

# AGENDA

THE WEEK'S NEWS FROM OTHER BOARDROOMS

September 6, 2011 | [www.AgendaWeek.com](http://www.AgendaWeek.com)

A Financial Times Service

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*Agenda* is launching a periodic column looking at the office of the corporate secretary. Please see our inaugural article on page 4 focusing on how say on pay has stoked more interaction between corporate secretaries, shareholders and the investor relations officer.

## Comp Committees Changing Core Pay

### Performance pay is strengthened post-proxy season

by Katie Wagner

Compensation committees are busy during this proxy off-season, scrambling to make changes to their executives' base salary and incentive pay in efforts to better align pay with performance.

According to a **Towers Watson** survey, 24% of 179 large and midsize U.S. publicly traded companies said they have already made changes to one or more core compensation programs based on their experience in the 2011 proxy season. And another 15% of these companies said they are considering making changes to their

base salary or incentive pay for the same reasons. Additionally, during the past few months, more companies disclosed in 8-Ks that they revised their incentive pay or replaced some of their fixed pay with performance-based pay.

Another way companies have tried to make their pay more performance-based following this proxy season was by establishing performance-vesting conditions for stock options, says **Yonat Assayag**, a partner with **ClearBridge Compensation Group**.

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## Number of COOs to Reach 'Historic Low'

### As COOs are promoted, companies slow to fill vacancies

by Amanda Gerut

The ranks of permanent chief operating officers continue to dwindle as more companies view the position as a temporary stepping-stone to the chief executive office. In addition, as companies become more complex, responsibilities traditionally thought of as the COO's are being spread laterally among other C-suite positions.

The percentage of S&P 500 and Fortune 500 companies with a COO has hovered just below 50% since 1999, but since 2007 the number of

COOs has tapered more dramatically and is on pace this year to hit a "historic low," predicts search firm **Crist-Kolder**. The firm will release its annual report on executive volatility later this year, but early figures show that as of July 31, only 38% of companies in the S&P and Fortune 500 had a COO in place, a decline from 1999, when 47% of companies had a COO.

So where have all the COOs gone? It appears that many of them, having

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Experts suspect that shareholders' and proxy advisors' focus on the extent to which companies are paying for performance this proxy season drove many companies to change or consider changing their core compensation programs for their 2011 and 2012 fiscal years. Compensation committees most likely increased the percentage of total pay that is performance-based, or retooled their incentive pay in whatever way they thought would tie it more closely to company performance, according to consultants. Their basis for this: Pay-for-performance disconnect was the most common reason ISS gave for recommending that shareholders vote against a company's executive pay program and also seems to be the most common explanation for why some executive pay programs failed to garner majority support this proxy season.

"[N]ow with say on pay, shareholders have the opportunity to express their views, which relate essentially to what is disclosed in the public filings, so companies are saying, we need to be much more transparent, and in doing that we

need to demonstrate greater alignment between pay and performance," says **Todd Manas** of Towers Watson.

Of the firms that told Towers they had made changes to their core compensation programs, 18% received less than 80% support in the say-on-pay vote this proxy season. This suggests that even those companies that fared well in the say-on-pay vote may have felt pressure to make changes due to this proxy season's activities. Of course, some of those companies that earned the highest levels of support for their executive pay programs may have made the changes in advance of their annual meetings.

**Alcoa**, for example, revised its performance-based pay prior to its 2011 annual meeting. That move, which entailed lengthening the performance periods for its senior officers' previously granted performance-based restricted stock units, seems likely to have helped it receive 84% approval on say on pay. ISS, which has proven to be influential in say-on-pay voting, reversed a negative vote recommendation on how shareholders should vote on Alcoa's executive pay program after the leading producer of aluminum

made that change.

Another way that companies recently revised their incentive pay was by decreasing the size of the annual bonus awarded for achieving goals established by their compensation committees.

**Spirit AeroSystems** amended its CEO **Jeffery Turner's** incentive pay a few months after earning 94% approval of its executive pay program. According to an 8-K filed on Aug. 19, the supplier of commercial airplane assemblies and components reduced Turner's annual bonus target payout to 200% from 300% of base salary and his long-term incentive bonus target to 400% from 500% of base salary.

**Ken Evans**, a spokesman for the company, declined to say whether AeroSystems's comp committee made the changes in reaction to the 2011 proxy season. He says the changes make total compensation more competitive with "similarly situated companies while maintaining a substantial portion of total compensation at-risk."

