Political Disclosure and Pension Investment – Updates for Trustees

Moderator:

Erin Shackelford, Trustee Leadership Forum for Retirement Security, Initiative for Responsible Investment, Harvard Kennedy School

Presenters:

Marian Currinder, Associate Director, Center for Public Accountability

Lisa Gilbert, Director of Congress Watch, Public Citizen

John Keenan, Corporate Governance Analyst, AFSCME

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at the Center for Public Leadership

Political Spending and Political Disclosure

- ***How much is known about the political spending of the corporations in which my fund is invested?***
- ***What risks are associated with corporate political spending and lack of disclosure?***
- ***How does corporate political spending align with the interests of the fund and beneficiaries?***
- ***What are the long-term implications of corporate political spending and so-called "dark money"?***

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Agenda

- **Introduction**

  Erin Shackelford, Trustee Leadership Forum for Retirement Security, Initiative for Responsible Investment, Harvard Kennedy School

- **Presentations**

  Marian Currinder, Associate Director, Center for Public Accountability

  Lisa Gilbert, Director of Congress Watch, Public Citizen

  John Keenan, Corporate Governance Analyst, AFSCME

- **Questions and Comments**

- **Conclusion**

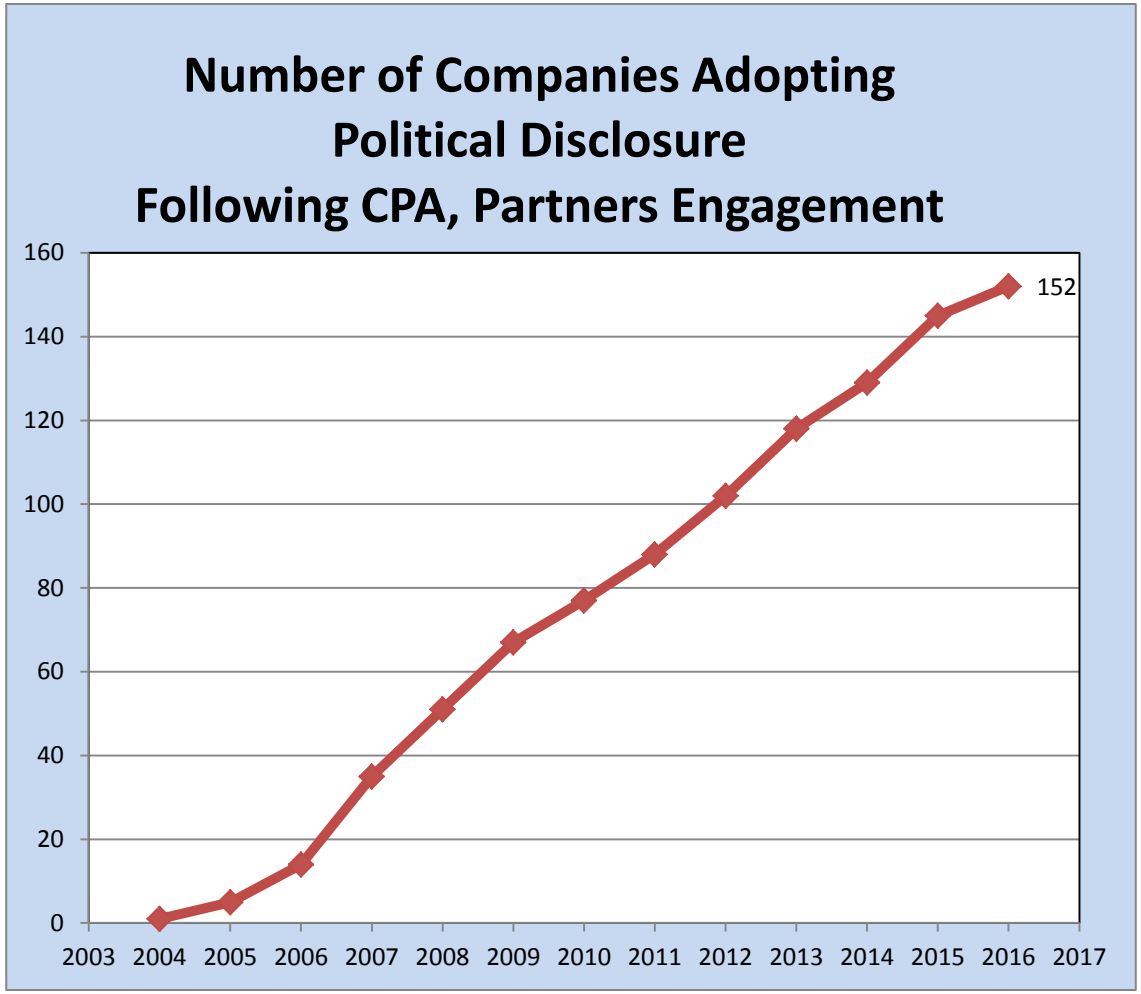
CENTER FOR POLITICAL ACCOUNTABILITY

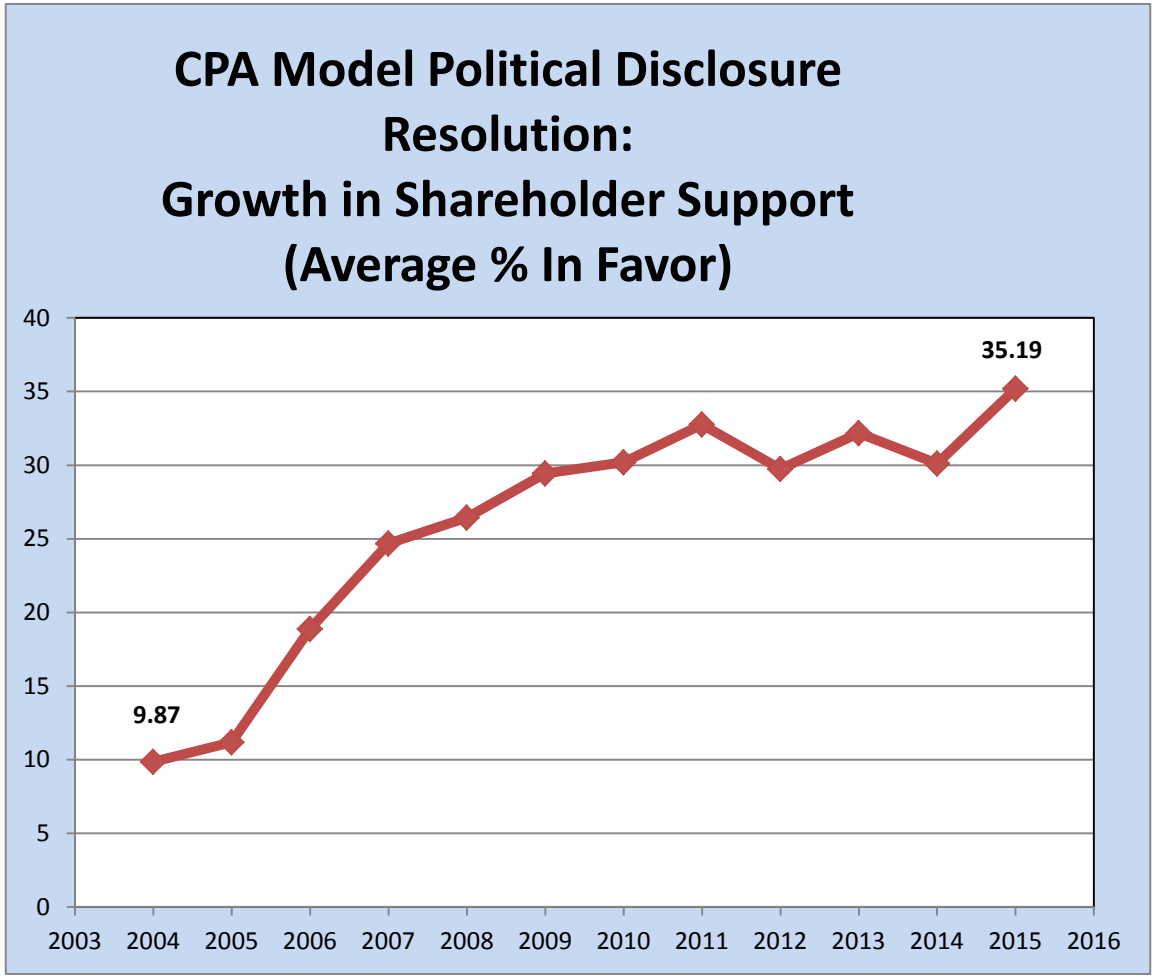
About CPA

Since 2003, the Center for Political Accountability has spearheaded a successful campaign for corporate political disclosure and accountability.

With Congress and regulatory agencies deadlocked, CPA is helping corporations bring sunlight to secret spending.

CPA uses an innovative strategy of shareholder engagement to persuade corporations to disclose political spending, and to oversee it.


