



FRAMEWORK AND TOOLS FOR IMPROVING BOARD-SHAREOWNER COMMUNICATIONS

**THE REPORT OF
THE COUNCIL OF INSTITUTIONAL INVESTORS–
NATIONAL ASSOCIATION OF CORPORATE
DIRECTORS
TASK FORCE ON
IMPROVING BOARD–SHAREOWNER
COMMUNICATIONS**

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Introduction

The Council of Institutional Investors–National Association of Corporate Directors Task Force on Improving Board–Shareowner Communications was established in early 2003 in the wake of a series of corporate scandals. In many cases, these scandals resulted from governance failures that harmed shareowners.

Many shareowners have been frustrated over the years by what they see as a wall between them and their elected representatives, the board of directors. They feel that they have no input into selecting director nominees, no meaningful choice in their election, and, generally, no hope of ever hearing from or exchanging views with them. Very few companies have encouraged shareowners to meet with the independent directors to discuss issues of concern—indeed some companies have a policy against such meetings. Also, some companies have not required their directors to attend the annual meeting, or even let them respond to shareowners’ questions. Therefore, it is not sur-

prising that many shareowners believe that their views are not welcome or heard, and that they are not truly represented in the boardroom.

Feeling that there was much to be gained by a cooperative and creative effort to try to overcome the longstanding barriers to shareowner–director communication, the Council and NACD formed a Task Force of directors and shareowners to explore the situation.

The goal of the Task Force was to look beyond the usual pat criticisms and defenses of current practices—to make an honest assessment of the current system’s strengths and weaknesses and to suggest some ways that director–shareowner communications, and relations, might be improved.

During the group’s deliberations, reforms began to occur. In response to the corporate governance scandals, Congress, the Securities and Exchange Commission (SEC), and the stock exchanges also began addressing the problems, and a number of new rules and regulations were adopted—including several focusing on board–shareowner communications. Among other things, the New York Stock Exchange (NYSE) amended its listing standards to require listed companies to disclose a method for interested parties with concerns to communicate directly with either a designated “presiding” non-management director or with the non-management directors as a group. (For further details, see the Background section on page 5.)

Such rules are a good starting point, but turning rules into meaningful avenues of communication will require diligent efforts by both

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boards and shareowners. This Task Force report is intended to supplement and expand on the regulatory initiatives by suggesting some practical recommendations, or “best practices,” that companies might adopt on their own. The suggestions are based on the experience of Task Force members and advisors, and on re-

search conducted by staff (identified at the end of this report). While each individual task force member may not agree with every recommendation, this report represents a fair summary of the Task Force members’ points of agreement and reflects their support for its principal recommendations.

TASK FORCE MEMBERS

Members of the Task Force were:

Co-chairs:

Peter M. Gilbert, Chief Investment Officer, Pennsylvania State Employees’ Retirement System
Warren L. Batts, retired CEO and Chairman, Premark, and corporate director

Members:

Jack Ehnes, Chief Executive Officer, California State Teachers’ Retirement System
Richard H. Koppes, Of Counsel, Jones Day, and corporate director
Gwendolyn S. King, President, Podium Prose, and corporate director
Henry A. McKinnell, Chairman and CEO, Pfizer Inc., and corporate director
Richard H. Moore, North Carolina State Treasurer and sole trustee of the North Carolina Retirement Systems
Denise L. Nappier, Connecticut State Treasurer and principal fiduciary of the Connecticut Retirement Plans and Trust Funds
Jody B. Olson, Chairman, Public Employee Retirement System of Idaho
Thomas G. Plaskett, Managing Director, Fox Run Capital Associates, and corporate director
Damon A. Silvers, Associate General Counsel, AFL-CIO
Coleman Stipanovich, Executive Director, State Board of Administration of Florida
William Thompson, Jr., New York City Comptroller, investment adviser to, and a trustee of, the New York City pension funds
David Wakelin, Chairman, Maine State Retirement System
B. Kenneth West, Chairman and CEO (retired), Harris Trust & Savings Bank, and corporate director
Ralph Whitworth, Principal, Relational Investors LLC, and corporate director

Ex Officio members of the Task Force were Sarah A.B. Teslik, Executive Director, Council; Ann Yerger, Deputy Director, Council; Roger W. Raber, CEO and President, NACD; and Peter R. Gleason, Chief Operating Officer, NACD. The late Thomas R. Horton, past CEO of the American Management Association and a corporate director, served on the Task Force during its formative months.