Although compensation committees are under pressure to design their pay programs to be strongly correlated with performance, this pressure may not have been the impetus for all recent revisions to base salaries and incentive pay. According to experts, following past proxy seasons, it has not been uncommon to see companies revise the equity mix of their long-term incentive plans, the metrics used to determine bonus payouts and the size of base salaries. To be fair, although some companies reduced fixed pay this year, others raised salaries. ■

**Katie Wagner** (212-542-1243 or kwagner@AgendaWeek.com) covers executive compensation and audit committees.

## Changes to Comp Following 2011 Annual Meetings

Companies that made, or are considering making, changes to their pay-setting process in reaction to the 2011 proxy season:

Type of Change	% of Companies
Performing additional analyses on the link between pay and company performance	40%
Already made changes to severance, CIC arrangements, perks, deferred comp, tax gross-ups or exec pensions	40%
Devoting more attention/effort to preparing the CD&A	37%
Already made changes to base salary and/or incentive pay	24%
Our board is more engaged in developing the CD&A	12%

Source: Towers Watson's survey of 179 companies' executives and executive comp professionals, conducted in June 2011

# As Workloads Mount, Comp Committee Chair Pay Rises

In some cases, comp chairs being paid as much as audit chairs

by Amanda Gerut

While most companies are keeping audit and governance committee chair retainers flat, pay for chairs of compensation committees is rising as a result of the heavy workloads associated with say on pay and additional scrutiny of executive compensation plans.

A study of Fortune 100 board pay practices conducted by **Compensation Advisory Partners** that will be released Sept. 6 has found that at the median, pay for compensation committee chairs rose 25% from 2009 to 2010. At the same time, more boards are doing away with retainers for rank-and-file committee members and increasing the amount of cash or equity amounts in directors' total compensation packages.

**Dan Laddin**, a partner at Compensation Advisory Partners, says chairs of comp committees are spending large chunks of time in between meetings prepping for say-on-pay votes and dealing with regulatory requirements stemming from Dodd-Frank. Most of the work falls squarely on the shoulders of the comp committee chair as the point person for executive compensation.

"There's a quantum leap in the amount of time required because of the more significant responsibilities of the chair," says Laddin.

As a result, pay for comp committee chairs among companies in the Fortune 100 rose last year, and the trend is likely to continue among other company boards, says **Matt Vnuk**, an associate at Compensation Advisory Partners (CAP) who worked on the study.

Companies such as AT&T, Cisco

Systems, Hewlett-Packard, IBM and Ingram Micro increased retainers for comp committee chairs last year, according to CAP.

## Comp Committee Chair Increases

Caterpillar	\$10,000 to \$20,000
Cisco Systems	\$10,000 to \$15,000
IBM	\$10,000 to \$20,000
PepsiCo	\$30,000 to \$40,000

Source: 2010, 2011 proxy statements

Generally, the pay order among the three main board committees has always been that audit chairs are paid the highest, comp chairs are the second highest, and nominating and governance chairs are third, says **Steven Hall**, managing director of comp consulting firm **Steven Hall & Partners**. But recently, Hall says, companies have begun to recognize that the amount of time that compensation committee members spend on their duties is possibly more than what other committees log, and the additional reputational risk and high-priority issues that the comp committee chair is dealing with have grown more significant. Because of the shift, a few companies have even begun to pay comp committee chairs on the same level as audit chairs.

The AT&T board, for example, pays the chairs of its audit and human resources committees the same cash retainer. Both committee chair

retainers increased from \$20,000 to \$25,000 last year. In the same vein, **Caterpillar** now pays the chairs of the audit and compensation committees the same \$20,000 stipend. The audit chair retainer increased from \$15,000 to \$20,000, however, while the comp committee chair stipend increased from \$10,000 to \$20,000 last year. **DuPont** actually reduced the retainer paid to the chair of the audit committee from \$25,000 to \$20,000 and increased the retainers paid to the chairs of the board's other committees from \$18,000 to \$20,000 in 2011. Under the adjusted compensation scheme, all the committee chairs are paid the same retainer.

Hall says comp committees are tasked with meeting additional and updated requirements for CD&A disclosures, working with executives from human resources, legal and accounting departments and working with outside consultants. The work is "not even close to being evenly dispersed" among the other members of the comp committee, says Hall; the bulk of it falls to the chair.

The same is true of other board committees. Boards have continued to eliminate extra retainer fees for committee members other than the chairpersons, says Laddin. About a third of Fortune 100 companies don't pay directors for service on a committee, a practice that used to be common. Instead, says Vnuk, the board takes the view that all the directors on the board are active in committee work, and the value of committee fees is rolled into the annual cash or equity retainers in pay

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## Say on Pay Pushes Corp. Secretaries Closer to IR

Shareholder engagement is their topic of interest

by Kristin Gribben

Corporate secretaries are spending more of their time meeting with investors and coordinating those shareholder outreach efforts with the investor relations team. It's a permanent shift in the job duties of a position that was once seen as mostly administrative, according to several observers.

The change in the job responsibilities is being driven largely by Dodd-Frank and, more specifically, say-on-pay votes.

"A lot of the regulations [from the SEC and Dodd-Frank] do warrant a high level of outreach," says Pfizer corporate secretary **Matt Lepore**.

Coordination between the corporate secretary and investor relations can help with winning say-on-pay votes and improve shareholder relations, as well as helping the corporate secretary prepare proxy materials for the next annual meeting. The board can also benefit from having the corporate secretary more involved in meeting with investors. Corporate secretaries have more one-on-one time with directors than the investor relations officer traditionally does and are therefore more likely to share information gleaned from meetings with investors.