Number of Companies Adopting
Political Disclosure
Following CPA, Partners Engagement
160
140
120
100
80
60
40
20
0
152
2003
2004
2005
2006
2007
2008
2009
2010
2011
2012
2013
2014
2015
2016
2017


CPA Model Political Disclosure Resolution:
Growth in Shareholder Support
(Average % In Favor)
40
35
30
25
20
15
10
5
0
9.87
35.19
2003
2004
2005
2006
2007
2008
2009
2010
2011
2012
2013
2014
2015
2016

The 2015 CPA-Zicklin Index of Corporate Political Disclosure and Accountability

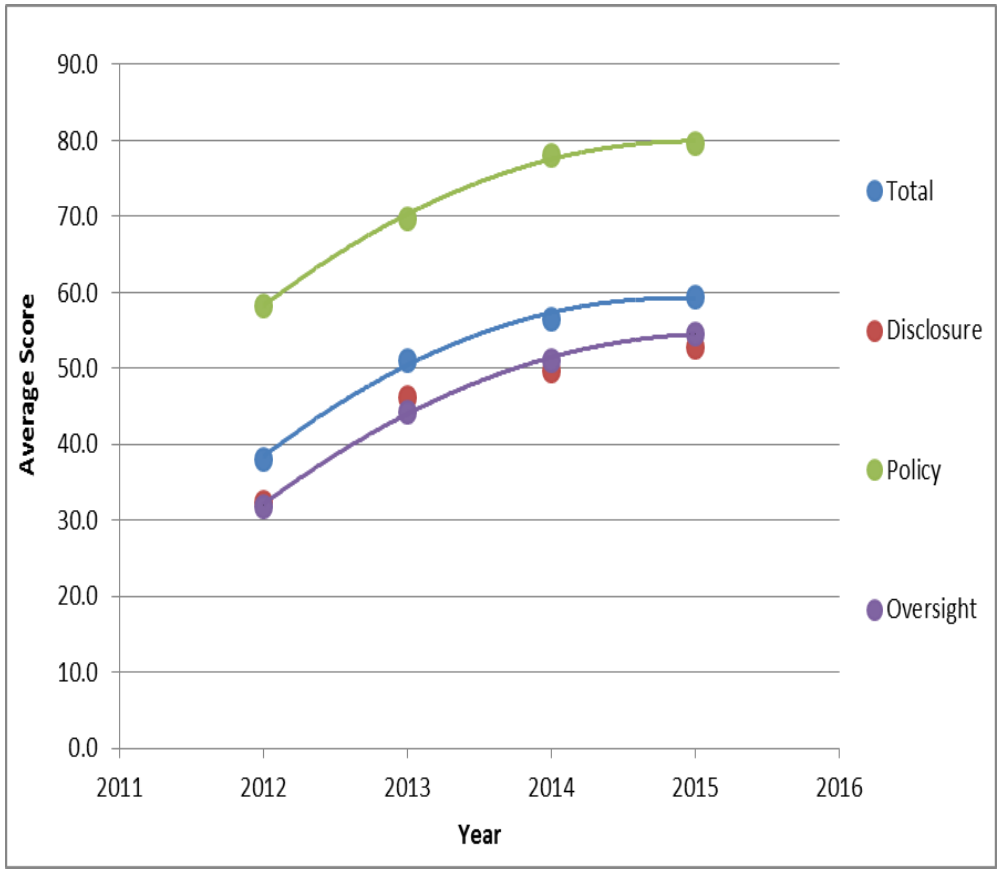
S&P 500 Review Shows Political Disclosure Enters the Corporate Mainstream

CENTER FOR POLITICAL ACCOUNTABILITY

the Carol and Lawrence Zicklin Center for Business Ethics Research

Wharton
UNIVERSITY of PENNSYLVANIA

Average Index Score over Time for Companies Included in the Index Since 2012



What Makes Meaningful Disclosure of Corporate Political Spending?

Key Elements of Corporate Political Disclosure & Accountability

I. Policies

a. Ways in which we participate in the political process;
b. Who makes spending decisions; and
c. Our commitment to publicly disclose all of our expenditures, direct and indirect.

*By setting out objective criteria for political spending, a company provides a context for decision-making. An **articulated policy** provides a means for evaluating benefits and risks of political spending; measuring whether such spending is consistent, and is aligned with a company's overall goals and values; determining a rationale for the expenditure; and judging whether the spending achieves its goals.*

II. Disclosure

a. Itemized Direct Expenditures
   i. State-level candidates and committee contributions;
   ii. Ballot measure spending; and
   iii. Independent expenditures.
b. Itemized Indirect Expenditures
   i. Trade association dues and other payments, including special assessments used for political purposes; and
   ii. Payments to other tax-exempt organizations [527 groups, super PACs, and 501(c)(4) "social welfare" organizations] used for political purposes.

