THE WALL STREET JOURNAL. | REVIEW & OUTLOOK

The Corporate Disclosure Assault

Unions and liberal activists are using proxy rules to attack business political speech.

March 18, 2012, 6:28 p.m. ET

Shareholder proxy season is coming up, and along with it a new batch of politicized shareholder resolutions. The underreported story this year is the flowering of a long-planned political campaign intended to stop companies from exercising their free-speech rights to influence government. Corporate directors need to know what they're up against.

The campaign is traveling under the assumed name of "disclosure," which sounds innocuous and is hard for CEOs and corporate boards to oppose. The specific target is to get companies to publicly disclose what they spend on politics—their donations to candidates or PACs, how much they spend on lobbying or government affairs, which industry associations they contribute to, and even in some cases the political contributions of executives.

This isn't the effort of public-spirited believers in shareholder rights and transparency. It's part of a multiyear campaign by unions, left-wing activists and their factotums to expose and then vilify companies that disagree with them.
***

The effort began in the middle of the last decade and has been led by such labor unions as the state and local government workers (Afscme) and groups like the Center for Political Accountability, whose work is funded by George Soros's Open Society Institute. The campaign has gained speed since the Supreme Court's 2010 Citizens United ruling that restored First Amendment rights to unions and corporations.

It has now blossomed into a broad network of unions, green investment funds, public pensions and ideological bucket shops that are exploiting an SEC rule that lets any shareholder with more than $2,000 in shares introduce proxy proposals. This year activists expect to offer more than 100 proposals to require some sort of disclosure of political spending.

Some of these will never make it to a proxy ballot, because the activists are happy to withdraw them in return for a commitment to "voluntarily" disclose. For example, "Proxy Preview 2012," published by the green-liberal As You Sow foundation, brags that activists withdrew a proposal from State Street after the financial services company promised more disclosure and "after the company said it prohibits its trade associations from using company dues for political purposes."

Notice the goal isn't merely disclosure, but to limit political activity by "trade associations"—which means the likes of the Chamber of Commerce or the Financial Services Roundtable. If companies can't donate themselves, and can't work through associations, what free-speech rights do they have left?

Disclosure is pitched as an apple-pie corporate virtue, but a basic question is whom it is supposed to benefit. None of the spending that these outfits want disclosed is material to the company's bottom line—which is what shareholders really need to know. Companies must already follow the campaign-finance and lobbying laws that provide significant political transparency.

If companies offer more information to avoid a proxy vote one year, the activists can come back asking for more the next. There is also the drain on executive and board time, as well as the risk of turning proxy statements into encyclopedias. The data dump serves no one save the political activists who can use it as a PR club to harass companies until they stop donating.

That harassment strategy was explicitly laid out in the "corporate transparency" section of a document describing its agenda for 2010-2102 from the left-wing agitprop outfit, Media Matters. "Media Matters Action Network will create a multitude of public relations challenges for corporations that make the decision to meddle in political campaigns," says the document. The data from corporate disclosure "may also be used to launch shareholder resolution campaigns to prevent corporations from making these types of expenditures."

And: "These campaigns . . . in alliance with progressive allies may use both earned and paid media, including TV, online and print advertising. Over time, we believe these efforts will dissuade corporations from interfering in our democracy." Translation: We'll make life miserable for CEOs and trash their companies on MSNBC and the like until they shut up.

As recently as March 12 a self-described "large coalition" of labor and liberal groups announced "a major national campaign to target corporations" that contribute to Super PACs or nonprofits "to influence the fall election." One tactic: a "$25,000 reward" to an employee who leaks that his company is making such political contributions. Bounty hunting for fun and political profit.
***

This campaign has already been quietly effective in winning the support for more political disclosure from public pension funds and ostensibly nonpartisan shareholder groups. California Treasurer and liberal Democrat Bill Lockyer last year pushed Calpers and Calsters, the giant pension funds, to make political disclosure part of their corporate governance agenda.

Another convert is Institutional Shareholder Services, or ISS, which had long considered disclosure issues on a company by company basis. But under pressure from union pension funds, ISS last year changed its policy to recommend that shareholders generally vote in favor of proposals to disclose political activities. Many mutual funds and institutional investors follow ISS guidelines in voting on proxy resolutions, which has persuaded several companies to make concessions rather than risk bad publicity or a substantial vote against one or more of their directors.

ISS justifies this change by claiming that political activity can be risky to a corporation's business. It recently invited Bruce Freed, who runs the Center for Political Accountability, to speak at a "webinar" on "corporate political activities." In addition to fretting that we have somehow returned to the "Watergate" era, Mr. Freed made clear his goal is to expose and curtail even "indirect spending" that corporations do "through the trade associations."

The irony is that the disclosure that ISS champions would make companies even bigger political targets for Media Matters and other smear campaigns. Companies would be safer disclosing less information.

Businesses are arguably taking more risk by trying to dodge policy debates. When government of one kind or another controls 40% of the private economy, a business that doesn't participate in politics either directly, or indirectly through a trade group, is a patsy for the next Congressional or regulatory shakedown. And it is leaving the policy field open to domination by unions, the Sierra Club and billionaires like George Soros and Peter Lewis.

Corporations are not democracies. They are businesses organized for the purpose of making money to increase value for all shareholders, not to serve the narrow goals of some shareholders.

The political left is using this disclosure campaign not to serve the interests of shareholders, but to further its own policy agenda. It is an abuse of the proxy process, and companies would be wise to resist it in the interest of their business, their shareholders, and their country.