CENTER FOR POLITICAL ACCOUNTABILITY

Spotlight on CPA - December 2017

In This Edition:

Click to Jump to Story

COMPLIANCE WEEK

THE LEADING INFORMATION SERVICE ON CORPORATE GOVERNANCE, RISK AND COMPLIANCE

CPA Makes the Case for the SEC Political Disclosure Rule in Compliance Week

For years, the Center for Political Accountability has not only pushed actively for corporate political disclosure, it has also emerged as a national thought leader amid ongoing debate.

This role was underscored when Compliance Week recently turned to CPA to argue the case for a U.S. Securities and Exchange Commission political disclosure rule, in a published point-counterpoint.

On behalf of CPA, President Bruce Freed and counsel Karl Sandstrom framed a two-fold argument based on helping companies manage risk and on bringing sunlight for investors. The latter was a tenet of Justice Anthony Kennedy's opinion in the 2010 *Citizens United* decision. Here are key excerpts from CPA's Compliance Week essay:

"Today, companies face heightened pressures to contribute to candidates, political committees, super PACs and shadowy advocacy organizations. A company's participation in this secret world of political finance exposes it to legal and reputational risks. One prominent feature is the loss of accountability; when companies contribute to third-party groups and lose control over how their money is spent, it can too often end up supporting candidates and causes at odds with the company's values or business goals. In other cases, it can end up lining the pocket of political operators or financing illegal activity. And in an era of the 24-hour news cycle and a vigorous social media, companies face heightened risks from these contributions.

"Investors, meanwhile, shouldn't be left in the dark. As Justice Kennedy's opinion affirmed, shareholders have a right to know the details of a company's political spending so they can raise objections or reconsider their investment. Similarly, the darkness that obscures political spending prevents management and directors from evaluating benefits and risks associated with it.

"Why is voluntary disclosure insufficient? When some companies pull aside the veil and others do not, it creates an uneven playing field. This demands correction. Companies perform best when they all operate on the same footing with no company at a competitive advantage – or disadvantage – as a result of strong, weak, or no disclosure.

"To protect companies, investors, and our democracy, the SEC needs to act now to codify what companies are doing voluntarily. This step is simple, and it would make the disclosure that Justice Kennedy envisioned in Citizens United a reality."

Arguments against a proposed SEC disclosure rule were penned by Zachary Parks of Covington & Burling LLP.

KNOWLEDGE@WHARTON

Knowledge@Wharton Cites CPA-Zicklin Index as Critical Aid for Shareholders

Some of the nation's brightest business academics are offering companies another smart reason to be more transparent about their spending to influence elections, and they're giving a shout-out to CPA in the process.

While many businesses operate in an opaque fashion, as shown by revelations in the Paradise Papers, consumers who favor transparency ought to consider voting with their purchasing dollars, scholars contend in Knowledge@Wharton, the online business analysis journal of the Wharton School of the University of Pennsylvania.

Here is the dilemma outlined in Knowledge@Wharton:
"Americans have put considerable weight behind the idea that they can vote with their dollar, that patronizing businesses whose values they endorse exercises some kind of moral authority. But as the Paradise Papers show, the way businesses really operate remains opaque. Is it possible anymore for customers to put their money where their mouths are, given the competing interests of wanting what is cheap, cool or convenient, and what we increasingly know we don't know about the companies we patronize?"

In searching for answers, the article mentions the annual benchmarking study of corporate political disclosure published by CPA.

"Consumers who care about transparency might consider affirmatively supporting those companies that provide more disclosure of their political spending, says [Wharton management professor Mary-Hunter] McDonnell. How can they know which companies are forthcoming and which are not? The Center for Political Accountability, working closely with Wharton's Zicklin Center for Business Ethics Research, awards relative ratings on political practices through the CPA-Zicklin Index of Corporate Political Disclosure and Accountability.

"Its 2017 index found that the number of public companies adopting political disclosure and accountability continues to grow, and numerous companies that belong to this movement have strengthened their transparency and oversight programs. Also, McDonnell points out, 'people have power through their positions as shareholders and can press the funds that manage their 401(k)s to demand transparency on political spending from portfolio firms,' she said."