***Disclosure of political spending from corporate treasury funds** gives shareholders the information they need to judge whether corporate spending is in their best interest. It identifies possible sources of risk. It also helps ensure that board oversight is meaningful and effective.*

III. Oversight

a. Board of directors regularly reviews our spending, direct and indirect, and existing policies.

***Board oversight** of corporate political spending assures internal accountability to shareholders and to other stakeholders. It is becoming a corporate governance standard.*

The Center for Political Accountability. 1233 20th Street, NW, Ste. 205, Washington, DC 20036. Tel: 202-4641570. Fax: 202-464-1575

CENTER FOR POLITICAL ACCOUNTABILITY

Marian Currinder
Associate Director
Center for Political Accountability
1233 20th St., NW, Suite 205
Washington, DC 20036

Phone: 202-464-1570 x 103
Fax: 202-464-1575
mcurrinder@politicalaccountability.net
www.politicalaccountability.net

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Lisa Gilbert: Public Citizen's work on the issue

Two corporate political disclosure solutions with momentum to highlight:

1) an Executive Order which would require disclosure from federal contractors over a certain monetary threshold and
2) an Securities and Exchange Commission rule on required disclosure at public companies.

Current campaign focus-- pushing major mutual funds to change their proxy voting guidelines to vote in favor of disclosure resolutions. We are hopeful that our efforts will create an increase in favorable votes for political disclosure resolutions during the next shareholder season and thus further increase pressure on the SEC for the rulemaking.

The Investor Campaign for Lobbying Disclosure

Where We've Been, and Where We're Going

By John Keenan, AFSCME Capital Strategies

The Case for Disclosure of Corporate Political Spending

"Conducted in the right way and for the right reasons, corporate political activity can be positive. However when corporate resources are deployed to seek political influence there is also potential for abuse. In the extreme, this can lead to serious breaches of business ethics, particularly when influence is sought through corrupt practices or in ways that are not consistent with promoting the long term interests of the company and its investors…

Consequently, it is a matter of good corporate governance to ensure that any political involvement is both legitimate and transparent, and that companies and their Boards are held properly to account for their political activities."

-ICGN Statement and Guidance on Political Lobbying and Donations

Shareholder Lobbying Initiative

- AFSCME has been leading a lobbying disclosure initiative along with Walden Asset Management.
- Since 2012, more than 250 shareholder proposals have been filed asking companies to disclose:
  - Federal and state lobbying expenditures;
  - Trade association payments used for lobbying; and
  - Payments to and membership in tax exempt organizations that write and endorse model legislation, which includes the American Legislative Exchange Council (ALEC).
- These proposals have averaged more than 25% support and led to more than 40 disclosure agreements.

Shareholder Rationale for Disclosure

- Lobbying oversight a board responsibility. Under Sarbanes-Oxley, board responsibilities include overseeing systems to ensure compliance with laws and regulations, including lobbying.
- Most companies did not have lobbying oversight in place. A 2011 study looking at the S&P 500 found 64 percent of companies made no mention of lobbying activities, policies or oversight.

Corporate Lobbying and Political Spending Present Reputational and Financial Risks

- Companies with a high reputation rank perform better financially than lower ranked companies, and executives find it much harder to recover from reputation failure than to maintain reputation.
  - Target faced a boycott in 2010 after its payment to Minnesota Forward
  - Sears' donations to Tom DeLay's PAC resulted in a settlement with prosecutors
  - Merck's anti-gay-marriage donation attracted negative attention

Corporate lobbying exceeds other political expenditures by a 10-to-1 ratio.

- During the 2010 election, corporations spent $246 million on federal campaign expenditures but spent at least $5.1 billion on federal lobbying. During the same period, the Chamber of Commerce spent $33 million on political contributions and $302 million on lobbying.
- A 2010 study found corporate lobbying exceeds other political expenditures by a 9-to-1 ratio. In 2010, S&P 500 companies spent a total of $1.1 billion on political contributions and lobbying, with $979.3 million in federal lobbying expenditures comprising 87 percent of this spending

Federal Lobbying – Disclose the Amounts

- Corporations spend billions of dollars each year on federal lobbying.
- Best practice: disclose the dollar amount spent in a year and link to the actual reports.

