

Governance & Proxy Review

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Edited by Francis H. Byrd

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As We See It - Commentary from The Altman Group

**Francis H. Byrd, Managing Director & Corporate
Governance Advisory Practice Co-Leader**

Searching for 2011's Watchwords

**Francis H. Byrd, Co-Leader, Corporate Governance
Advisory Practice**

This week we are attending the Society of Corporate Secretaries & Governance Professionals' 64th Annual Conference, in Chicago. Given the timing, we will not be able to discuss any comments made by SEC Chairman Mary Schapiro (SEC Update Address) or her deputy chief of staff, Kayla Gillan (on a panel discussing proxy mechanics with our Ken Altman). We will cover those issues in detail in our next issue (Friday, July 22nd)

With no new news out of Washington, DC on the fate of financial regulatory reform and with Wall Street battling an east coast heatwave, we felt this might be a good time to think about some of 2011 issues that we expect will be addressed by Chairman Schapiro, as well as other speakers and panelist. Below is a list of some of those concerns:

Say on Pay/Executive Compensation

If no major changes are made to the reform package, we can expect that executive compensation as seen through the prism of "Say on Pay" will be a critical issue for companies. The review of pay for risk elements and the appearance of fairness will be the first issue examined. On the heels of that concern will be a discussion of the frequency of shareholder votes on pay. The mechanics of obtaining investor approval will weigh heavily on companies, shareholders and proxy advisory firms.

New Proxy Disclosures on Pay, Risk in Pay and Board Oversight of Risk

The final word is not yet in on the value of the new disclosure regime on compensation and risk. Many investor activists lobbied heavily for these new disclosures and believed they would be helpful in providing transparency for decision-making. Hopefully,

Governance News & Views from across the spectrum

>> **Executive Compensation**



July 7th, Marks & Spencers Shareholders Fight Pay Deals for Rose and Bolland

The paper reports on investor wrath over pay at the UK retailer.

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DealBook

July 7th, Cap on Bank Bonuses Clears Hurdle in Europe

Liz Adlerman reports on the approval of bonus caps for bank executives by the European Parliament.

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AGENDA

July 6th, Boards Adjust Comp to Reflect Uncertainty

Katie Wagner discusses how directors are reacting to economic uncertainty and the adjustments they are approving to executive compensation plans as a result.

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Chairman Schapiro will direct some comments on how the SEC has viewed the value of these disclosures to investors.

Disclosures on Director Nominees, Board Leadership and Diversity

It is also not clear whether the new requirements to disclose new and additional information on the background and value of individual directors has added to investor understanding of the roles of specific directors or the oversight ability of the board. What is clear is the fact that in the new proxy access environment, companies and their directors will need to provide enough information to provide investors with comfort and themselves with a solid defense against unwarranted attacks on individual directors by activists seeking a board's "weakest link."

Proxy Access and Proxy Mechanics

We take note that the SEC has scheduled an open meeting for Wednesday, July 14th, to discuss and approve a concept release on proxy mechanics <http://www.sec.gov/news/openmeetings/2010/ssamtg071410.htm>. It is widely expected that the concept release will address such issues as continuation of the current NOBO/OBO practice and other issues related to proxy voting.

Of equal importance, we are awaiting Congressional approval and a presidential signature on the regulatory reform measure which will signal the final push for proxy access. The shape of access has, according to the unsigned law, been left to the SEC to determine. Chairman Schapiro has indicated that it is the Commission's intent to have access ready for the 2011 proxy season. Yet many believe that to move forward with proxy access without having fully addressed and remedied the many flaws plaguing the proxy voting system would be at best problematic.

Upcoming Webinar

Reid Pearson and Francis Byrd, co-leaders of The Altman Group's corporate governance consulting practice, are participating on a webcast discussing Say-on-Pay organized by Sutherland Asbill & Brennan LLP. You may register for the webcast, which is scheduled for Wednesday, July 27th at 1:00 p.m. at events.SignUp4.com/ProxyIssues_SayOnPay

The Webinar will address:

- Recent legislative and regulatory developments in executive compensation as they relate to Say on Pay
- Ways in which companies can position themselves to prepare for shareholder input into executive compensation
- How a company can best prepare for this new and uncharted environment



July 1st, City High-Fliers Seek Swiss Sanctuary

Haig Simonian and Richard Milne discuss the movement of hedge fund managers from the UK to Geneva to avoid restrictions on pay.

> [read more](#)

DAILY YOMIURI ONLINE

June 30th, President of Drugmaker Paid 477 Million Yen

Yomiuri Shimbun reports on the compensation of Hiroshi Mitsuhashi, President of Nihon Chouzai Co., a Tokyo-based pharmaceutical company.

> [read more](#)



July 28th, Kroger Eliminates Gross-Ups for Most Perks

Katie Wagner discusses actions taken by the retailer to end the practice of providing tax gross-ups for executives on insurance premiums and non-qualified retirement plans.

> [read more](#)

DealBook

June 23rd, Feinberg to Step Down as Treasury's Pay Czar

DealBook reports on the Treasury's plans now that Kenneth Feinberg will be stepping down from Pay Czar to Oil Spill Czar.

