



Governance & Proxy Review

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As We See It - Commentary from The Altman Group

An excerpt from the Executive Summary of our soon to be released “Comments on the Proposed Rule ‘Facilitating Shareholder Director Nominations’”

The Altman Group has published a detailed review and content analysis of some 500+ letters to the SEC submitted in response to the Commission’s proposing release on “Facilitating Shareholder Director Nominations” (Release Nos. 33-9046, 34-60089, IC-28765; File No. S7-10-09). Our report documents a broad range of issues raised in letters both for and against the SEC’s proposals on “proxy access.” This report details for you the statistics covering the categorization of letters (segmented into groups ranging from publicly-traded companies to unions), a detailed survey of proposals and positions taken by some 111 publicly-traded companies in letters to the Commission, and an extensive review of positions, proposals, and novel insights offered in hundreds of additional responses from individuals, activist investors, institutional investors and pension funds, associations, academics, law firms, proxy solicitors, proxy advisors, private companies, small business owners, and unions. Our Content Analysis covers the issues and prioritizes them as they were presented by those submitting comments, and is based upon a review of all letters accepted and posted by the SEC through October 27th at <http://www.sec.gov/comments/s7-10-09/s71009.shtml>.

In early October, the SEC postponed a final vote on its proxy access proposals until early 2010, reportedly to provide staff more time to both review all of the comments submitted and address a host of “workability” issues raised by commentators. The list of specific proposed and existing rules and regulations at issue in the Proposing Release is long, but we found that comments essential focused on the central issues related to the SEC’s Proposed Rule 14a-11 (direct “proxy access”), a new Regulation 14N and Schedule 14N (“proxy access” notice and disclosure requirements), and proposed amendments to 14a-8 (that would enable shareholder proposals to amend a company’s bylaws concerning director nomination procedures or disclosures related to shareholder nominations to be included in company proxy

Governance News & Views from across the

SPECTRUM
>>Executive Compensation



November 11th, Steep Pay Falls for Senior Managers

Rachel Sanderson discusses changes in pay for senior managers versus directors at UK companies.

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November 11th, AIG’s Benmosche Threatens to Jump Ship

Liam Plevin, Serena Ng and Joann S. Lublin report on concerns that AIG’s new CEO may quit because of continuing pressure from Pay Czar Feinberg and the Treasury.

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November 11th, Let My CEO Go

Commentary from David Weider on Benmosche pay controversy.

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materials).

More than 500 letters were received by the SEC in response, including 103 letters submitted on behalf of 111 publicly-traded companies. The latter total includes a group letter submitted by “corporate secretaries and governance professionals” of 26 publicly-traded companies. While most of the companies participating in that group letter submitted their own separate responses, 9 did not. Thus, the total number of publicly-traded companies submitting signed letters was 111 (99 NYSE-listed, 11 NASDAQ, and 1 NYSE Amex). The average market capitalization of companies submitting responses was \$32.39B. This high market capitalization average reflects the very limited representation of submissions by small- and mid-cap companies. It also reflects a very meager response rate among all publicly-listed companies (1.6%). There were an additional 21 responses coming from corporate directors at public companies offering comments on their own behalf. Other categories include (sorted by # of letters):

Categories (Sorted) # Letters	# of Letters
Others (Mostly Unaffiliated Individuals)	195
Executives of Privately Owned Companies (Mostly Small Business Owners)	60
Institutional Investors (Excluding Those Categorized as "Activists")	33
Associations (NAM, SIFMA, Business Roundtable, etc.)	29
Law Firms and Committees of Bar Associations (Group Letter = 1)	21
Form Letter Types (SEC Categorizations) “A, B, and C” (Total, excl. 1 letter submitted by a co.)	21
Activist Investors	20
Providers of Proxy & Corp. Governance Services (Research/Advisory/Solicitors /Others)	10
Academics (Group Letter = 1)	8
Unions	5



November 10th, Goldman Chief Defends Employees’ Pay

Gregg Farrell discusses comments by Lloyd Blankfein on compensation for Goldman Sachs employees.

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November 9th, Directors Press for Tougher Bonus Standards

Tony Chappelle explores director decisions on bonus and incentive compensation.

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November 9th, Sants Says Banks Failed to Learn Lessons

Brooke Masters reports on comments from Hector Sants, Financial Services Authority (FSA) chief executive on a proposal to break-up the FSA.

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November 9th, Many Directors Satisfied With Comp Consultants

Katie Wagner reports on director concerns about scrutiny facing compensation consultants.

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November 8th, I’m Doing ‘God’s Work’. Meet Mr. Goldman Sachs.

