

From PLI's Online Program

Say-on-Pay: Solution or Bigger Problem?

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Say on Pay: Solution or Bigger Problem?

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Say on Pay: Solution or Bigger Problem?

- Background

- What exactly are “Say on Pay” proposals?
- How does the issue relate to corporate governance?
- In what countries have say on pay proposals been implemented?

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- 2008 Proxy Season Results
 - Survey results – More than 40 of Fortune 100
 - Financial services firm results
 - Adopted Policy: Aflac and Verizon
 - Received Majority Vote: Blockbuster, Ingersoll-Rand, JC Penney, Motorola, Valero Energy, Apple, Lexmark
 - Proposed to implement in the future: RiskMetrics (ISS)

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- Legislative Initiatives
 - Sen. Obama recently re-introduced a bill from 2007 that would require non-binding shareholder votes by 2009
 - Sen. Clinton supports identical legislation, with other provisions amending Sarbanes-Oxley 304 (clawbacks) and adding \$1 million cap on deferred compensation

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- Policy Concerns

- Aren't pay decisions the proper provenance of the Board?
 - Making this a shareholder decision could show lack of confidence in the Board
 - Is it really – or should it be – a referendum on the Board's decision making?
 - Is this a means for activist shareholders to promote other agenda items?

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- Policy Concerns (continued)
 - Unique source of potential conflicts of interest for Boards argues for greater controls
 - More generally, is less regulation better than more in this arena?
 - Boards can police themselves by creating stronger links between pay and performance
 - But shareholders have no means of policing
 - Issues at a few companies stand to govern the practices at many

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- Policy Concerns (continued)
 - Are shareholders able to determine whether pay is appropriate
 - Information on competing offers not available to them
 - Already can vote out the Board
 - Mixed results about what say on pay votes accomplish
 - Review of proxy information is cursory; leads to hollow decisions

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- Policy Considerations (continued)
 - Will “say on pay” proposals lead to standardized, less creative pay packages?
 - Would bespoke discussions between institutional shareholders and board members be more effective in bringing about change?