When **NRG Energy** received a negative recommendation for its say-on-pay proposal this year from **ISS**, **Nahla Azmy**, the company's senior vice president of investor relations, embarked on a two-month outreach to its shareholder base. (It paid off: 59% of shareholders voted in favor of the company's executive compensation policies.) What she found was that the company could have done a better job of explaining its pay-for-performance policy in the proxy statement. That information, she says, will be invaluable to the corporate secretary and deputy general counsel, **Tanuja Dehne**,

when she drafts next year's proxy disclosure. "There needs to be better feedback with the corporate secretary on how they articulate the design of compensation matters," Azmy says.

The level of engagement between investors and companies is increasing, according to a recent study conducted by **ISS** for the **Investor Research Responsibility Center** Institute. Just over 50% of asset owners, 64% of asset managers and half of issuers reported more engagement with one another. Almost none said they were talking less. The study surveyed 161 institutional investors and 335 issuers based in the U.S. from March to May 2010, and conducted follow-up telephone interviews with 21 investors and 22 issuers in August and September 2010. Thirty-six companies said the corporate secretary initiates contact with shareholders. However, very few asset owners or managers look to engage with the legal department or general counsel's office. One proxy voting manager for a large mutual fund said general counsel, who sometimes include the corporate secretary, didn't always appreciate her questions.

Therein lies the challenge. Not all corporate secretaries are prepared to meet with investors — and not all of them like to. Some companies prefer to have the investor relations officer meet with all investors; some corporate secretaries meet with only those investors who care about governance issues, while at other companies both the IRO and corporate secretary attend road shows and meetings with investors. Most experts agree on one thing, however: The need for close engagement between the IR department and the corporate secretary's office is more critical under say on pay than ever before.

During the last year or so that **Ken-**

**neth Bertsch** was executive director of corporate governance at **Morgan Stanley** Investment Management, before becoming president of the **Society of Corporate Secretaries and Governance Professionals** last December, he began to see more coordination between the corporate secretary and the investor relations officer in their meetings with his team, he says. That trend is a good thing because when a corporate secretary would engage with shareholders without the proper IR background, mistakes were common, he says.

The corporate secretary and investor relations officer must be careful not to tread on each other's turf. Pfizer's Lepore says he rarely answers a question when meeting with investors that is outside the realm of governance. Detailed questions on the operations side of the business are deferred to the IRO. Likewise, "the investor relations officer won't talk about executive compensation. They do it all through me," he says.

Lepore estimates that around 25% of his job consists of meetings with investors around the country, talking to them on the phone and even writing letters to retail

shareholders. Pfizer has long had a reputation for strong shareholder engagement, and that's what its investors have come to expect. But Lepore says say on pay has caused him to work more closely with the investor relations team.

During Pfizer's shareholder engagement this year, the IRO received more questions about executive compensation related to say on pay from buy-and-sell decision makers at investment firms. Usually these groups don't care much about corporate governance, and it underscored the need for close contact between Lepore and the IR team.

Conversely, at **Darden Restaurants** the vice president of investor relations, **Matthew Stroud**, says he's familiar with talking about governance issues with investors. His coordination with the corporate secretary also became more critical this proxy season as the two of them, and sometimes the head of human resources, would meet with governance managers at investment firms to talk about executive compensation.

"Adding more people to the team can make the visit more challenging," Stroud says.

Meanwhile, long before say on pay became part of the corporate secretary's vernacular, **Exxon Mobil** recognized the benefits of having the IRO work with the corporate secretary — so much so that the company decided to merge the two roles into one position. **David Rosenthal** now holds the title of vice president of investor relations and secretary. "We have found that combining the roles of IR VP and Secretary reflects the integral relationship between financial performance and governance, and provides for the most efficient and effective communications with shareholders and the investor community," writes spokesman **Alan Jeffers** in an e-mail.

That's an unusual step, and not necessarily one other companies are keen to take given the myriad of other responsibilities corporate secretaries have, but it does symbolize the increased closeness the IRO and corporate secretary will have going forward. ■

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## COMPENSATION

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packages. Doing so also simplifies director fees, he adds.

Historically, Laddin says, there was a predominant pay philosophy that directors should be paid for their time. But among Fortune 100 boards, there's been a strong migration away from that thinking, he says. Nowadays, directors are paid for their fiduciary oversight, knowledge and overall contribution to the board with a fixed-pay approach,

rather than being compensated for individual board, committee and telephone meetings. For many boards, this translates into a total compensation number that is split into equity and cash.

Retainers for committee chairs remain, however, because the workload required differentiates the role. Boards have recognized that the chair roles will be rotated over time and will even out, says Laddin.

And last year, even while comp committee chair pay increased,

overall pay for directors remained largely flat, says Vnuk. The large increases in director pay following Sarbanes-Oxley aren't likely to be repeated anytime soon.

"Over the next few years we continue to expect low- to mid-single-digit increases in director pay as somewhat of a constant," says Vnuk. ■

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**Amanda Gerut** (212-542-1246 or [agerut@AgendaWeek.com](mailto:agerut@AgendaWeek.com)) covers succession planning, board composition and director pay.

## Should Directors Ignore Those One-Time Items?

Hidden expenses and income are popping up more often

by Tony Chapelle

Most companies don't directly mislead shareholders. Yet a research analyst has found that more are masking earnings by burying one-time items in their financial statements.

