

# Aligning incentives and overcoming short-termism: Profits with benefits

By Tod A. Northman



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**M**orphing from “triple bottom line,” to “enlightened capitalism,” to “benefit corporation,” the names for the increasingly common focus of businesses on social benefits in addition to profits have evolved over the past forty years. What started as a movement of naïve social do-gooders of limited importance to mainstream businesses, has gained sophistication and economic might. Businesses of all sizes and industries – from craft start-ups to publicly traded multi-national corporations like Unilever – are pursuing benefit status. As an illustration, DBL Investors—a San Francisco venture capital fund mandating on a “double-bottom line of social good and profit”—had a phenomenal five of its 18 investees go public in less than a decade.

Given the exponential growth of socially conscious corporations in all industries, it behooves all businesses to understand the benefit corporation and B Corp movement, and the potential benefits of integrating benefit corporations in a corporate organizational structure. The various strands of social enterprise organizations each have strengths, so this article will highlight the commonalities rather than select a particular form. Nevertheless, two particular forms merit brief description.

A benefit corporation is a for-profit corporation that has committed in its articles of incorporation to pursuing one or more social benefits in addition to pursuing profit for its shareholders. The enabling statutes of the 30 states that have adopted benefit corporation legislation vary only modestly: All states require the corporation to commit to pursuing a social benefit; most states require the corporation to issue an annual or biennial written report assessing the corporation’s progress toward its goals, but state laws vary on whether the report is publicly filed or addressed to shareholders. Although the benefit corporation form started in Maryland less than six years ago, there are now

approximately 15,000 benefit corporations in the United States.

To become a “B Corp,” a business must: achieve a minimum score on a rigorous, on-line assessment for social and environmental performance; incorporate commitments to diverse “stakeholders” into the organization’s governing documents; and pay an annual fee, which is based on the business’s annual sales and ranges from \$500 to \$50,000. There are approximately 1,600 B Corps in the United States.

## Potential benefits of conscious capitalism

Among the potential benefits observed for businesses that adopt Conscious Capitalism principles are the following:

**Better Employees.** One of the most commonly reported benefits of Conscious Capitalism is improved employee engagement. Starting with the Body Shop, continuing to Jim Collins’ Good to Great and concluding with employees of self-styled Conscious Capitalism businesses such as The Container Store, Whole Foods, Zappos, proponents have observed that employees are better motivated and loyal to organizations that pursue non-financial goals. Impact Makers, a Richmond, Virginia-based consulting company, illustrates the power of employee engagement. The company has donated over a \$1 million to local charities in a decade of operations. The company’s founder considers its community focus to be the critical factor in attracting and retaining top consultants in an otherwise peripatetic industry.

Annual surveys by Deloitte suggest the benefits to employers of adopting socially conscious principles are even greater with employees from the Millennial Generation. Deloitte observed that companies with social purposes attract the best-qualified candidates and experience lower employee turnover.

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### ***Longer Term Corporate Perspective.***

Delaware Chief Justice Leo Strine aggressively supported Delaware's adoption of benefit corporation legislation. His hope is that incorporating express direction for directors to consider business benefits in addition to short-term profits can lead to better corporate decision-making. The benefit corporation form protects directors from after-the-fact challenges that a different option would have provided a better immediate return for shareholders. The ability to institutionalize a longer-term perspective can be valuable, for example, for a family-controlled entity anticipating a transition to a new generation of shareholders, some of whom are active in the business and some who would prefer to maximize short-term return.

### ***Institutionalize Important Corporate***

***Values.*** B Lab was founded by shareholders who sold their company then watched as the acquirer discarded the culture that had made the company thrive. By incorporating such values in the organization's charter, stakeholders have greater insulation against adverse consequences of ownership changes. This scenario played out when Campbell Soup

acquired Plum Organics, but institutionalized Plum's culture by permitting Plum to remain a wholly owned benefit corporation. Campbell's flexibility permitted it to acquire a desired target which otherwise would have resisted selling to a public company.

### ***B Lab Assessment is a Rigorous Due Diligence Process.***

Patagonia has discovered that requiring its supply chain to obtain B Lab certification is an effective, affordable means of meeting its corporate sustainability goals. The on-line assessment tool is available free on the web.

### ***Potential Disadvantages of Conscious Capitalism***

Although incorporating tools from benefit corporations, B Corp or conscious capitalism could make sense for businesses in many circumstances, there are several tradeoffs that must be considered, including the following:

### ***Increased Reporting and Monitoring***

***Costs.*** Both benefit corporations and B Corps require the organization to make formal reports to stakeholders and, depending on the jurisdictional requirements, third parties and

government offices. Tracking and reporting the data can be labor intensive. The cost is particularly high for certified B Corps, where the biennial survey can take hours to complete, even if the information is already tracked. The costs are even higher for organizations that do not gather the required information as a matter of course.

### ***Institutional Focus on Non-Economic Benefits May Reduce Profits.***

Although proponents of Conscious Capitalism suggest that economic returns will be enhanced by an organization focusing on goals other than maximizing profits, the contention is difficult to objectively prove and requires a leap of faith. Indeed, balancing short-term profits against social benefits increases directors' responsibilities without giving them more tools.

### ***Public Reporting May Be Inconsistent with Institutional Interests.***

Many organizations prefer as a matter of culture or strategy to keep confidential operational information. Yet public disclosure of operational information is necessary to realize several of the benefits described above.

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