



New England Chapter

February 10, 2009 Session
Highlights of the Presentation

The Board and Shareholder Communications

The trend has been clear for some time: Shareholders are demanding more input into the boardroom. And, at the February 2009 breakfast meeting of the New England Chapter of the National Association of Corporate Directors (NACD), a panel of experts shared their insights on the increasingly important topic of board-shareholder communications. The panel consisted of James C. Mullen, president and CEO of Biogen Idec and a member of the board of PerkinElmer Inc.; John F. O'Brien, lead director and member of the Executive and Executive Compensation Committees for The TJX Companies, Inc., as well as a director of Cabot Corporation, LKQ Corporation and a family of mutual funds managed by BlackRock, an investment management advisory firm; Timothy Smith, senior vice president of Walden Asset Management; and Maureen Wolff-Reid, president and partner of Sharon Merrill Associates, a Boston-based investor relations and corporate communications consulting firm.

Maureen Wolff-Reid, Sharon Merrill Associates

Many, many companies don't have any policy on board-shareholder communications, Wolff-Reid observed. "It is something that's coming," she said -- and you need to think about putting a policy in place. One issue, according to Wolff-Reid, is that directors are often untrained in Regulation Fair Disclosure (Regulation FD).

You should be getting a regular update at your quarterly meetings about who your top shareholders are, she said. According to Wolff-Reid, appropriate topics for board-shareholder communication include: CEO evaluation and succession; executive compensation; board nomination and election process and criteria; governance issues; strategic direction; and emerging issues, such as social and environmental concerns. What you should really stay away from, she said, are day-to-day operational issues of the company; other topics that are not appropriate range from internal strategic plans to current and future financial and operational performance.

James C. Mullen, Biogen Idec

Mullen suggested that there are three major areas of focus for boards of directors in communication with investors: governance issues (things like bylaws, poison pills, majority voting, equity plans for use in compensation); compensation issues (such as say on pay); and oversight of management, including corporate strategy and large M&A activity. Mullen noted that webcasts can be useful for board communications. He indicated that board members need some background and training for the role -- and have to be very attuned to Regulation FD issues.

Mullen spoke some about Biogen's experience with an activist shareholder and a proxy contest that the board slate won in 2008. He also stressed the importance of talking to the shareholders and to proxy advisory services such as RiskMetrics and Glass-Lewis.

John O'Brien, Lead Director, The TJX Companies

Events of the last ten years really changed the job description of directors of public companies, O'Brien observed. As a result, he said, directors have to spend a lot more time preparing for meetings and hiring outside

experts. O'Brien also noted that the ability of shareholders to punish boards is increased, through methods such as shareholder withhold vote recommendations. "Nobody likes to get a withhold vote," he said.

O'Brien pointed out that companies have, whether they knew it or not, been putting forth the tools for board communication with shareholders – for example, by putting up websites and publishing charters. "The building blocks are in place," he said. He suggested that no more than four people on the board should have communication responsibilities with shareholders: the non-executive chair of the board and the chairs of the compensation, governance and audit committees. When communicating with investors, board members should at all times, he added, generally be accompanied by someone from management, such as the CEO, the general counsel or someone from investor relations.

Timothy Smith, Walden Asset Management

A new breed of investors has emerged – and this is not a genie that will be pushed back into the bottle, Smith said. He explained that pension funds, mutual funds, investment managers, trade union funds and religious investors think of themselves as owners -- and are focused on integrating environmental, social and governance issues into their analyses, since they believe those issues affect shareholder value. Some of these shareholders, Smith said, are actively involved in filing shareholder resolutions. Smith said he thinks we are close to a "tipping point" of companies committed to being good corporate citizens.

"We're generally only filing a resolution if a company has ignored three letters we've sent them" or said they are not at all interested in the reform we're proposing, Smith said.

Two-way dialogue is very important, Smith said, and he added that he is still surprised by the number of companies that don't reach out to have "polite conversations" with shareholders.

From the Question and Answer Session

Q. How has the panel seen shareholder input on director selection work or not work?

A. "In general, I'm not in favor of investors pushing names for the board," Smith said. What he has had experience with is, when shareholders are asking for change in board composition – for example, boards that are all white males – the company will often ask where they should look for such candidates.

For more information about the New England Chapter of NACD, please contact info@nacdne.org.

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