"When you find \$58 billion of [hidden, one-time items last year], I would say that most companies are doing it," says **David Trainer**, CEO of stock-research firm **New Constructs**.

Investors can be fooled by one-time items, since they can artificially distort earnings reports. So directors should be on the lookout. Even when they're used with good intentions, one-time items can make the profit picture cloudy for investors. What's more, the confusion can cause decreased valuations or target prices for a company's stock.

Just back in July, the SEC slapped down a financial statement that included a questionable one-time item.

**Groupon**, the discount deals website company, had to amend the financials in its IPO filing because the SEC wouldn't allow the company to use a weird new accounting metric. The SEC decided that, despite a fancy new name, the measurement was just a ruse to exclude \$481 million in fairly ordinary marketing-related costs.

"That was abusive and the SEC made them take out that," says **Charles Mulford**, the director of the **Georgia Tech** Financial Analysis Lab.

Groupon had to refile its Form S-1, which delayed its offering until at least September.

"Don't think for a second that

these one-time items are not material," Trainer warns. He says that manipulating accounting to maximize earnings has become a competitive requirement. "Companies cannot afford not to employ the same tricks as their peers or they risk lower earnings growth."

But a veteran board member disagrees. "I don't know any directors that would ignore one-time items," writes **Howard Carver**, a member of various public company boards and a retired **Ernst & Young** partner, in an e-mail to *Agenda*. "We are always asking for details behind such items."

"At many board and audit committee meetings I've attended, [we've talked about] the noise that these items create and how they can be disclosed transparently."

One-time items are easy to find when they're reported as extraordinary items on the income statement.

But they may get obscure when they're placed in the Management Discussion & Analysis (MD&A) or footnote sections of 10-Ks.

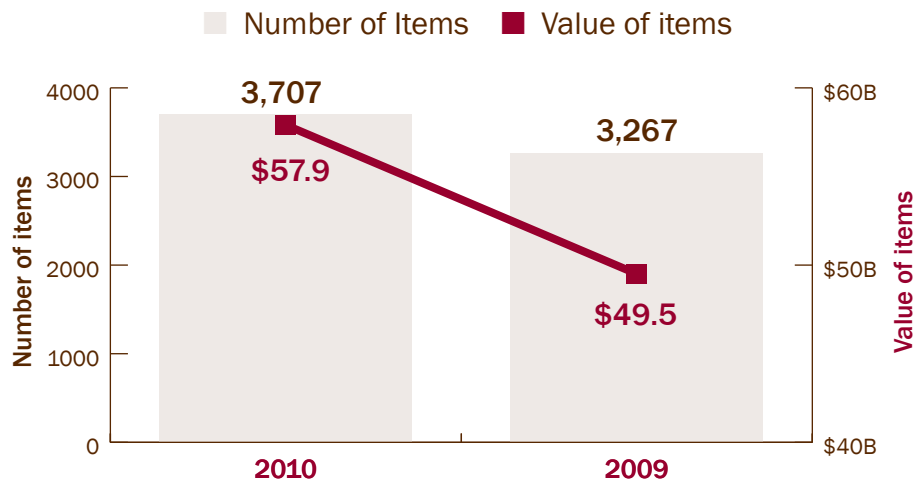
According to Trainer, more than 13,000 one-time items were buried in the MD&A or footnotes between 1998 and 2011. His study analyzed 10-Ks for more than 3,000 of the most actively traded U.S. companies.

More one-time items are leaving the income statement and moving to the MD&A or footnotes. Last year, the value of those hidden items rose by 17% from 2009 to more than \$57.9 billion. That was 0.4% of the companies' net revenues. The number of hidden one-time items also climbed; up by 13% last year.

By contrast, the value of non-hidden items fell by almost a third to \$159.6 billion. The number of those items also fell, by more than 10%.

### Corporations Are Hiding More One-Time Charges and Profits

Hidden one-time expenses and income in MD&As and footnotes



Source: Analysis of 3,045 corporate 10-K filings by New Constructs LLC

One definite red flag is reporting financials each and every quarter that do not use generally accepted accounting practices.

Using non-GAAP allows for easily excluding expenses. What confuses investors is when managers use GAAP or exclude items inconsistently, says **Sarah McVay**, an associate professor of accounting at the **University of Utah**. She emphasizes that the worst practice is when they exclude transitory losses but include non-transitory gains from quarter to quarter or even within the same report.

“The bad guys change their reporting behavior from quarter to quarter and from non-GAAP to GAAP in order to present a higher number when they need one. Firms that cherry-pick line items in a quarter or across quarters could be misleading investors,” says McVay.

Investors account for one-time gains and losses differently than income and expenses that are recurring. Since investors will not include them in their earnings projections, they could be way off when trying to predict an earnings estimate. In the end, investors wouldn’t get their appropriate returns.

According to accountants, there are real one-time items and there are questionable ones. Charges to earnings due to a hurricane, for example, are not likely to recur. When a company restructures, however, the costs of combining its divisions may not really be one-time because restructurings are fairly typical.

There is no strict accounting guidance from the SEC or the **Financial Accounting Standards Board** about one-time versus recurring charges.