State Lobbying – The Great Unknown

- Companies spend more than $1 billion a year in states to influence state lawmakers and officials.
- Obtaining comprehensive state lobbying information in 50 states has been described by an expert as “nearly impossible” given “the ‘Byzantine’ manner in which the data is captured and made available online” which effectively buries information at many states.
- Bang for the buck – a recent story found that 16 pharmaceutical companies lobbied in 40 or more states from 2010 – 2014, and the Pharmaceutical Research and Manufacturers of America (PhRMA) lobbied in all 50

Lobbying by Trade Associations Essentially a Black Box

- Lobbying by trade associations uses corporate resources that are substantial and largely unreported.
- For example, the Chamber of Commerce has spent more than $1.2 billion on lobbying since 1998, making it the country's largest lobbying spender.
- Yet a majority of companies do not disclose their trade association payments used for lobbying, in effect providing a way for companies to engage in "influence laundering" that avoids public and shareholder scrutiny of the issues they are seeking to influence.
- "No filings, no disclosure, no fuss."

ALEC – 100+ Companies Leave and Counting

- The proposals also continue to focus on reputational risks from involvement in the American Legislative Exchange Council (ALEC). ALEC is a tax-exempt organization that convenes state lawmakers and corporations to approve model legislation that has included controversial bills on Voter ID, anti-immigration, reversing state regulations on renewable energy and blocking EPA regulation.

Companies Leave ALEC

- Shareowner engagement has been an important factor in getting many companies to announce that they cut their ties or clarifying that they had previously left.

- Google Chair Eric Schmidt announced Google would be leaving Alec because “they're just literally lying” about climate change.

- Current ALEC members receiving 2016 proposals include: AT&T, Caterpillar, Chesapeake Energy, Chevron, Comcast, Devon Energy, Dominion Resources, Duke Energy, ExxonMobil, Honeywell, Nucor Corporation, Pfizer, Spectra Energy, Time Warner Cable, UPS and Verizon.

The Pushback - Opponents of Disclosure

- False claims that disclosure is silencing speech
- “Using 'Disclosure' to Silence Corporate America” – The Wall Street Journal, October 21, 2013
- “Forcing companies to list political contributions undermines free speech” - The Washington Times, July 2, 2013
- “ICCR and its AFSCME cohorts aren’t seeking transparency in political speech, but are instead seeking to shut down all opposing voices.”

What Gets Disclosed Gets Managed

Investor demands for disclosure follow are based on a simple principle: what gets disclosed gets managed.

Secrecy in political spending is not analogous to free speech, reputational risk from undisclosed political spending is real, and shareholders have a right to ensure that boards of directors are monitoring this risk.

Does Your Fund Support Political Spending Disclosure?

- Check your proxy voting guidelines
- OPERS Example: "OPERS supports proposals asking for political and military reporting in the absence of federal, state, or local laws prohibiting such disclosure, provided the proposals do not require the disclosure of proprietary information, cause an undue financial burden on the company, or cause the company duplicate reporting." (OPERS guidelines, p. 13)
- Provide fund staff a list of political spending proposals
- Ask fund staff to report how fund voted on political spending disclosure proposal
- Important to make sure voting executed according to guidelines

What You Find May Surprise You

- CalSTRS guidelines support disclosure: “ii. Board Oversight of Political Contributions: …The disclosure should include the annual contributions, both monetary and non-monetary, made to trade associations and/or other tax-exempt organizations involved in political activities.” (CalSTRS guidelines p. 7)
- In 2015, CalSTRS voted on 33 lobbying disclosure proposals and voted against 12 proposals, including at JPMorgan Chase and ExxonMobil.

SEC Rulemaking Needed

- Investors need a uniform standard of disclosure.
- Settlements and voluntary disclosures are positive developments, but only an SEC rule can provide a uniform standard of disclosure investors with the information needed to assess the risks and opportunities of corporate political spending.
- A rulemaking petition has received more than 1,200,000 comments in support. Despite this record support and clear investor interest, the SEC has yet to take up corporate political spending rulemaking.
- Has your Fund submitted a comment letter?

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Sample Institutional Investor Proxy Voting Guidelines

From "Handbook on Corporate Political Activity" by The Conference Board, 2010

California Public Employees' Retirement System (CalPERS)

Global Principles of Accountable Corporate Governance: https://www.calpers.ca.gov/docs/forms-publications/global-principles-corporate-governance.pdf

Florida State Board of Administration

Corporate Governance Principles & Proxy Voting Guidelines—January 2010:
www.sbafla.com/fsb/LinkClick.aspx?fileticket=BTXJ_yTiFJk%3d&tabid=732&mid=1883

TIAA-CREF

Policy Statement on Corporate Governance:
www.tiaa-cref.org/ucm/groups/content/@ap_ucm_p_tcp/documents/document/tiaa01010204.pdf

Council of Institutional Investors

Corporate Governance Policies
http://www.cii.org/files/committees/policies/2015/04_01_15_corp_gov_policies.pdf

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