Executive Summary of Best Practices

The Task Force agreed that five things are vital for effective board-shareowner communications.

1. The starting point for board-shareowner communications is an ongoing communications program that includes regular, comprehensive, and publicly available disclosures about important topics, including performance and governance issues.

2. Boards should provide detailed contact information for the corporate secretary and/or other management representative and for at least one independent director.

Boards may ask a management employee or someone else to initially receive, organize, and summarize communications to the board, disclosing who is responsible and what the process is for forwarding the messages to the board. However, management or another party should never block communications sent to directors. Board members should receive copies of all correspondence addressed to them and be made aware of all other communications intended for them, no matter what the topic.

The Task Force agrees that the most appropriate contact for board-shareowner communications is the independent board chair, the lead independent director, the independent chair of the nominating/governance committee, or the independent director presiding over executive sessions of the board.

3. To facilitate the communications process, boards should detail which issues are appropriate for them to address and which are appropriate for management.

Task Force members agree that appropriate topics for board-shareowner communications include a range of issues involving governance topics and

major, fundamental business decisions such as mergers, acquisitions, fundamental business strategy, divestitures, and capitalization issues. Other, more routine matters may best be handled by corporate staff. Both directors and shareowners should act in the knowledge that sometimes matters that otherwise might be considered routine occur in contexts that warrant board-shareowner discussion.

4. Boards should develop and disclose communications policies covering all forms of communication, including in-person meetings, telephone calls, e-mail, and other written communications.

The Task Force agrees that it is appropriate for shareowners to communicate with directors, including through in-person meetings. Directors should:

- Commit to shareowners that they will receive a response to their direct communications.
- Attend annual shareowner meetings.
- Disclose ground rules for other meetings with shareowners.
- Make a good-faith effort to accommodate all legitimate and important requests for meetings.
- Respond in writing to all requests for meetings involving topics appropriate for board-shareowner communications.

5. Boards should take an active role in developing and adhering to communications policies, and ensure that communication efforts and policies are up to date and effective.

Boards should take ownership of board-shareowner communications policies, and ensure that policies are reviewed and updated on a regular basis to maximize their effectiveness. A specific committee, such as the governance/nominating committee chaired by an independent director, should be designated to address these issues and report back to the full board.

Background

The Council and the NACD have longstanding commitments to improving corporate governance standards and practices and enhancing director accountability to shareowners. The Council has adopted policies on board-shareowner communications (see Appendix 1), and the NACD has published articles and reports that are consistent with these policies. The two organizations formed this Task Force in the aftermath of major corporate scandals that highlighted the dysfunction of board-shareowner communications—making both directors and shareowners more conscious of this issue.

OVERVIEW

The need for shareowners to communicate with directors is a byproduct of our times. Unlike the earliest corporations, where managers, owners, and directors were one and the same, the modern publicly owned corporation is a compact between shareowners, who elect directors, and directors, who are charged with oversight of management on the shareowners' behalf.

In recent years, there has been a breakdown in the relationships connecting shareowners, directors, and managers. Some companies do focus on this connection, developing policies that encourage board-shareowner communications (see Box 1 on pp. 6–7 and Box 2 on p. 8). Nonetheless, many shareowners believe that there is an imbalance of power favoring man-

agers at the expense of shareowners, and that this imbalance has contributed to the recent corporate scandals.

Reforms enacted under the Sarbanes-Oxley Act of 2002 and by the SEC and the stock exchanges have tried to bolster the role of the board in relationship to management and strengthen the accountability of boards and management to shareowners. In addition to focusing on issues such as appropriate board and committee structures and duties, several reforms have addressed concerns that in some cases directors may have become too isolated from shareowners. A variety of new rules and regulations designed to bridge this gap are now in place:

- The Sarbanes-Oxley Act of 2002 requires audit committees to establish procedures for the receipt, retention, and treatment of complaints received by companies regarding internal accounting controls or auditing matters and for the confidential, anonymous submission by employees of concerns regarding questionable accounting or auditing matters.
- Recently revised NYSE listing standards require that boards have all-independent nominating committees and that non-management directors meet at regularly scheduled executive sessions without management. NYSE-listed companies must also disclose a method for interested parties, including shareowners, to communicate directly with

the presiding director of the executive sessions or with the non-management directors as a group. Companies may use the same procedures established to comply with Sarbanes-Oxley requirements to satisfy the NYSE requirements.