John Arlidge has an exclusive interview with

* Counts exclude posted memoranda on telephone and other "meetings." Letters posted at

<http://www.sec.gov/comments/s7-10-09/s71009.shtml>

Most submissions offered generalized commentary on the subject of direct proxy access (Proposed Rule 14a-11) and revisions of 14a-8 (re: shareholder proposals). Detailed responses offered in response to the numerous questions contained within the SEC's Proposing Release came mostly in letters submitted by critics of the direct proxy access initiative, who offered their responses as "alternative" propositions: either as proposed modifications in the event that the SEC decides to adopt some form of Proposed Rule 14a-11, or if the SEC is open to considering dropping Proposed Rule 14a-11, to consider a "private ordering" alternative structured via additional revisions to 14a-8.

We go into great detail in the report on the more specific and "technical" details addressed in the submissions, and offer readers a number of tables highlighting and comparing specific proposals from selected groups. In the table below, we offer a summary overview of the general arguments made in letters by both proponents and opponents of Proposed Rule 14a-11 (direct proxy access). The report includes a number of tables providing details such as: a survey of company proposals and views on eligibility criteria; positions of law firms submitting letters on Proposed Rule 14a-11; a list of publicly-traded companies responding; and other topics (some of which have been included herein). The report is 70 pages long (including all charts and tables) and available in PDF format only (via e-mail). Readers interested in receiving a full report are invited to send an e-mail requesting the report ("Content Analysis"), which will be delivered to the e-mail address contained in the request (or another one named in the text of your e-mail). Please forward your request to proxyaccess@altmangroup.com. Requests by phone (212-681-9600) or mail (to our NYC offices) are also welcomed.

Goldman Sachs CEO Lloyd Blankfein.

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[>>Global Dispatches](#)

The New York Times

November 11th, Switzerland Unveils Measures to Regulate Bank Pay

David Jolly discusses actions by regulators to manage the growth of executive compensation.

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November 9th, View from the Markets

Izabella Kaminska of the FT has a video conversation with Nigel Rendell, emerging markets strategist with RBC, on Korea, Taiwan and Brazil.

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November 9th, Some Bankers Cool on Hot Rusal IPO

Gregory L. White and Dana Cimilluca report on the cooling off of a hot Russian IPO offering.

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[>>Proxy Contests/Battles for Control](#)

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November 9th, Cadbury Rejects Kraft's Now-Hostile Bid

Dana Cimilluca and Jeffrey McCracken report on the opening rounds in the now open battle between Kraft and Cadbury.

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November 9th, What's Next for Cadbury and Kraft

Jenny Wiggins analyzes the bid. Video

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November 9th, Axa Asia Pacific Rejects \$10bn Offer

Peter Smith and Scheherazade Daneshkhu report on Australia's AMP and French-based Axa's bid for Axa Asia Pacific.

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>>**Investor Action**

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November 11th, U.S. Loses Bear Fraud Case

Amir Efrati and Peter Lattman report on the verdict and the government prosecutors' failure to make their case.

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November 9th, Heard on the Street: Investment Banks Are Too Big to Veil

Peter Eavis discusses risks at the largest U.S. investment banks.

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DealBook

November 9th, Senator Seeks to Break Up Banks 'Too Big to Fail'

Cyrus Sanati reports on a bill introduced by U.S. Senator Bernie Sanders, Independent, Vermont, to break up all financial institutions whose size, activities and potential failure pose a risk the global financial system.

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[>>The Boardroom](#)

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November 11th, Chairman Tightens Grip as GM Rebuilds

John D. Stoll reports on the strong leadership of the non-executive chairman at General Motors.

[Video link](#) of GM's chairman, Edward E. Whitacre Jr., discussing the need for the GM to lead the U.S. auto industry.

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November 11th, To Better Select CEOs, Broaden the Comp Committee's Mandate

James M. Citrin, a senior director of executive search firm Spencer Stuart, shares ideas on CEO selection and succession.

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[AGENDA](#)

November 9th, Boards Get Ahead of Say-on-Pay Legislation

Kristin Gribben discusses efforts by Boards to prepare for an advisory vote on compensation.

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November 9th, Theory & Practice: Ex-CEOs Lend Struggling Companies a Hand

Joann Lublin reports on the trend of former/retired CEOs taking independent,

non-executive chairman positions at troubled companies.

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November 9th, With Feds, BofA's Lewis Met His Match

Carrick Mollenkamp and Dan Fitzpatrick discuss what may have lead Ken Lewis to resign as BofA CEO.

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November 8th, BofA Board in Civil War Over Lewis' Successor

Charlie Gasparino reports fissures in the board regarding the selection of a successor for outgoing CEO Ken Lewis.

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