In 2002, as part of commenting on Sarbanes-Oxley rules, the SEC issued rules on pro forma disclosures.

Sometimes derisively called “earnings before the bad stuff,” pro forma reporting stands in contrast to GAAP earnings. Managers use it to exclude expenses that don’t represent the company’s actual business.

SEC staffers have interpreted the rules to mean that it’s misleading to refer to something as one-time if it’s likely something similar will happen in two years.

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### There are real one-time items and there are questionable ones.

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David Trainer advises that when investors see operating line items such as “long-lived asset impairments,” “non-recurring write-down of inventory” or “loss (or gain) on sale of assets,” they should be on guard that those could be concealed one-time items.

For example, according to Trainer, **International Paper** hid more than \$2.1 billion of one-time tax credit income in an operating line item in 2009. Investors who didn’t read the item in the footnotes may have calculated that the company increased its 2009 return on invested capital to 7.6% instead of the real 2.2%.

Although IP complied with all GAAP and SEC reporting guidelines, a study by New Constructs says that, of 16 paper companies studied, only four (including IP) bundled the credit into regular operating cost of sales.

An International Paper spokesperson called the allegation “without merit.” “Not only did we meet all of the reporting requirements,” writes **Tom Ryan**, “but we also [went] beyond them to help our shareholders

understand the... credits.”

IP’s director of corporate accounting, **Kevin Ferguson**, says investors know that 10-K footnotes contain important information. He says not reading them is like “hiding” the data from themselves.

Trainer also points to other one-time accounting tricks such as the reverse psychology of the one-time “big bath.”

In a big bath, the statement “pulls” future expenses forward into the current period. Although that makes the company’s numbers look worse in, say, this quarter, investors were already expecting bad news. Future periods, however, will look better as those future expenses that got crammed into the bad period no longer have to be booked.

“The big takeaway is that investors and boards of directors need to study financial footnotes if they really want to understand a company,” says Trainer. “But I don’t think they do.”

Yet Carver, the corporate director and former accounting partner, argues that his boards do ask questions about how one-time items are presented in financial statements and in the MD&A. In fact, he says managers and investor relations people know they’ll have to answer questions about one-time items in earnings calls and at meetings with analysts.

Carver admits that some analysts do have a problem accounting for one-time items in their valuations and models. Most analysts and more informed investors, however, “know that many one-time items will have an impact on future financials.” ■

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**Tony Chapelle** (212-542-1236 or tchapelle@AgendaWeek.com) writes about corporate strategy and risk management.

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taken a tour in the position and performed well, are now CEOs.

Once the COO has moved on or up, many companies aren't in any hurry to fill the position, consultants say, because operating responsibilities are being handled by others in the C-suite. When COOs are appointed in an organization, it's often as a temporary training ground for a promotion to the head office.

"Companies are promoting executives to the COO chair from divisional CEO roles or CFO roles to give them an enterprise-wide view of the organization and to prepare them to potentially be the CEO," says **Matt McGreal**, a principal with **CristKolder**.

Indeed, more than half of the 787 internal CEO promotions since 1999 came directly from the COO chair, the firm found.

At **Apple**, former COO **Tim Cook** was an obvious choice to succeed **Steve Jobs**, following Jobs's resignation last month.

In Apple's case, investors first began to question the adequacy of the board's succession plan when Jobs's health issues were disclosed in 2004. At the time, the company said Jobs's doctors had successfully treated him for pancreatic cancer. Questions continued about the need for a potential replacement for Jobs, should his health problems return. Cook

was appointed COO in 2005, and stepped in when Jobs took two subsequent medical leaves. His time at the helm proved to the board and investors that he could continue to steer the tech company without direction from Jobs.

"The Apple story is one of the great stories of why the COO is such an important part of the organization," says **Bill Shepard**, president and founder of the **COO Forum** and a former CEO of **Pacific Linen** and **NordicTrack**. "Boards of directors who insist on having a COO are doing their shareholders a big favor, and boards that choose not to have a COO oftentimes are vulnerable."

Other companies such as **AmerisourceBergen**, **CVS/Caremark**, **Fluor**, **Hershey**, **Kellogg**, **The Good-year Tire & Rubber Company** and **Northrop Grumman** all promoted COOs to the CEO position in the past year and a half.

Further reducing the need for a COO has been the fact that more boards during the past decade have appointed lead independent directors and non-executive chairs, says **Gary Hourihan**, a senior vice president with **Farient Advisors**. With CEOs less focused on the board, they're more able to take on operating responsibilities, he says.

In addition, the increasing complexity of companies' businesses has also lessened the need for a traditional COO. Hourihan says a recent

client with three "very distinct" business units, including an international business, decided to forgo a COO in favor of three distinct business unit heads who would report to the CEO.

"I won't call it a cost-saving device," says Hourihan, "but it's a deliberate organizational decision."

For succession planning, this is good news, he says. Without the buffer of a COO between division presidents and the CEO, the board gets more direct, regular exposure to potential CEO candidates. The emergence of other C-suite roles also broadens the board's exposure to potential CEO successors.

To be sure, even while the COO role is seen less frequently at many companies, CEOs often have a second-in-command that doesn't have the COO title, points out Shepard.

