For trust to exist and grow with the trials the company will inevitably go through, **members of the Board must have the right skills and adopt the proper posture.** For each non-executive director, it is a question of not letting themselves become obsessed with their own interests but to first and foremost take the company’s interest into account, in a long-term perspective which can go well beyond their own investment horizon for a member representing an investor. While this role is the one laid down by law for Limited companies’ Board members, it is not an obligation for SAS Strategic or Advisory committees that are not legally mandatory.

The ability to analyze the information provided by the Executive team, a benevolent posture, distance in order to avoid untimely decisions, taking the time needed for a deep understanding of the situation rather than reasoning on preconceptions, are all traits shared by the most relevant and efficient Board members. Their role is to find pertinent solutions that will keep the founders motivated, not to censor them or extinguish their energies. The governing body can therefore not limit itself to its inherent supervisory role and should not be perceived as a fussy “report duty”. The Board must also be a place where founders and Executive committee debate openly about the questions they ask themselves, where they find a form of collective discriminating intelligence that allows them to progress in their reflections and lead them to the right decisions.

This trust is built day by day between the different protagonists. It is based on the way which, session after session, the founders, the Executive committee and its Board prove how they are making good use of the information provided in good faith for the good of the company.

Our interviews allowed us to identify **a few good practices drawn from the experience of the entrepreneurs and Board members we questioned.** Though they do not constitute a universal truth, they however propose clear suggestions and courses of action to build transparency and trust, the foundations of effective Governance:

- **Establishing a governing body as soon as the company takes off,** even if it opts for the SAS status, in order to prefigure the Governance that will be needed as it grows.

- **Adapting the size of the Board** (3 or 4 members at the beginning, 5 to 8 at the mature stage) to be representative of the investors, the founders but also other stakeholders through independent members. Indeed, size is a factor of cohesion and effectiveness: neither too small to ensure constructive diversity, nor too abundant so that each of its members can fully play its part. This evolution and the maximum size to guarantee a satisfactory operation implies “flexibility” in the appointments to the Board.

- Beyond 5 or 6 members, and when the company has reached a certain size, it can be a good idea **to appoint a chair of the Board who is not one of the managing founders,** or at the very least a Vice chair or Lead director which will guarantee the quality of debates, by setting a framework and making sure it is respected.

- Basic but fundamental, **the chairman should issue an agenda,** previously discussed with the founders and the relevant documents should be communicated upstream (the weekend before the Board meeting); this enables everyone to be prepared, which ensures effective debates but also guarantees that the subjects on the agenda will be discussed within the meeting and not aside between a select few members.

• **The art of questioning:** let's not forget, Board members are not Executives, their role is not to interfere in management. So, beyond the key orientations they validate or invalidate, their art is that of questioning and of maieutics.

• **The quality of the minutes:** too often considered as an administrative chore, the Board minutes are – on the contrary – a key condition of trust, for it is a way to specify the content of the debates and decisions made, in an expression that must be accepted by everyone, with the possibility for everyone to reformulate and verify that nothing has been left unsaid and that no decision has been taken without the knowledge of all.

• **Executive session:** this practice – a meeting of the members without the Executives – can be useful in some cases, in particular when the Board needs to speak with one voice to the founders. This moment of discussion without the Executive team, before the Board meeting, can help identify and synthetize points of view to formulate a majority expression.

It is up to the chairman (non-Executive and non-founder) to relay the conclusions of this executive session to the CEO in order to create the conditions for the smooth running of the Board meeting. If well practiced, it can be a way to fuel the entrepreneur's energy and trust, by preserving him or her from internal debates between non-executive directors, which are not necessarily relevant to the Executives, before achieving the correct roadmap.

If respect and reciprocal attention are used to nurture trust, then the Board can become a true place of revitalization for the founders and the Executive team. A place where, every 6 to 8 weeks, they can lay down their hat, take a step back, share their doubts, the issues they face and benefit from collective intelligence and cumulative cross-experiences, giving them a boost of energy.

#3 INDEPENDENCE

defending the company's best interests above all others

A crucial addition to trust and transparency, independence is the other fundamental virtue for a good Growth-Promoting Governance.