- The SEC approved new proxy statement disclosure rules addressing shareowner-director communications and the director nomination process. Companies must disclose whether or not their boards have processes for shareowners to send communications to the

**BOX 1:
RESOLUTION OF THE BOARD OF DIRECTORS
AND CORPORATE GOVERNANCE COMMITTEE
OF ACXIAM CORPORATION**

The board of directors of Acxiom Corporation, on the recommendation of its Corporate Governance Committee, on May 21, 2003, adopted the following resolution:

“WHEREAS, the Board of Directors has determined that it is in the best interests of the Company’s shareholders to provide a mechanism whereby the shareholders may communicate with the Board, and particularly with the non-management members of the Board, with regard to any concerns that the shareholders may have concerning the Company;

WHEREAS, the Board believes that the creation of a means of communication between shareholders and the non-management directors would benefit the Company through constructive discussions of perspectives, enhanced understanding, valuable feedback and the fostering of meaningful links between directors and the shareholders by whom they are elected;

WHEREAS, the Board has determined that the most effective way to establish such a means of communication is to retain as its agent for receipt of and response to such communications ..., the Company’s internal audit firm, which has also been retained as the agent of the Board of Directors’ Audit Committee with regard to that committee’s compliance with the requirements of the Sarbanes-Oxley Act of 2002 relating to the receipt, retention, and treatment of complaints regarding accounting, internal accounting controls, and auditing matters, and the confidential, anonymous submission by associates of concerns regarding questionable accounting or auditing matters; and

WHEREAS, under the proposal submitted by [the Company’s internal audit firm], a toll-free telephone number for both domestic and international calls will be established, together with a mailing address and an e-mail address, whereby confidential and/or

anonymous communications may be made. [The company’s internal audit firm], through one or more designated employees, will receive all such communications and will make regular reports thereon to the Board’s Corporate Governance Committee or Audit Committee, as appropriate. If the nature of any communication is deemed by [the audit firm] to be both urgent and material, or if immediate action by the Board or a committee thereof is required for any reason, a report will be made by [the audit firm] as quickly as possible to the Chairman of the Corporate Governance Committee and/or the Chairman of the Audit Committee, as appropriate, or to the Company’s Internal Audit Committee, who shall in turn promptly notify the appropriate committee chairman. The committee chairman shall then determine whether a special meeting of the committee is required. Otherwise, a report will be made by [the internal audit firm] at the next quarterly meeting of the

board. Any company without a communications process must provide a statement explaining why the board believes that it is not appropriate to have such a process. Companies with formal processes must describe how shareowners may send communications to the board and, if applicable, to specified directors. If communications are not sent directly to directors, companies must describe their processes for determining which communications will be forwarded to directors.

Companies must also describe their policies, if any, regarding directors' attendance at annual meetings.

The Task Force agrees there is a need for improved communications between boards and owners and that companies should have policies and processes in place to facilitate direct communications, including in-person meetings and written correspondence, between shareowners and boards. Boards want shareowners to

BOX 1 continued from page 6

appropriate committees), and to the full Board if necessary, regarding any communications received during the time intervening between meetings. [The internal audit firm] shall, on behalf of the Board, retain records of all communications of shareholders, together with any subsequent documentation relating thereto; and

WHEREAS, under the proposal submitted by [the company's internal audit firm], upon receipt of a request by a shareholder for a meeting with the non-management directors, a prompt response will be transmitted to the shareholder by [the internal audit firm] on behalf of the directors, advising the shareholder that the directors will take the meeting request under advisement. Such requests will be transmitted by [the internal audit firm] to the non-

management directors or to the Company's Internal Audit Committee, who shall in turn promptly notify the non-management directors (as soon as possible if urgent, or at the next quarterly meeting if non-urgent). The directors will then determine whether the subject matter of the meeting is a proper subject to be addressed by the Board, and if so, whether the severity of the matter is such that a meeting is warranted. The non-management directors may delegate this function to the Chairman of the appropriate committee (Corporate Governance or Audit), which is comprised solely of non-management directors. The results of the directors' decision regarding the request for a meeting will then be promptly communicated by [the internal audit firm] to the shareholder.