"The role clarity between the COO and CEO is not very common from company to company," he says.

He adds that some companies, because of the succession implications of the COO title, will deliberately wait to name a COO until the board is certain of its succession plan.

But despite the thinner ranks of COOs at many companies, the importance of a temporary position for potential CEOs has its benefits, **CristKolder's** research shows.

"We think there will always be a COO role in many Fortune 500 and S&P 500 companies, but very few will have it as a permanent piece of their corporate structure," says McGreal. "Many use it temporarily for one, two, three years as a succession tool." ■

**Amanda Gerut** (212-542-1246 or [agerut@AgendaWeek.com](mailto:agerut@AgendaWeek.com)) covers succession planning, board composition and director pay.

## COOs Who Were Promoted to CEOs in 2011

Name	Company
Steven Hollis	AmerisourceBergen
Larry Merlo	CVS Caremark
David Seaton	Fluor
John Bilbrey	Hershey
John Bryant	Kellogg

Source: *CristKolder*

# Apple Transition a Case Study in Leadership Qualities

Visionary CEOs have an intangible quality that is hard to replicate

by Marc Hogan

**A**pple's passing of the baton underscores the challenge that boards face in finding a CEO who has not only the skills to do the job, but also the intangible qualities that can take a company to the next level.

To **Steve Jobs**, who stepped down as Apple CEO last month but will stay on as chairman, those intangible qualities were essential. "Lots of companies have tons of great engineers and smart people," Jobs told *BusinessWeek* in 2004, as quoted again recently by Bloomberg News. "But ultimately, there needs to be some gravitational force that pulls it all together. Otherwise, you can get great pieces of technology all floating around the universe."

For the 14 years after his return to the company, Jobs was that force for Apple. As **Tim Cook**, previously Apple's COO, steps into the company co-founder's estimable shoes, his task will be to exert a similarly massive influence, Bloomberg notes.

Cook's 13-year tenure at Apple has brought him success in a range of operational positions.

While Jobs led Apple into one new business area after another, it remains to be seen if his chosen heir will be as successful in mustering the company's roughly 50,000 workers. **David Bradford**, professor emeritus at **Stanford University**, tells Bloomberg that when companies have "a heroic leader," that's the person they tend to rely on to solve problems.

**Huntington Asset Advisors** senior portfolio manager **Peter Sorrentino**, who invests in Apple, praises Cook for his management

competency. And Apple's board has promised to back Cook. **Fred Anderson**, Apple's CFO until 2004 and for a short while its CEO prior to Jobs's return in 1997, tells Bloomberg that no one other than Cook was a reasonable candidate for the position.

Cook reportedly told employees that Apple will remain the same with him at the helm. "I cherish and celebrate Apple's unique princi-



*Apple's Steve Jobs says he innovated by giving customers what he thought they wanted, not what they told him they wanted. In fact, when the iPhone first came out, many cell phone providers feared it would flop.*

ples and values," he said in a memo quoted by Bloomberg. "Steve built a company and culture that is unlike any other in the world, and we are going to stay true to that — it is in our DNA."

Nevertheless, some of Jobs's leadership attributes were unique. For instance, Jobs excelled at knowing what customers wanted before they did, notes the technology blog ZDNet. "You can't just ask customers what they want and then try to give it to them," Jobs reportedly said. "By the time you get it built, they'll

want something new."

Jobs could also be fearless. Many in the technology business initially mocked the iPhone, ZDNet recalls. Most wireless providers refused to support it. Jobs took a big risk and reaped a correspondingly big reward.

Then there was Jobs's perfectionism. ZDNet quotes Jobs as saying, "I'm actually as proud of the things we haven't done as the things we have done. Innovation is saying 'no' to a thousand things." To continue its success, the blogger notes, Apple will need to continue to resist the urge to put out imperfect products.

Another quality unique to Jobs was his way of convincing people with his rhetoric. When Jobs hypes a new product, millions believe him in a way that simply isn't the case for most CEOs. ZDNet says that can't be replaced.

Then again, Jobs also had attributes that another CEO wouldn't be able to get away with. For instance, he would berate employees as a way of motivating them. "As a people manager, he was the **Bobby Knight** of tech," ZDNet says, referring to the famously confrontational college basketball coach.

Jobs's abrasiveness raises the question of whether an effective CEO needs to be nice. A *Forbes*.com column puts forth the idea that Jobs was, in fact, nice — but to the customers, not the employees. That's a priority Cook might do well to inherit. ■

**Marc Hogan** (212-542-1221 or mhogan@AgendaWeek.com) is *Agenda's* news analyst.

# Starbucks CEO Sees Momentum for Campaign Spending Boycott

More than 100 CEOs halt political donations until a long-term debt deal is reached

by Marc Hogan

**S**tarbucks founder and CEO **Howard Schultz** wants everyone to withhold spending on political campaigns until Congress reach a long-term debt deal, and he's finding that he's not alone.

Schultz said recently that more than 100 business leaders have signed on to his boycott of campaign contributions, *The Wall Street Journal* reports. Those individuals include **J. Crew Group** chairman and CEO **Millard Drexler**, AOL chairman and CEO **Tim Armstrong** and **JC Penney** chairman and CEO **Myron Ullman**. Schultz also reportedly said he has received phone calls, e-mails and social media interactions from thousands of citizens.