"An independent director is a Board member that is free of interest and which contributes, through his/her skills and freedom of judgement, to the Board's ability to exercise its missions. To be truly deemed independent, the director in question must not find himself/herself in a position that could impair his/her independence of judgement or put him/her in a position of real or potential conflict of interest." The Afep-Medef Code then specifies that independent director means not only a non-Executive (i.e. without senior management function in the company or group) but also someone without any links to particular interests (significant shareholder, employee, supplier, family member…).

The very principle of appointing an independent director is becoming increasingly mainstream in governing bodies for all types of companies, including big businesses, in particular when they opt for a non dissociated chairmanship (CEO), as well as in family businesses. It is becoming more frequent to see independent directors, or even Lead directors, embody the company's interests in face of other members' particular interests.

This principle is even truer for start-ups and scale-ups with **the nomination of at least one independent director who is neither the representative of the entrepreneurs, nor that of the main investors.** It may be the entrepreneur's mentor if he or she is able to take on this role, the chair if he or she is not the founder, or a vice-chair or lead director.

The testimonies we've collected confirm that Boards often become a place where the main investors confront their entrepreneurs, with decisions that are too rapidly favorable to those who have the most votes in the Shareholders' Agreement.

Favoring the interests of one party or decisions deriving from short-term vision can involve significant risks and be detrimental to the company's prime interest in the long term.

Small wonder that this point is not naturally and easily considered by entrepreneurs or investors when they're asked about it. Yet it is one of the main recommendations made by experienced practitioners who have taken a step back.

It doesn't mean that the independence criteria mentioned above are absolute guarantees of effectiveness: when the independent party sets himself or herself up as a prosecutor or as a pontificator, or if on the contrary he or she lets himself or herself be upstaged by those in positions of power, the added value becomes void. This is **a delicate role to play which requires experience, tact and courage.**

Independence is a state of mind and a personal ethics, it is characteristic of personalities with convictions, great ability for listening, sure judgement and who are personally disinterested. **The independent director is chosen for his or her courage and impartiality.** He or she can be the mentor from the beginnings or the one for the end game. Technical expertise, though it may be necessary, cannot suffice if the independent party has no interpersonal skills, no operational experience nor any proven practice of Governance. **Independence is a posture to facilitate free collegial debate and the sharing of convictions.**

Our interviews have outlined the risk of the "false independent". Often appointed by an investor for his or her supposed expertise, he/she will then be accused of representing the interests of the sponsor rather than those of the company. Likewise, if he/she is chosen by the entrepreneur amongst friends or relatives.

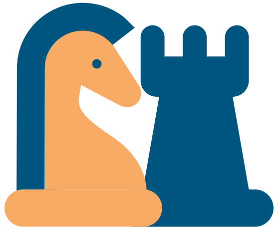
The search for and the choice of an independent director must therefore be conducted collectively by the Board and balance these criteria and personal qualities. It will often be profitable for the company to appoint the independent party as chairman, or for want of a better alternative, vice-chairman or lead director of the Board.

The quest for people thus qualified raises the question of their compensation, which can be complicated for companies that are not yet profitable and thus disinclined to pay their Board members. However, it seems important to us to set up a compensation for this role, which is not meant to be extended to sitting founders or investors' representatives.

Board members' compensations, including listed companies, are lower in France than in the Anglo-Saxon world but also in other European countries. **It seems important to us to offer a compensation to independent directors.** As a guide, it can be comprised between 10 and 35,000 €/year (given that it is more often up to 100,000 USD in the United States, for example in the biotech business, where independence is considered essential). Moreover, we recommend to let the independent director own a small ticket in the company's capital, which will serve as a token of his or her commitment to devote time and energy for the company's success. Of course, it should be "neither too much, nor too little", especially "not too much" so as to avoid any risk of putting the administrator in question in a conflict of interest which would lead him/her, for instance, to side with a rushed decision to sell the company, thus changing his/her status from administrator to shareholder. But allowing to invest one or two years of member's fee, or offering an annual compensation mixed with a few shares or stock options is likely to facilitate the recruitment of an independent director.

Finally, one last word regarding independence but not the least: the virtue of Shareholders' Agreement. Naturally, they are imposed on the Board, but we cannot stress enough that entrepreneurs and investors, in their own interest, should not **over-lock their agreement with veto rights and limited Board prerogatives,** which could be detrimental to the smooth running of the company in the end.