> [read more](#)

>>Global Dispatches



July 7th, South Korea Plans Law to

Boost Outside Directors Surveillance

The news agency reports on a potential new law that would require that at least half the members of boards of directors of financial firms to be independent, as a risk oversight measure.

> [read more](#)



July 7th, EU Watchdogs Battling over Stress Test Publication

Huw Jones and Julien Toyer discuss the debate over release of bank stress tests by The Committee of European Bank Supervisors (CEBS).

> [read more](#)



July 5th, Bank Balance Sheets Could Torpedo Recovery

Beat Balzli, Markus Dettmer, Armin Mahler and Christian Reiermann report on concerns about balance sheet risk among German and European banks.

> [read more](#)



July 3rd, Three Japanese Banks May Be Hit

The Yomiuri Shimbun reports on the potential impact of new U.S. sanctions against Iran on Bank of Tokyo-Mitsubishi UFJ, Mizuho Corporate Bank and Sumitomo Mitsui Banking Corp.

> [read more](#)



July 1st, Shareholders Fight the Power/Boards, Roasted at Annual Meetings as New Rules Give Investors More Sway

The Yomiuri Shimbun discusses the Japanese annual meeting season.

> [read more](#)

McKinsey Quarterly

June 2010, [Assessing Africa's Business Future: An Interview With the CEO of Absa](#)

McKinsey's David Fine interviews Maria Ramos, the CEO of Absa, one of the largest financial services firms operating in South Africa (a subsidiary of Barclays).

[> read more](#)

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



July 6th, [Spice Shareholder Calls for Talks With Cinven](#)

Alistair Gray reports on the call by Simon Rigby, company founder and 9 per cent shareholder, for Spice's board to engage with Cinven, the private equity firm.

[> read more](#)

DealBook

July 6th, [A Peek at U.S. Companies Set for European Deals](#)

Cyrus Sanati discusses potential American companies poised for European acquisitions.

[> read more](#)



July 6th, [Chinatrust Dogged in its Pursuit of Taiwanese Prey](#)

Robin Kwong, Paul Betts and Andrew Hill report on the continued efforts of Chinatrust to purchase AIG's Taiwanese life insurance unit, Nan Shan.

[> read more](#)

July 5th, Block on Ryanair Takeover Bid Upheld

Nikki Tait and Pilita Clark discuss Ryanair's plans for a third bid for Aer Lingus.

[> read more](#)

DealBook

June 28th, Landry's and the Value of a Shareholder Vote

Steven Davidoff discusses the value of a shareholder vote in an era of cash-settled derivatives, in the context of the Landry's deal.

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DealBook

June 25th, Battle Over Casey's May Weigh on Takeover Law

Steven Davidoff opines on the potential for changes in takeover law as a result of claims and counter-claims in the Alimentation Couche-Tard/Casey's General Stores takeover battle.

[> read more](#)

DealBook

June 23rd, For American Companies, a European Shopping List

Michael J. de la Merced identifies European firms ripe for acquisition by U.S. companies.

[> read more](#)

[>>Investor Action](#)



July 7th, Allstate CEO Says State

Borrowing 'Out of Control'

Dakin Campbell, Andrew Frye and Erik Schatzker report on the call for sharp reductions in spending by state governments by Thomas Wilson, CEO of Allstate. The home and auto insurer is a large investor in municipal securities.

> [read more](#)



July 7th, China Won't Dump U.S. Treasuries or Pile Into Gold

Zhou Xin and Alan Wheatley discuss statements from China's State Administration of Foreign Exchange designed to calm fears among global investors regarding Beijing holdings of U.S. government debt.

> [read more](#)



July 5th, Investors Fear Rising Risk of U.S. Regional Defaults

Nicole Bullock reports on investor concern over the financial condition of individual states and the risk of municipal defaults.

> [read more](#)



June 29th, Ruling Means Few Changes for Companies Under Sarbanes-Oxley

Erin White examines the effect of the Sarbanes-Oxley Supreme Court ruling on the PCAOB.

> [read more](#)



June 28th, Reforms to Hit Smaller Companies Hardest

Josh Martin discusses data from ISS indicating that the regulatory reform package scheduled to be approved by Congress and signed by President

Obama will have a more negative impact on smaller public companies.

> [read more](#)

>>[The Boardroom](#)

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July 6th, Boards Are Shrinking, but Are They Small Enough?

Kristin Gribben discusses comments from James Milstein of the Treasury, at last month's Millstein Center for Corporate Governance & Performance annual forum, on the size of corporate boards.

> [read more](#)

THE WALL STREET JOURNAL

July 6th, CEO Tenure, Stock Gains, Often Go Hand-in-Hand

Joann Lublin examines the role of tenure in the performance of CEO and the stocks of the companies they run.

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July 6th, Will More Directors be Banned for Fraud?

Tony Chapelle reports on comments by SEC Commissioner Luis Aguilar on the SEC's authority to ban directors who have been found guilty of fraudulent acts.

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THE WALL STREET JOURNAL

July 5th, How BofA CEO Survived Board Split

Dan Fitzpatrick discusses the backstory on the appointment of Brian T. Moynihan as CEO of BofA in the face of a board split on whether he was the right person for the post.

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**June 28th, Co-CEOs at Whole Foods,
Motorola: Does the Model Work?**

Amanda Gerut discusses the concept of dual CEO leadership at public companies.

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