The coffee retailer's chief revealed his initiative in an extensive Aug. 8 e-mail to employees entitled "Leading Through Uncertain Times." The idea, as *The New York Times* columnist **Joe Nocera** relates it, was to force politicians to focus on problem-solving rather than partisan gain. After looking at data showing yearly increases in campaign funding, Schultz reckoned he would speak to candidates in a language they would understand: money.

Though Schultz's personal politics lean heavily Democratic, the plan is bipartisan, as it would have to be in order to work. Schultz has called for corporations, unions and individual donors alike to join the boycott. In his view, Congress should have returned from its August recess early, negotiated a long-term debt deal with the president, and then concentrated "maniacally" on spurring new jobs. Only then

would campaign coffers be refilled.

While the *Times'* Nocera acknowledges Schultz's proposal is a dark horse, the columnist says it's worth a shot, particularly because it goes beyond merely asking the two parties to get along better. Nocera describes the boycott instead as "hardheaded and practical, the kind of idea you would expect from a good businessman."

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**"I found myself growing more and more frustrated at the lack of cooperation and irresponsibility among elected officials as they have put partisan agendas before the people's agenda."**

Aug. 8 e-mail from Starbucks CEO **Howard Schultz** to all employees

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On Aug. 15, Schultz addressed a separate letter to "fellow concerned Americans." In it, as quoted by the *Journal*, he called for "elected leaders to face the nation's long-term fiscal challenges with civility, honesty, and a willingness to sacrifice their own re-election. This means not kicking the can anymore. It means reaching a deal on debt, revenue, and spending long before the deadline arrives this fall. It means considering all options, from entitlement programs to taxes." And he urged business leaders to vow to speed up hiring.

More recently, a Seattle-based digital agency that said it was motivated by Schultz's proposed boycott set up a website and Facebook page in an effort to spark ideas about how

to accelerate job creation. The sites are [www.upwardspiral2011.org](http://www.upwardspiral2011.org) and [facebook.com/upwardspiral2011](http://facebook.com/upwardspiral2011).

**Harvard** Law School professor **Lawrence Lessig** writes in the Huffington Post that while Schultz's goals are noble, his proposal is ultimately doomed. Lessig agrees that America's political dysfunction is related to campaign donations. But he says stopping political donations until after lawmakers resolve the budget debate won't remove what he considers the outsize influence of money in politics.

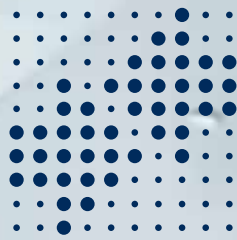
"No doubt, you can get an addict to clean up the garage by withholding his fix until he is done," Lessig quips. "But that won't help the addict end his addiction."

Instead of a temporary boycott, Lessig argues, Schultz should support a permanent end to lawmakers' campaign-contribution addiction.

Last year, former **Stride Rite** CEO **Arnold Hiatt** and former **Hasbro** chairman **Alan Hassenfeld** mounted an effort to do just that. They wrote letters to the biggest campaign donors, asking them to withhold money from any candidate who didn't vow to support legislation that would cap campaign donations at \$100, with four-to-one matching spending from the government. Backers of the initiative reportedly included **Warner Music** CEO **Edgar Bronfman Jr.**, Ben & Jerry's co-founder **Ben Cohen** and **Schooner Capital** chairman **Vin Ryan**. ■

