



CENTER FOR CAPITAL MARKETS

C O M P E T I T I V E N E S S

TOM QUAADMAN
EXECUTIVE DIRECTOR, FINANCIAL REPORTING
AND INVESTOR OPPORTUNITY

1615 H STREET, NW
WASHINGTON, DC 20062-2000
(202) 463-5540
tquaadman@uschamber

July 22, 2010

The Honorable Mary L. Schapiro
Chairman
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

Dear Chairman Schapiro:

The U.S. Chamber of Commerce is the world's largest business federation, representing more than three million businesses and organizations of every size, sector, and region. The Chamber created the Center for Capital Markets Competitiveness ("CMCC") to promote a modern and effective regulatory structure for capital markets to fully function in a 21st century economy. To achieve this objective, it is an important priority of the CMCC to advance effective and transparent corporate governance policies.

We wish to write to you today to express our concerns regarding recent reports of a plan undertaken by the California Public Employees Retirement System ("CalPERS"). The CalPERS plan, entitled the Diverse Director Database ("3D program"), is being used to recruit a pool of individuals who satisfy certain undisclosed criteria to be pressed into service as directors at American corporations in the event that the Securities and Exchange Commission ("SEC") adopts a "proxy access" regime. Pension funds and other institutional shareholders would then draw on this pool when assembling alternative director slates. The CCMC is concerned that the 3D program may effectively make boards accountable to special interests rather than to shareholders, and become yet another source of significant and non-transparent influence on the proxy voting system.

The Board of Directors is the governing body of a corporation. While there may be differences in philosophy or direction, directors and shareholders are joined by a unity of purpose—the long-term viability and profitability of a corporation.

Directors have a fiduciary responsibility to the corporation and must act in good faith, with a reasonable degree of care, unfettered by material conflicts of interest. A director must allow the interests of the company to take precedence over their personal interests.

While the CCMC believes that it is appropriate and beneficial for shareholders, particularly long-term shareholders, to be actively engaged with corporations, we do have serious concerns when shareholders advance interests unrelated to or adverse to the wellbeing of a company in a manner that lacks transparency to the corporation and to fellow shareholders. Directors, who are implicitly or explicitly beholden to an individual, or to a special interest group, may have a conflict of interest with the fiduciary standards that directors must adhere to.

CalPERS is an organization whose board is made up of various individuals, including elected and appointed public officials of the State of California. It is unclear what if any safeguards are in place under the 3D program to ensure that members in the pool of shadow directors adhere to their fiduciary responsibilities, if elected to the Board, and not act in the interest of a particular individual or a specific group. Accordingly, the CCMC believes that the 3D program should be required to become transparent in its operations and publicly disclose among other things:

- The extent and purpose of the 3D program and what shareholder interests it is advancing;
- The process by which the program grants membership in its director pool, including the involvement of third parties in that process, the questions candidates are asked, and the responses candidates provided, as well as any assurances the candidate provided, or which were made to the candidate;
- The names and affiliations of shadow directors it has recruited and their qualifications;
- Any political contributions made by a shadow director to any CalPERS board member;
- Any award and amount of any contracts or investment business by CalPERS to a shadow director;

The Honorable Mary L. Schapiro
July 22, 2010
Page Three

- Any award and amount of any contracts or investment business by a CalPERS board member to a shadow director; and
- Any personal relationship between any CalPERS board member and any shadow director.

Any other organization that would seek to use the 3D pool of shadow directors should have to issue similar disclosures as listed above.

We believe that our concerns follow consistently with your agency's current examination of proxy advisors and their significant, non-transparent impact on the proxy voting process, as well as your agency's concerns about "pay to play" arrangements. Clearly, there have been issues with pay to play arrangements and the inappropriate activities by placement agents in the past and such irregular activities should not be extended to the process of electing corporate directors. Transparency must be promoted to forestall any lack of confidence in the process. Any failure to do so may undermine confidence in and ultimately imperil the confidence of investors in corporate elections.

As part of the SEC's consideration of pending proposals on "proxy access," we urge the SEC to review its options for inspecting and regulating the 3D program and other similar programs. We stand ready to work with the SEC in this endeavor and look forward to any efforts to ensure transparency, accountability, and fairness in corporate elections proposals.

Sincerely,



Tom Quaadman

cc: The Honorable Luis A. Aguilar, Commissioner, U.S. Securities and
Exchange Commission
The Honorable Kathleen L. Casey, Commissioner, U.S. Securities and
Exchange Commission
The Honorable Troy A. Paredes, Commissioner, U.S. Securities and
Exchange Commission
The Honorable Elisse B. Walter, Commissioner, U.S. Securities and
Exchange Commission