NOW, THEREFORE, BE IT RESOLVED, that the Board hereby approves the retention of [the internal audit firm], in accordance with the proposal described above, as its agent to receive and respond to communications from shareholders to the Board of Directors or to the non-management members of the Board, which communications may be made on a confidential and anonymous basis if desired, relating to any matter concerning the Company, and hereby authorizes and directs management of the Company to establish a web page on its external website as soon as practicable which lists the [internal audit firm's] contact information (toll-free telephone numbers, mailing address and e-mail address) for Board communications and to publish such contact information in its 2003 proxy statement."

**BOX 2:
BOARD-SHAREOWNER
COMMUNICATIONS AT PFIZER INC.—
A PROFILE**

PFIZER SHAREOWNER COMMUNICATIONS

Information concerning communication with Pfizer directors is available in our proxy statement under the heading: **Communications with Directors**, as well as on the Pfizer.com Corporate Governance website at www.pfizer.com/For Investors/Corporate Governance.

While we do not have a formal, written policy on shareholder communications, our Corporate Governance Principles state that the Chairman and CEO is responsible for establishing effective communications with the Company's stakeholders groups, including shareholders. It is the policy of the company that management speaks for the Company. This policy does not preclude outside directors from meeting with shareholders.

In addition, it has been Company practice for many years to respond to shareholder letters and telephone inquiries, as well as shareholder comments on proxy cards. When shareholder proposals are received, every effort is made to encourage a dialogue with the shareholder proponent, so that there is a better understanding of issues impacting both sides. The Corporate Governance Committee is notified of all shareholder proposals, as well as dialogue with proponents.

Going forward,

1. In addition to whatever e-mail reading directors engage in directly, we will brief the board through the Corporate Governance Committee on a quarterly basis concerning the general nature and number of shareholder communications.
2. We will forward all substantive mail sent to us to the directors, but will not send solicitation, crank mail or mail from vendors.
3. We will forward all letters that institutional investors ask us to send to directors and will send substantive communications to the Chair of the Corporate Governance Committee.

Source: Rosemary Kenney, Project Manager, Corporate Governance, in an interview conducted by NACD's Deborah Davidson on October 17, 2003.

communicate with them; this message came through loud and clear from the research the Task Force conducted. (See Appendices 2 and 3.) And shareowners want to communicate with boards.

Unfortunately, boards and shareowners face barriers to communicating with each other. First, there are regulatory considerations that may impact communications. Second, there are concerns that directors would be overwhelmed by shareowner communications. Compounding the problem is the fact that boards often lack clear examples of how to achieve effective board-shareowner communications.

The goal of the Council-NACD Task Force was to investigate the current barriers to communication, evaluate how some companies and directors have overcome them, and issue recommendations or "best practices" based on its findings. Since neither the SEC nor the NYSE disclosure requirements provide specific guidance or suggest best practices, this report is intended to provide boards with some concrete suggestions for conducting their shareowner communications. It is hoped that this report will be helpful to both directors and shareowners going forward.

**CASE FOR
BOARD-SHAREOWNER
COMMUNICATIONS**

Since directors are the elected representatives of shareowners and charged with the significant responsibilities of overseeing management, corporate strategy, and performance, the Task Force believes it is appropriate for shareowners to have an opportunity to communicate non-trivial and important concerns directly with the board.

Effective board-shareowner communication benefits both parties. It ensures that significant investor concerns are heard by directors and increases the accountability of directors. It gives boards a mechanism to receive the views and information from owners of the company, who offer a unique perspective that may or may not be the same as that of management.

The Task Force believes one of the more tangible benefits of improved board-shareowner communication may be that investors' use of shareowner proposals—long considered one of the most direct ways to communicate concerns to and start dialogues with boards—may decline in the future as shareowners become more comfortable, and eventually satisfied, with alternate methods of communicating with directors.

CURRENT IMPEDIMENTS TO BOARD-SHAREOWNER COMMUNICATIONS

Regulation FD

Concerns about Regulation Fair Disclosure (Regulation FD)—the SEC's regulation banning companies from selectively disclosing material, non-public information to one investor or selected groups of investors—have led some companies to discourage certain types of communications with shareowners.

One reason for the concern is the lack of an authoritative and precise definition of “material,” though some disclosures or announcements, such as advance warnings of financial results or confirmation of previously disclosed information in the 10-Ks, 10-Qs, and proxy statements, are generally considered material and require simultaneous release to all investors.