Shareholders' Agreements should be drafted in light of these issues in order to foster quality Growth-Promoting Governance. The same goes for founders, especially when they still own the majority: should they not take upon themselves to let the Board have sufficient prerogatives, they would deny themselves the virtues of this duality and the added-value of an experienced third-party on their management.



#4 STRATEGY

the Board, an indispensable crucible

Some entrepreneurs consider their Board as a place where they spend too much time meeting administrative or contractual obligations, with unnecessary formalization, and reporting to investors whose sole focus is managing their investment or their risks. Others place their strategic issues at the core of their Board's mission.

And indeed, **the Board of directors is essentially the place to confront points of views and make major strategic choices.** By meeting regularly, it sets the pace of the Executive team's in-depth work and gives them the opportunity to revisit the major options and orientations in a dedicated place to validate them, to gain the shareholders' support or to arbitrate in the interest of the company. Good Governance is therefore the result of the Board fulfilling its mission:

• To challenge the options proposed by the entrepreneurs in a constructive logic and to debate strategic subjects: business model evolution, offer adaptation, market analysis, technological choices, long term vision formalization, key recruitments.

• To look for and anticipate both opportunities and risks . Indeed, the sole purpose of the Board is not limited to risk identification and management. It also includes stimulating and supporting the Executive team, encouraging them to seize value-creating opportunities.

• To arbitrate finally, especially at key stages or in a context of emergency or crisis: investment choices, budget and business plan validation, prioritization…

In times of very strong business growth, the legitimacy and added-value of the Board are essential to present a mirror and the constructive contradiction needed by entrepreneurs faced with fundamental questions.

"Executives should present the strategy following their recommended scenario, and justify this choice in comparison to alternative scenarios."

While the founding team maintains control over the vision and the company's mission, the Board sees to the validation and execution of the strategy, "i.e. the art of winning in a mine-field of economic constraints and of handling the critical path."

The Board is therefore identified as the regular meeting place where strategic information is shared, where the roadmap and growth stages are monitored and where priorities are decided.

A few good practices outlined in the interviews:

• **Setting formal Board meeting every 6 to 8 weeks, and stick with it.**

• Ensuring that **enough time is devoted to strategic options during Board meetings**, which should not be overtaken by urgent matters, current affairs and legal decisions.

• **Strategic debate should be open and enable each member's opinion and contribution to be expressed.** The Chairman's role is to guarantee this freedom and to avoid closing the debate by presenting a single option. He/she must encourage the presentation of alternatives or variations, and see to the quality of the gathered collective intelligence, to the group dynamic.

• **Board meetings can be fed by preparatory sessions on well-defined themes,** or by dedicated sessions where additional independent experts or members of the Executive team not sitting at the Board can be invited. An annual strategic seminar can be an occasion for the Board to organize a blue-sky session, in order to strengthen the bond between the Board and the company's key elements so as to foster a climate of trust and co-construction.

#5 EMPOWERMENT

the Board as a guarantee of the human resources required for development

Naturally, the smooth running and day-to-day management of human resources are the Executive team's responsibility. But the fundamental principles of the company, the corporate culture underpinned by evaluation criteria, management practices and the quality of the Executive team are all key levers for sustainable growth. The Board can therefore not turn away from it. In other words, **the human capital is clearly on the Board's agenda,** even if its management depends on the Executives.

This is not obvious and often creates tensions, even though human capital can hinder growth and prevent start-ups from scaling-up. Many start-ups wither or fail due to their Executive team's shortcomings. A good founder does not necessarily make for a good manager or a good organizer to set up the proper processes when the company reaches a certain size. A good entrepreneur doesn't always have the profile or skills of a good captain of industry, able to structure the company before deploying it on a larger scale.

It's therefore a matter of individuals as much as of skills and experience. In other words, nothing is set in advance: some founders are able to upgrade their skills along the way, with the help of their mentor and their Board, and thus to grow with their company; others reach their limits at one point in the development of the company they've founded and they must balance their ego against the interest of the company, of its employees, of its shareholders and their own shares' value.

