"SAY ON PAY" HEATS UP:
SHAREHOLDERS SEEK VOTE ON EXECUTIVE COMPENSATION PLANS

By Christine Stanton

In light of the recent economic downturn, it's no surprise that Executive Compensation continues to be under the spotlight. One hot topic: should shareholders have an up/down vote on executive pay? As Congress evaluates passing legislation to mandate shareholder voting rights on executive pay, voluntary "Say on Pay" proposals are showing up with increasing frequency and, in the last two years, shareholders have voted "yes" to this proposal at many prominent companies.

Let's take a quick look at "Say on Pay," including a brief history, and a view on where things might be heading.

What is "Say on Pay"?

"Say on Pay" gives shareholders a non-binding vote on executive pay. It basically allows investors to vote on whether or not they approve of the executive pay set forth on the proxy filed with the Securities and Exchange Commission. Although non-binding, the advisory vote is likely to have influence as it would present a public relations challenge for a company to ignore shareholder concerns.

What is the status of voluntary advisory "Say on Pay" votes?

Support for proposals asking for an advisory vote has been steadily growing. According to the Risk Metrics group, a firm that tracks shareholder proposals, more than 75 shareholder proposals seeking "Say on Pay" came to vote in 2008, averaging more than 41% support. In 2009, more than 75 "Say on Pay" shareholder proposals came to vote, averaging more than 46% support. As of early March, over 70 companies have an advisory vote scheduled in 2010.

What is the status of "Say on Pay" legislation?

Legislation is pending. The **Corporate and Financial Institution Compensation Fairness Act of 2009**, which passed the House of Representatives in July 2009 requires a mandatory advisory vote on executive compensation. In March 2010, Sen. Christopher Dodd (D-Conn.) released his revised financial reform bill, which also includes a mandate on annual advisory votes on compensation. "There are some differences between the House-passed bill and Senator Dodd's version, but they are more alike than they are different. I believe that we will be able to work constructively together to meet the public need for a tough, comprehensive bill," said Rep. Barney Frank (D-Mass.), who chairs the House Financial Services Committee.

Are there any US companies currently required to hold an advisory vote?

At this point, the only instance of a compulsory advisory vote was implemented in February 2009 under the **Troubled Asset Relief Program (TARP**). Any recipient of TARP funds during the period for which the financial assistance remains outstanding is required to give its shareholders a non-binding vote on the company's disclosed executive compensation.

Which companies currently have adopted an advisory vote on executive pay? Over 50 companies have agreed to hold an advisory vote. Here are some of the companies on a list published by the **Interfaith Center on Corporate Responsibility (ICCR**): Aflac, Alaska Air, American Express, Ameriprise Financial, Apple, Bed Bath & Beyond, Blockbuster, Bristol-Myers Squibb, Caremark, Charming Shoppes, Colgate Palmolive, CVS, Hewlett-Packard, Microsoft, Motorola, Pfizer, Prudential, Verizon, and Wells Fargo.

Have any recent "Say on Pay" proposals failed?
Yes. In 2009, "Say on Pay" proposals at Comcast and Quest did not get enough shareholder votes to pass.

What does the future look like for "Say on Pay"?
It's impossible to predict the outcome of pending legislation. However, it's clear that as several advocacy groups and fund management firms turn up the pressure, many more companies will face this vote at annual shareholder meetings. "We think that the process of disclosing compensation practices, discussing them openly and submitting them to a shareholder vote is an important part of aligning management's interests with those of shareholders," said Stu Dalheim, Director, Shareholder Advocacy, of Calvert Asset Management Company, Inc.

Update: The Risk Metrics Group *reported that Motorola received just* ***46%*** *support during an advisory vote on its executive pay practices at the* ***May 3, 2010*** *annual meeting, and noted that the vote marks the first time a U.S. company has failed to earn majority support from shareholders during a non-binding vote on compensation.*

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