

Survey Assesses Director Views on Political Disclosure

A survey of U.S. corporate directors commissioned by the Center for Political Accountability, the Washington, D.C., group that has advised a five-year shareholder campaign for better disclosure and governance of corporate political contributions, finds evidence that its message is taking root in corporate boardrooms.

The survey, conducted by Mason Dixon Polling & Research, showed corporate political giving to be a significant issue for directors, a strong majority of whom also support disclosure. However, the survey also indicated that directors possess considerably less knowledge about campaign finance rules and their own companies' policies and activities than they say.

Survey Results

The survey questioned 255 directors at Russell 2000 companies, both executive and independent outside directors, about their views and knowledge of campaign finance rules, their companies' corporate political giving and other related issues.

While 75 percent of them said they were familiar with campaign finance laws and regulations governing corporate political spending, and 86 percent said they were familiar with their companies' political advocacy and activities, when questioned on the specifics, their responses indicated otherwise.

For example, only 12 percent responded correctly when asked if current law requires corporations to publicly disclose all their contributions. Only 14 percent knew that trade associations are not required to disclose their corporate members nor the candidates and political organizations receiving their contributions.

Yet 88 percent said that corpora-

tions should be required to publicly disclose all corporate funds for political purposes (of which 51 percent "strongly support" the notion), and 57 percent did not believe that additional reporting requirements and transparency would be burdensome or costly. A clear majority would also support the disclosure of payments to trade associations and other tax-exempt organizations, the disclosure of standards governing the companies' political spending, and the identification of corporate officers managing the political spending. Just under half believed the disclosure should be made on the companies' website, a somewhat disappointing result given the challenge of gathering all of the data on even one corporation's political spending.

Two-thirds of the directors agreed that scandals related to corporate political giving have "damaged the public's confidence and trust in corporate America," and only 18 percent said they or other board members were personally engaged in corporate or industry political fundraising or spending.

The surveyed directors' responses may reflect their recognition that, in the fallout from several high-profile political scandals linking corrupt lobbyists to corrupt politicians with corporate money finding its way into the pockets of both, a lack of oversight and disclosure can inject an element of risk to a company's reputation and bottom line.

Since the initial shareholder campaign in 2004 calling on companies to disclose their political giving policies and report on their donations, corporate political funding has been nudged closer to the top of the list of risk areas for companies, and their boards, to address.

Regulatory Questions

The release of the survey results comes as the 2008 election cycle is on a trajectory to exceed all previous spending records, despite the passage of the Bipartisan Campaign Finance Reform Act (BCRA) of 2002, the most sweeping campaign finance legislation to be passed in more than 30 years. It banned direct contributions by corporations, labor unions and other groups to national political parties and doubled the limit on the amount of hard money that individuals can give to candidates. It left the regulation of political action committees in place and continued to allow issue-based 527 committees (named after the provision of the federal tax code governing their tax-exempt status) to spend money to influence campaigns.

The act also prohibited corporations and unions from funding ads considered to be "electioneering communications (ECs)," from their general treasuries. ECs are ads that name a specific candidate, are distributed within 30 days of a primary election or 60 days of a general election, and target the "relevant electorate."

Yet dramatically greater sums of money have been spent in each ensuing election cycle—not just on federal campaigns, but also at state levels, notably in state judicial contests—and a significant portion of that money, notwithstanding the legal restrictions and the growth in individual contributions, has come from corporate sources.

Moreover, a recent Supreme Court decision eroded some of the BCRA restrictions on ads in the runup to primaries and general elections. The decision provides an opening for a flood of ads supporting or opposing specific federal candidates

Companies Agreeing to Political Spending Disclosure and Board Oversight	
Adobe Systems*	Intel*
Aetna*	Johnson & Johnson
American Electric Power*	Lockheed Martin
American Express*	McDonalds
Amgen	Monsanto
Bristol-Myers Squibb	Morgan Stanley
Capital One*	Oracle*
Chevron	PepsiCo
CIGNA	Pfizer*
Coca-Cola	Praxair
Colgate-Palmolive*	Schering-Plough
Dell*	Southern
E.I. du Pont de Nemours*	Staples
Eli Lilly	Texas Instruments*
EMC	United Parcel Service*
FirstEnergy*	United Technologies*
General Dynamics*	Verizon
General Electric*	Washington Mutual*
General Mills	WellPoint*
General Motors	Xcel Energy*
Hewlett Packard*	Xerox*
Home Depot	
*Companies also agreeing to disclose trade association payments	

and whose donors' ranks will no doubt include corporations.

On June 24, 2007, in *Wisconsin Right to Life v. FEC*, the Supreme Court ruled that corporate and union treasury funds may be distributed to groups airing certain kinds of electioneering communications during the runup to primaries and general elections, as long as the ads cannot be interpreted as an appeal to vote for or against a specific federal candidate, considered "express advocacy." Corporations are prohibited from funding express advocacy communications, but in its final rulemaking to the Supreme Court decision, the Federal Elections Commission laid out a series of exceptions to the BCRA restrictions on funding electioneering communications that create an opportunity for even greater amounts of corporate political giving, through such conduits as 527s, 501(c)(4)s, and trade associations.

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The shareholder advocates pressing companies this season to better disclose and govern their political contributions believe that without more disclosure from trade associations, it is incumbent upon corporations to fill the gap. Interestingly, more than three in four of the directors surveyed agree, saying that corporations should be required to disclose payments to trade associations as well as all other tax-exempt organizations that are used for political purposes.

Further Discussion

The Center for Political Accountabil-

ity presented the results of its survey of corporate directors at a conference late last month co-sponsored by the Wharton School's Zicklin Center for Business Ethics and Research and the Zicklin School of Business at Baruch College on "Money, Politics and Corporate Risk." The conference opened with the announcement that five companies had agreed to disclose their contributions and establish board oversight, in addition to the 38 since the shareholder effort began. (See accompanying table.)

Although most of the directors in the survey believe trade associations must disclose their membership and political spending, in fact trade associations are not subject to such a requirement. The U.S. Chamber of Commerce vows to spend more than \$60 million in this election, beyond its spending in the previous presidential election, to oppose candidates it perceives to be anti-business. In a Jan. 8, 2008, interview with the *Los Angeles Times*, Chamber Director Tho-

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—Valentina Judge

¹ Aggarwal, Rajesh K., Meschke, Felix and Wang, Tracy Yue, "Corporate Political Contributions: Investment or Agency?" (November 24, 2007).