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Walden Asset Management Calls on Corporations to Separate Roles of CEO and Board Chair

by Robert Kropp

Citing the findings of the [Millstein Center for Corporate Governance and Performance](#), letter to 32 corporations describes the independent Chair as a step toward regaining trust during the economic crisis.

SocialFunds.com -- Viewed as the norm in many European countries, the separation of the roles of CEO and Chair of the Board at North American companies "is increasingly a reform encouraged by investors," according to a letter sent to 32 corporations by Timothy Smith, the Senior Vice President of the Environment, Social and Governance Group at [Walden Asset Management](#). Among the letter's recipients were the Boards of Directors at Chevron, AT&T, and IBM. All 32 recipients are North American corporations whose CEO is Chair of the Board as well.

Citing a June, 2009 report issued by the [Millstein Center for Corporate Governance and Performance](#) entitled [Chairing the Board: The Case for Independent Leadership in Corporate North America](#), Smith's letter states that among other considerations, "In the midst of this economic crisis, an independent Chair is a proactive approach to help restore market trust." The Millstein report notes that many observers believe that the current economic crisis "has exposed risk oversight weaknesses on the part of boards," and cites a prediction by [RiskMetrics Group](#) that "the independent chair will probably be the board issue receiving most attention in shareowner proposals in the next few years."

RiskMetrics data as of August 1, 2009, found that while a majority of S&P 1500 companies continue to have CEOs in the role as Chair as well, the number of independent chairs has been rising for a decade. Furthermore, the number of shareowner proposals relating to the separation of the roles increased to 50 in 2009, from 34 in 2008. Support for the proposals grew as well, from 29% in 2008 to 39% in 2009. Four proposals won majority votes in 2009, including a binding vote at Bank of America that resulted in the removal of CEO Kenneth Lewis from the role of Chairman.

In addition to more effective risk oversight, benefits that accrue to a policy of separating the roles of CEO and Chair include ensuring that management is in close alignment with the interests of shareowners, mitigating concerns over conflicts of interest, and maintaining regular communications with shareowners.

SocialFunds.com spoke with Smith of Walden Asset Management about his letter and the growing visibility of the issue among investors and other stakeholders.

"More institutional investors are seeing this issue as a question of principle, and many of them vote for separation of the Chair and CEO," said Smith.

The Millstein report documents the findings of the [Chairmen's Forum](#), an organization of non-executive chairmen of corporate boards of North American companies. The Chairmen's Forum has called on North American public companies "to voluntarily adopt independent chairmanship as the default model of board leadership."

"This is an issue that has been on the corporate governance agenda for a long time," Smith said. "The Millstein report has given it greater visibility, and it has been magnified by the fact that Senator Schumer included it in his draft legislation."

The draft legislation referred to by Smith is known as the [Shareholder Bill of Rights](#)

[Act of 2009](#), and was introduced by Senator Charles Schumer of New York in May. The draft legislation states that the chairperson of the board of directors of a company shall be independent, and shall not have previously served as an executive officer of that company.

A common strategy of companies where the CEO also serves as Chair has been the appointment of a lead director, a practice which has gained favor since 2002, when the New York Stock Exchange mandated that independent directors of listed companies meet at least once a year without corporate management present. The Millstein report did not regard the practice as a solution to the combining of roles. Instead, the report found, lead directors encounter challenges in their ability to shape board dialogue, their visibility to shareowners as independent representatives of their interests, and their effectiveness in board leadership.

Smith said of the practice of appointing a lead director, "If you have the CEO of the company chairing the board meeting, it sends the message that he is in charge, and you oppose him at your peril. But if you have an independent Chair, it sends the message that the CEO is the chief employee of the company, and works for the Board."

"It also undercuts the view of the imperial CEO," Smith continued.

While the Chairmen's Forum has thus far called on North American companies to adopt an independent Chair policy voluntarily, it is also considering advocating for such mandatory options as calling on the New York Stock Exchange and Nasdaq to adopt listing rules on the matter. Another option would be for the Securities and Exchange Commission (SEC) to issue a rule mandating an independent Chair at US-based public companies.

Regarding the options, Smith said, "Historically, American stock exchanges haven't acted in such a way, although exchanges elsewhere have done so."

"And the issue is probably going to have to be legislated before the SEC acts on it," Smith continued. "At present, the SEC is not even talking about it."

Noting that the Chairmen's Forum recommended phasing in an independent Chair during a CEO transition, Smith agreed, saying, "Companies that don't separate the roles perceive this as changing the CEO's power. But we don't see the issue as punitive."

Nevertheless, Smith anticipates that companies will push back against the implementation of any mandates for the establishment of independent Chairs.

"Companies feel that this issue is meddling," he said, "And they are pushing back against legislation and consideration of it by the SEC."

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