Secret Money Flows into Judicial Elections

A new report by the Brennan Center for Justice at New York University School of Law documented a “stunning” amount of secret money funding state judicial elections:

“The growth of outside spending by interest groups has brought with it a stunning lack of transparency. For the first time, this report quantified the amount of money in state supreme court elections coming from sources concealed from the public. We found that only 18 percent of interest groups’ outside expenditures during 2015-16 could be easily traced to transparent donors. With respect to the remaining expenditures, donors were either undisclosed (54 percent), a type of spending known as ‘dark money,’ or buried behind donations from one group to another (28 percent), making it difficult or impossible to discern the ultimate funding source, a type of spending known as ‘gray money.’ Such secrecy risks leaving voters uninformed about who is seeking to shape state high courts, and leaves litigants (and often even judges) without the tools to identify potential conflicts of interest.”

The top outside spending group during the 2015-16 judicial election cycle was the Republican State Leadership Committee’s Judicial Fairness Initiative, according to the report, at more than $4 million in “gray money.” The report said JFI’s donations “came entirely from the RSLC, which is in turn funded by the U.S. Chamber of Commerce (which does not disclose its donors), along with corporations and industry groups, including Reynolds American, Altria Group, Blue Cross/Blue Shield, and the Pharmaceutical Research & Manufacturers of America.”

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Guest Column:
The Culture of Transparency at Noble Energy
By Ben Dillon, Vice President of Global Communications and Government Relations, Noble Energy

(**Editor’s Note:** *CPA values companies telling others about the importance of transparency. From time to time the editors will publish the views of different high ranking Index companies here, in the interest of companies sharing their best practices and ideas.*)

In today’s connected world, a lack of corporate transparency can rapidly lead to distrust across a host of diverse stakeholder groups. Openness, honesty and compliance with the law is the essence of Noble Energy’s culture. And transparency has always been a part of our DNA and integrated throughout our organization.

Noble Energy’s commitment to transparency applies to our regulatory filings, operations, policies, practices, and our political spending and activities.

Accountability starts with our Board of Directors and extends to every Noble Energy employee and contractor – because being transparent builds trust among our employees, among stakeholders and in the countries and communities where we operate.

The Noble Energy Code of Conduct sets the framework for our values and expectations, and for everyone connected with our company. We engage with local communities, shareholders and stakeholders to gain a deeper understanding of external issues and expectations. Both employees and external parties can report ethical concerns or ask questions via an externally managed reporting mechanism.

For our employees, transparency is crucial to ensuring their long-term commitment to the company. It results in increased trust in Noble's leaders and the way in which we are addressing challenges facing our business. Additionally, transparency helps attract the most talented people to our company as such candidates are more likely to join companies that they perceive are open, honest and ethical.

Transparency also extends to our political activities. Noble Energy's participation at the local, state and federal level of government is essential to our long-term success.

As part of the process, we disclose our political contributions online through our Political Activity Report. This transparency in political spending is the reason we have been ranked at the top of the Center for Public Accountability's CPA-Zicklin Index for the fourth consecutive year.

Furthermore, Noble Energy discloses lobbying activities and expenditures. Overall, the Corporate Governance and Nominating Committee of Noble Energy's Board of Directors is responsible for oversight of the company's political activity.

Transparency has proven time and time again to play a critical role in a company's business success, and it has been an integral part of Noble Energy's efforts to improve lives by bringing energy to the marketplace and helping local communities grow and prosper; it's the Noble way of doing business.

CPA Offers Guidance for Companies on Transparency and Accountability

Have you ever wondered how your company can receive a perfect score on the CPA-Zicklin Index? CPA has a new resource to help companies do just that.

Visit http://www.politicalaccountability.net/index to view a model political spending disclosure report and read sample policy language from companies that consistently receive top scores on the Index. You may also download a copy of the Index Scoring Guidelines.

CPA is always happy to provide guidance to companies seeking to improve their Index score. If you would like to speak with us directly, please contact Nanya Springer, Vice President of Programs, at (202) 464-1570 ext. 103 or nspringer@politicalaccountability.net.