Supporting and helping the managing founders develop, but also sometimes replacing them, is central in the role of the Board. Convincing the founders to question themselves, to train more, even sometimes to bring in new complementary talents on board, or in the end to step down in favor of a new CEO risen from the ranks of the company or from outside, is not an easy task. And it's of course much better when this delicate decision stems from a thoughtful and respectful concertation between the Board members and the company's executive founders.

By shying away from this key question, the Board would expose the company to a major risk. And yet, taking it on in a brutal or insensitive way can be a cure worse than the disease.

It sometimes goes beyond the Executive team. Many start-ups suffer from ill-structured or ill-supported growth, where the necessary skills are not sufficiently anticipated, especially when it comes to building up financial and control functions or when it comes to key, technological and marketing resources, and more generally, rare skills.

Many start-ups cite the lack of time or the lack of means to anticipate human resources needs, invest in training the best talents, promote them and define succession plans. Urgency prevails, while anticipation is actually the condition for strong growth, human capital being the first fuel of this growth. Everyone knows it, but very few actually put it into practice.

Often passionate and visionary, the founder must manage to drive the team and structure the executive team, all the while staying focused on the strategy and structure of his/her mutating organization. The qualities of the founder have to strengthen gradually with the development of the company, but it's a collective necessity for the whole Executive team.

Naturally, **the annual performance review of the Executive team is a key process.** It is up to the founder and his or her governing body to be one step ahead and anticipate the match between the company's needs and the team's proficiency. In this perspective, he or she has to question the Executive team's profile and its eventual need for consolidation, anticipate the evolution of his or her role in the company and the potential succession, all critical measures for the company's success and perpetuation. ***"The right CEO, at the right time in the right place"***. An iconic entrepreneur said ***"the best decision I ever took was when I decided to recruit and step down in favor of a professional manager, when I felt that I no longer had the necessary skills to make the company I created grow."***

Anticipating and foreseeing the progressive upscaling of the Executive team is one of the Board's central missions, by preparing for different situations: unexpected, provoked or fixed-term succession.

With this in mind, the Board must help define the targeted profiles, identify internal potential candidates by reviewing their development plan, and remain open to external profiles.

In fact, some investors with international experience estimate that around 30% of unicorns have gone through a change of CEO before reaching that status.

Some founders remain in the company – sometimes by handing over the reins to a leader better suited to drive the anticipated growth –, others withdraw graciously when that time comes, and finally, others leave with much more difficulty.

Here are a few best practices compiled from the interviews to help reconcile these seemingly contradictory issues of trust and high standards:

• **First, offering proactive and organized support to the founders:** mentoring and training programs, joining an Executives club or co-development programs, coaching, international cultural integration.

• **Regular consultation of the various stakeholders to assess the match between current talents and the company's needs** (be it the teams in general or, once the company has reached a certain stage of development, the Executive team). This annual review can be conducted by a competent Board

"Making sure to have the right CEO, at the right time, in the right place."

member or an external professional. It can cover development plans and if need be, succession plans.

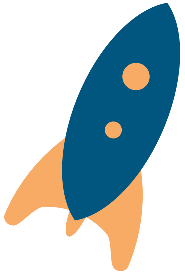
• **Taking the time to talk and search for solutions in case of identified incompatibility between resources and needs,** which can eventually involve reinforcement (such as recruiting a COO to support the founder and bring structure, appointing a president other than the founder, placing the founder to the sidelines, but still within the company, to act as COO, CTO, president, even sometimes, having the founder join the Board and abandon his Executive responsibilities).

• **In order to get to know the Executive team better, and not only the founder or founders, the Board should have the opportunity to meet them** during formal meetings to present the topics they're in charge of, during the strategic seminar or for specific themes and projects. Board members should however be mindful not to get involved in the operational side of things by bypassing the CEO.

• **Setting up an Nomination & Compensation Committee, entrusted to an experienced Board member, preferably an independent one,** is a good way to objectify the debate. It doesn't require any extra resources and allows the Board to treat this delicate topic in a serene and efficient way based on elements prepared by the Committee.

• In the end, at a certain stage of development, **separating the functions of CEO and of Chair of the Board,** even though the founders or the Executive team might still detain the majority of the capital, is an interesting solution to dedramatize these issues, for the good of the company.

• Finally, **some professional investors** (especially venture capital funds) **have acquired expert resources specialized in talent management** to support companies in their portfolio, as well as the founders of said companies.



