CENTER FOR POLITICAL ACCOUNTABILITY

Spotlight on CPA - January 2018

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Founder's column

BLACKROCK

To BlackRock: Political Disclosure Belongs in Message to Companies

By Bruce F. Freed

A critical next step was glaringly absent when BlackRock's chairman and CEO, Laurence D. Fink, recently urged companies to better serve all stakeholders and society.

"To prosper over time, every company must not only deliver financial performance, but also show how it makes a positive contribution to society," Fink wrote in his annual letter to business leaders.

What Fink left out is this: For companies to be held accountable, they must cease using secret money to influence the election of state and federal office holders.

How can a business begin to evaluate its impact on society if it doesn't carefully address both the ways it spends from its treasury to influence elections – and the consequences that intentionally, or in some cases inadvertently, result?

Transparency and accountability, on the other hand, serve as a market safeguard while bringing sunlight to democracy.

Political spending distorts our economy when a company bankrolls politicians secretly, leading to backroom deals. And when a company manager unilaterally decides how to invest political cash, it ducks a company's responsibility to act on the behalf of shareholders.

Transparency, by contrast, would furnish the knowledge that shareholders need to reconsider an investment and avoid the potential risk associated with a public boycott or backlash over a controversial political payment.

And it would begin to satisfy the still-hollow promise made by Justice Anthony Kennedy in writing Citizens United eight years ago. "Shareholders can determine whether their corporation's political speech advances the corporation's interest in making profits, and citizens can see whether elected officials are 'in the pocket' of so-called moneyed interests," he wrote.

Mr. Fink must reach beyond the rhetoric about companies contributing to society and identify and carry out necessary action, just as BlackRock did in this past proxy season by supporting a climate change resolution at ExxonMobil.

We hope he will tweet out a PostScript urging companies to adopt transparency and board oversight of political spending -- and that BlackRock, in turn, will vote for shareholder resolutions urging companies to adopt these policies. If the planet's largest investor took these steps, it would provide a compelling model for universal action.

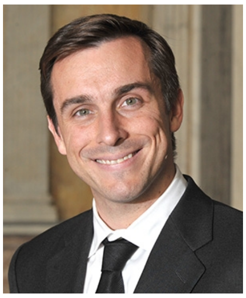
CPA Helps Shape Money in Politics Coverage

Three major publications recently highlighted the Center for Political Accountability's impact by citing CPA and by using its TrackYourCompany.org and the CPA-Zicklin Index to frame their reporting on corporate political disclosure and accountability.

The Minneapolis *Star Tribune* quoted CPA President Bruce Freed in an article about a congressional appropriations rider to block the Securities and Exchange Commission from requiring public companies to disclose their political spending. Freed, pointing out that a rule would effectively codify what companies are already doing, noted that 300 companies in the S&P 500 have voluntarily adopted political spending policies and/or disclosure. "Setting policies for political disclosure manages risk," he added. "Political spending can associate companies with candidates and causes that hurt their brand."

The *International Business Times*, in an article about Goldman Sachs' attempt to block a shareholder vote on disclosure of its lobbying expenses, relied on the CPA-Zicklin Index to report the following: "Goldman currently has policies in place that limit campaign contributions to an employee-funded Political Action Committee (PAC)…These rules, however, cover contributions to candidates and committees, not money spent on lobbying."

And an article in *Agenda*, a Financial Times publication, focused on the top ten corporate political spenders that have adopted political disclosure and accountability. Explaining the difficulty in getting a fix on the level of corporate money in elections, it quoted CPA Vice President of Programs Nanya Springer. Companies "can pass their money through third-party trade associations as well as 'social welfare' organizations known as 501(c)(4)s" which "makes it impossible to get exact figures on companies' contributions unless they choose to disclose them," Springer said.