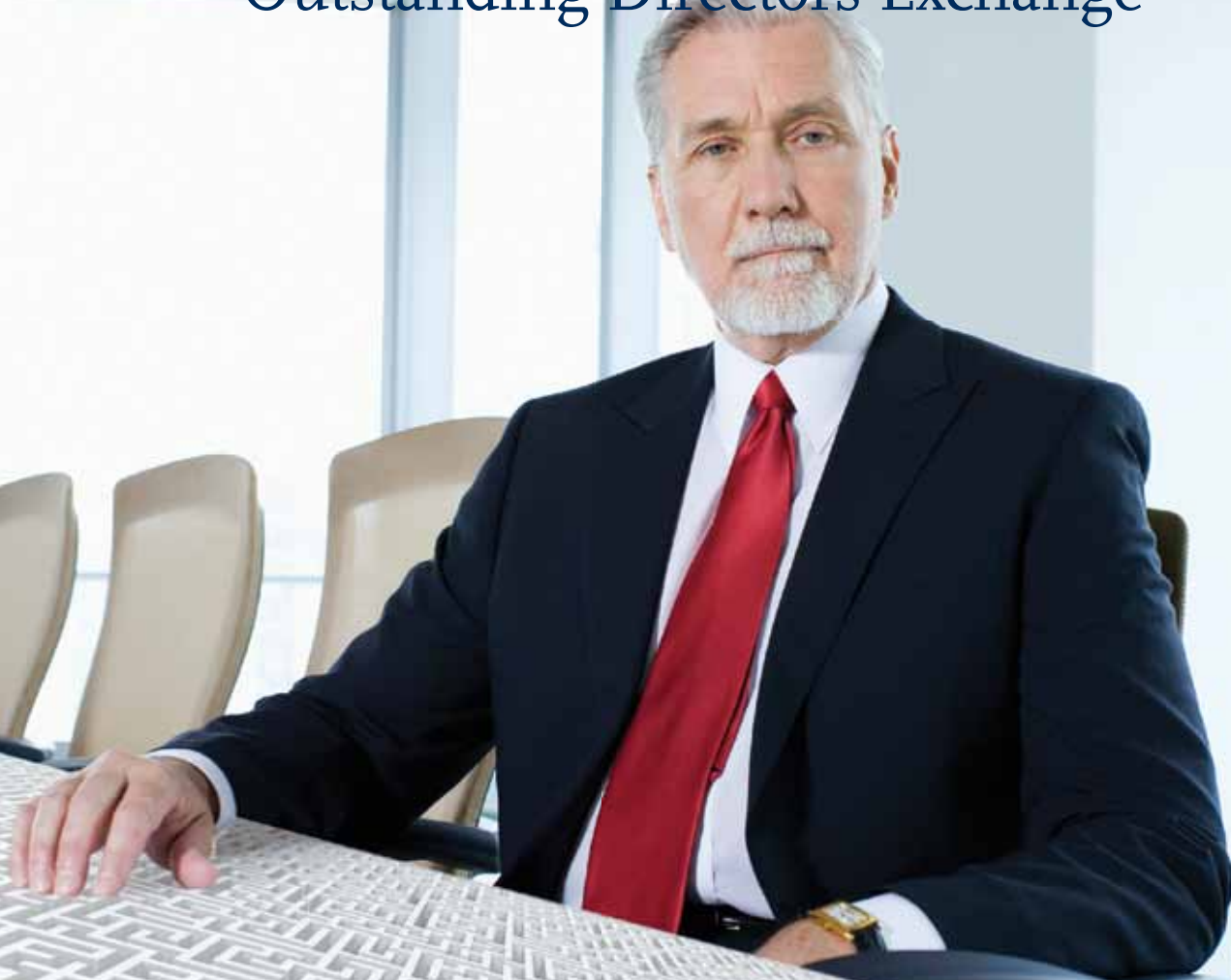
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## LEGAL & REGULATORY ROUNDUP

### SEC Claws Back \$1.4M From Ex-Beazer CFO

Former **Beazer Homes** CFO **James O'Leary** must return more than \$1.4 million in compensation under a settlement reached last week with the **SEC**. So **Bloomberg** reports.

The sum represents incentive pay and stock sale profits that O'Leary received during fiscal year 2006. The **SEC** alleges **Beazer** fraudulently overstated its income in financial statements for that period.

The settlement is subject to court approval. O'Leary is not personally charged with misconduct, the **SEC** says, and he neither admits to nor denies the agency's allegations.

The **SEC** settled earlier this year with former **Beazer** CEO **Ian McCarthy**, who agreed to reimburse \$6.5 million in compensation. Litigation is ongoing against former **Beazer** chief accounting officer **Michael Rand**, whom the **SEC** accuses of perpetrating the fraud.

### Boutique Investment Banks Gain Clout

Boutique investment banks have played a role in a growing share of mergers and acquisitions this year. So *The New York Times's* **DealBook** reports.

Without research divisions or proprietary trading businesses, boutique investment banks market themselves as free of conflicts of interest. In the wake of the financial crisis, that uncomplicated pitch has proved increasingly compelling, *Agenda* has reported.

Independent investment banks helped seal two of the biggest recent transactions, **Google's** \$12.5 billion **Motorola Mobility** acquisition and **Hewlett-Packard's** \$11.7 billion **Autonomy** takeover. Advisors on the deals reportedly included the largest independent firm, **Laz-**

**ard**, along with **Qatalyst Partners**, **Centerview Partners** and **Perella Weinberg Partners**. **Barclays Capital** was the only full-service investment bank taking much of a hand in either transaction, according to **DealBook**.

Boutiques also played roles in **AT&T's** proposed \$39 billion acquisition of **T-Mobile** and **Express Scripts'** merger with **Medco Health Services**, **DealBook** notes.

**Qatalyst**, a boutique headed by technology financier **Frank Quattrone**, has reached 29th in **Thomson Reuters's** league tables. **Centerview** has reportedly worked on the **Express Scripts** and **Motorola** deals, plus transactions for **Capital One Financial** and **Kraft Foods**.

### Companies Get Social Media Guidance

Boards of companies crafting social media policies just got some tips from an unlikely source, according to **TheCorporateCounsel.net** blog.

**Finra**, Wall Street's self-regulatory organization, recently published revised guidance on social networking websites for broker-dealer firms. While the guidance pertains specifically to the regulations governing broker-dealers, aspects could also be applied by companies in general.

The guidance includes updates on the use of employees' personal devices for business. **Finra** says broker-dealer employees may do work on their own gadgets, but they must be able to separate business and personal communications so that the firm can access and monitor business messages without seeing personal messages.

The guidance also says broker-dealer employees who want to launch a business-related social media site must first get approval from a principal of the firm.

—*Marc Hogan*