#6 DEPLOYMENT

Governance as a key factor of success for international development

Our guide aims to help more French champions bloom, and to bring out of the French Tech dynamic companies of international scope. For, if young innovative start-ups are abundant in France, our country lacks champions who manage to deploy internationally and reach critical size.

This notion of deployment – which requires defining a few conditions for the scalability of the business model to fit the international market – is also at the core of the Board's attributions. Its role is to help founders and Executives to aim for the right level of ambition and to implement the conditions for success.

This is obviously closely linked to the previously-mentioned question of talents, but also to strategy, corporate culture, brand positioning, information systems…

Our interviews show that the question of internationalization is too often raised too late or is not central enough in the strategy development process. Indeed, most of the time, our domestic market is too small to bring out major champions and to allow them to keep growing over time. We play in an open economy, and if our start-ups don't quickly come up against their competitors or foreign peers, they risk being less competitive.

In other words, both growth and competitiveness must lead start-ups to anticipate the conditions for their development very early on. This will often be a necessary step to become first a scale-up, then a unicorn.

It implies the progressive construction of the necessary skills to initially adjust the business model to the intended original market. But also, more importantly, to master the conditions of a profitable model before investing – often considerable – marketing resources to conquer overseas markets. Preparation must come in due time, upstream of the rolling out.

Since the Board is the place for anticipation, it must stimulate and challenge the Executive team both on its ambition and its preparation. To that end, including in the Board – early on in the life of the company – members with rich international experience to coach the entrepreneurs, will be very useful.

Entrepreneurs who aced their development give the following advice:

• **Recruiting profiles with international experience or potential, especially within the Executive team:** fluent in English, knowledgeable regarding other cultures, and with working experience abroad.

• **Becoming familiar as soon as possible with international standards compliance** (IFRS, intellectual property…), possibly first by relying on external skills.

• Whatever the nature of their investors may be, **including in the Board personalities with international experience** in the business and specific challenges of the company.

• **Very early on in the life of the company, putting the scrutiny of international markets and competitors on the Board's agenda** – even if the structure is not yet international – as well as the study of long-term conquest strategies (conditions of establishment, of partnership, of test, of recruitment, of expatriation…).

#7 PERPETUATION

the Board's collective intelligence, an invaluable asset

Governance is the art of decision-making by a collective endowed with diverse and complementary skills and sensitivities. The Board must be a place where the quality of the group exceeds the sum of its individualities, in the service of the company's mission and its leaders, who are too often focused on day-to-day urgencies. The Board, beyond its formal supervisory role, needs to be an open reflection cell, competent and free, focused on opportunities and the management of risks inherent to the company's development.

The Board's collective quality is decisive: yes, it's a question of individual expertise, but it's also about the way each Board member positions himself or herself to contribute to the dynamics of the group.

The role of Board member can't be played by ear, it requires proven experience, a large spectrum of skills, both functional and sector-specific, but also a good knowledge of legal frameworks and the ability to be a team player without getting into the operational side of things, which remains the role and prerogative of the Executive team. In other words, "Board members are made, not born", through training and practice.

The quality of debates largely depends on the Board's diversity, each member bringing his or her skills and point of view to the mix. In France, since January 1st 2020, the Copé Zimmerman law on gender balance in governing bodies applies to companies with over 250 employees and more than 50 million euros turn-over or a balance sheet superior or equal to this sum for 3 years. The Board's diversity obligations are therefore now mandatory for companies who have reached scale-up status. The diversity of gender, but also of origins and culture, really enriches the Board. So, whether the company has reached those legal thresholds or not, bearing it in mind and ensuring it early on in the life of the company is a wise move.

"Being a Board member can't be played by ear. Il requires proven experience without getting into the operational side of things, which remains the role and prerogative of the Executive team."

Several suggestions and practical advice were mentioned during the interviews to ensure each Board members' commitment and the Board's good functioning:

- **Making Board members' rights and duties, as well as the division of roles, very clear.**

- **Making sure that each Board member has a limited number of simultaneous mandates** (for SA / limited companies, it is already fixed to 5) so as to be able to fulfill his or her mission and obligations in an efficient way, with the required availability.