Robert Jackson Joins SEC

Former Columbia Law School professor Robert J. Jackson Jr., who crafted the proposed SEC corporate political spending disclosure rule, was sworn in January 11 as a commissioner. He was joined by Republican economist Hester Pierce. Jackson will serve for the remainder of a five-year term that ends on June 5, 2019.

CPA Weighs in on Company Opposition to Lobbying Disclosure Proposals

Shareholders face an alarming trend this proxy season. ***Investor Relations*** **columnist Paul Hodgson wrote that companies are asking the SEC to exclude lobbying disclosure resolutions on the grounds that they are irrelevant or insignificant to the company's business. This spate of company challenges follows the release of commission Staff Legal Bulletin No. 14I in November, which changed the interpretation of Rule 14a-8(i)(5). Challenging companies include Goldman Sachs, Citigroup and Eli Lilly.**

Hodgson quoted CPA's Freed on the companies' effort: "Goldman Sachs' defense that their political spending is de minimis is baloney. You have to look at [it] in context. Even a small amount can associate a company with an action that can lead to adverse publicity. And that's not just reputational harm. Adverse publicity can be economically harmful as well. Social media now is very effective at alerting the public about a company's actions, and people start making purchasing decisions based on that."

Freed said that trying to avoid disclosure was "shortsighted," noting that "[c]ompanies cannot guarantee that this information will not be disclosed. It might happen inadvertently. There are leaks, so companies always run the risk that there could be disclosure."

CPA Joins Conference Board Panel

CPA president Freed was named to The Conference Board advisory committee on corporate political spending. The panel complements The Board's corporate member committee on the issue.

New Ernst & Young Report Examines Risks Posed to Companies by Third Parties

A new report released by Ernst & Young addressed the risks increasingly faced by companies when they pursue third-party arrangements with suppliers, distributors and other vendors.

Written by the Audit Committee Leadership Network (ACLN), it focused on the need to closely monitor third-party relationships.

“In many scenarios, third parties—such as distributors, retailers, or franchises—publicly represent a company’s brand,” it said. “If a third party acts in a way that does not meet the standards of the company or the expectations of its customers, reputational damage can occur.”

While the report did not directly address the issue of corporate electoral spending, its takeaways can be applied to company contributions that are routed through third parties such as political committees, trade associations, and 501(c)(4) “social welfare” groups. Like procurement contracts, such contributions should be thoroughly vetted to ensure they align with the company’s values, publicly stated positions, and business goals.

As noted in the report, this vetting should include rigorous oversight by a committee of the board of directors as well as centralized third-party risk management systems. One ACLN member explained, “Often, third‑party risk management is done in silos. Because of the silos, all are managing an aspect of third‑party risk, but they are not talking to each other, nor are they executing it holistically. Some clients are realizing this need and are establishing TPRM [third party risk management] programs at an enterprise level.” Without incorporating corporate electoral spending into their TPRM programs, companies will continue to face a heightened risk of reputational harm.

THE WALL STREET JOURNAL.

Wall Street Journal Spotlights Loophole in Campaign Money Restrictions

U.S. corporations are making contributions to governors associations to circumvent state campaign finance laws limiting how much companies can give directly to candidates, the *Wall Street Journal* reported.

While companies cannot earmark their contributions, “they can simply – and legally – tell the groups they have ‘an interest’ in a race or are making a donation ‘at the request’ of a gubernatorial candidate,” according to the article. Then the association uses an internal tracking system “to keep tabs on how much individual governors raise for the association from companies and other donors, which later helps it figure out how to allocate the money.”

Both the Republican and Democratic governors associations said that they don’t make decisions “based on donor favoritism,” but the article cited a study showing that in the past decade, of the 42 companies that made $100,000-plus contributions, 19 donations “were followed by an RGA or DGA expenditure of the same or greater amount within a month in a state where the company has operations.”

The article also cited data showing that the portion of governors association funding coming from corporations increased in recent years. For more information about corporate contributions to RGA, DGA, and other political committees, contact CPA or visit its TrackYourCompany.org.

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