- **Making sure that the number and distribution of Board members, especially independent ones,** is adequate, balanced and fitting for the size, development stage, capital composition and challenges of the company.

- **Carrying out regular assessments of the Board's dynamics,** as do listed companies, in order to identify and correct dysfunctions and to encourage each Board member's commitment and contribution.

- **Setting a term for the mandate** and limiting renewal possibilities to allow the Board to evolve with the company's development and the evolution of the various investors.

- **Ensuring that every member and participant arrives fully prepared for each Board:** exemplarity – some will call it peer pressure – proves to be an efficient lever.

ANNEX 1

Composition of the working group

Co-chair of the working group

Véronique Saubot
Partner, Kairn Strategy Consulting

Bertrand de Talhouët
CEO, Créadev

François Bouvard
Vice-Chairman, IFA and Non-Executive Director

Olivier Bronner
Entrepreneur, investor and Non-Executive Director

Jean-Baptiste Deroche
Consultant, Kairn Strategy Consulting

Maïlys Ferrere
Manager of Large Venture, BPI France

Eric Kalfon
Partner, Dayone

Pierre Karpik
Lawyer, Gide Loyrette Nouel

Mehdi Ouchallal
Co-founder and managing director, LegalPlace

Louis Oudot de Dainville
Lawyer, Gide Loyrette Nouel

Guillaume Peronnet
North America, strategy VP, Faurecia

Marika Puppinck Rathle
Spencer Stuart

Barbara Steinert Dumery
Sales & Operation Europe VP, Octoly

Mehdi Tahri
Co-founder, Iziwork

ANNEX 2

Interviewed practitioners

Hans-Holger Albrecht
CEO, Deezer

Guillaume Aubin
Co-founder and Managing Partner, Alven Capital

David Berger
Legal counsel of the Tesla Board

Pierre-Henri Benhamou
CEO, DBV Technologies

Alain Bloch
HEC Professor

Renaud Bonnet
Partner Lawyer, Jones Day

Jean-David Chamboredon
Founder, France Digitale

Bruno Cremel
General Partner, Partech

Arnaud Creput
CEO, Smart AdServer

Bertrand Finet
Managing Director, Groupe FFP

Antoine Freysz
Founder, Kerala

Andrew Goldner
Founder of the growth fund

Anne-Marie Graffin
Independent Board member

Emmanuel Grenier
CEO, Cdiscount

Benoist Grossmann
Managing Partner, Idinvest Partners

Olivier Heckmann
Founder and CEO, Wild Horses Digital Venture

Penny Hersher
Independent Board member for American innovative companies

Ashok Krishnamurthi
Managing Partner, GreatPoint Ventures

Xavier Lesage Moretti
Entrepreneur

Sébastien de Lafond
Co-founder and CEO, Meilleurs Agents

David Layani
Founder and Chairman, Onepoint

Franck Lebouchard
CEO, Devialet

Denis Lucquin
Managing Partner, Soffinova Partners

Brian Lee
Partner, Baker Botts

Jérome Mazurel
CEO, 50 Partners

Frédéric Mazzella
Founder and Chairman, BlaBlaCar

Michel Meyer
Entrepreneur

Guillaume Paoli
Co-founder and Co-president, Aramis Auto

Benjamin Paternot
Executive Director, Head of funds investment, BPI France

Jean Peyrelevade
Independent Board member

Mark Platshon
Founder of the BMW VC fund in the Silicon Valley

Philippe Pouletty
Co-founder and Managing Director, Truffle Capital

Thomas Rebaud
Co-founder and CEO, Meero

Michel de Rosen
Chairman, Faurecia

Bruno Rostand
Head of innovation and entrepreneurship, PSL University

Franck Sebag
Partner, EY

Dan Serfaty
Investor, Co-founder of Viadeo

Evangelos Simoudis
Founder and Managing Partner, Synapses Partners

Ivan Zgomba
Partner, Plug and Play Ventures,

Created in 2003, the French Institute of Non-Executive Directors or IFA (for Institut Français des Administrateurs) is an independent association which supports and represents nearly 4,000 non-executive directors and board members fulfilling their mission in all types of organizations.

Taking on a consulting, informative and training role, and as a promoter of good Governance, IFA endeavors to foster sustainable, growth-promoting governance for the common good.

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