Regulation FD is not intended to prohibit companies from engaging in private, one-on-one meetings with shareowners. The rule, designed to promote full and fair disclosure of information by issuers, and to clarify and enhance existing prohibitions against insider trading,¹ is simply intended to ensure that all investors—large and small—have access at the same time to material information about companies.

Regulation FD violations can occur in any medium. Most of the SEC's first enforcement actions over alleged violations have involved management telephone conversations with selected analysts or portfolio managers. To date, only two involved disclosures made by a senior executive during meetings with groups of investors.

Education is the best defense against Regulation FD violations. To ensure that directors fully understand Regulation FD, boards should have access to counsel to provide information and guidance on Regulation FD issues. Boards should decide whether counsel should attend any shareowner-board meetings and assist with written communications, and whether the board wishes to hire its own outside counsel to assist on Regulation FD issues. Shareowners should also inform themselves about ways to avoid inadvertently raising Regulation FD concerns, such as the separation of corporate governance and trading operations, and—in the case of indexed and other passive holdings—agreements to refrain from trading after the meeting.

Task Force members generally believe that most board-shareowner communications, including phone conversations and in-person meetings, would address corporate governance and other issues that would not be considered material, non-public information subject to

¹ <http://www.sec.gov/rules/final/33-7881.htm>.

Regulation FD. However, issues that may be intended as governance matters may be interpreted as financial performance matters. Therefore, to help address board concerns with Regulation FD, agendas outlining areas for discussion should be developed for all in-person meetings.

Proper Scope of Communications

Clearly, not all topics are best addressed by board-shareowner communications. There is a concern that board members, particular at larger companies, may be overwhelmed with the volume of correspondence from shareowners. For example, sometimes individual shareowners write letters about topics—such as a defective product or poor service—not related to board oversight. The Task Force agrees that corporate staff is most qualified to answer that kind of correspondence.

Nonetheless, it is the sense of the Task Force that board members should see all correspondence addressed to them and be made aware of all other communications intended for them. Although it can be useful to have a company official or other party organize and summarize communications directed to board members, such a process should never function as a “screen” against direct communication.

To ensure that directors are not deprived of direct access to important shareowner concerns or suggestions, company officials or other third parties should only be charged with summarizing and/or organizing communications. They should have no discretion to decide what communications are forwarded to board members. Any summaries, along with all underlying communications, should be promptly and regularly forwarded to all directors.

The Task Force's Recommended Best Practices

1. Board-shareowner communications are best facilitated by ongoing communications programs that include regular, comprehensive, and publicly available disclosures about important management and board issues.

Information about corporate performance, business strategy, and corporate governance policies should be on a company's website, in an easily accessible and understandable form—i.e., in plain sight and in plain English. Having meaningful information readily available on the website and ensuring transparent disclosures about corporate financials, policies, and practices may mitigate the need for shareowners to communicate with directors through other means, including the submission of shareowner proxy resolutions. (See Box 3 on p. 12.)

Posting shareowners' questions (whether they arrive by phone, mail, or Internet) and the company's responses offers numerous advantages. Including the most frequently asked questions (FAQs) can be a good way to reduce the volume of correspondence to the board and management on issues of general interest. Furthermore, posting all non-trivial questions (even if only one shareowner asked) can help ensure a regular stream of information of potential interest to shareowners.

Some companies send special newsletters to their shareowners as well as posting them on their websites. For example, on July 2, 2003, Universal Express (USXP) announced that CEO Richard Altomare would provide all shareowners with a monthly letter published on USXP's website. "In addition to our press releases, which cover substantial events, this monthly letter may assist our thousands of shareowners in better understanding the daily activities, and efforts actually going on but yet not significant enough for a national press release," said Altomare in the company's announcement.

2. Boards should provide detailed contact information for the corporate secretary or other management designee and for at least one independent director.

Although the full board is responsible for board-shareowner communications, this access might be provided most practically by one or more designated independent directors.

The Task Force agrees that the most appropriate single contact for shareowners is the independent board chair, the lead independent director, the independent director presiding over regular executive sessions of the board, or the independent chair of the nominating/governance committee.

The Task Force's Recommended Best Practices

Companies should also consider disclosing contact information for the independent chairs of the audit, compensation, and nominating/ governance committees.

Shareowners want the ability to communicate with the board directly, and no intermediary should impede that communication. As a

practical matter, unless and until boards have their own staffs, the Task Force agrees that it may be appropriate for a board to designate one person, such as the corporate secretary, head of investor relations, or independent third party, to be responsible for initially receiving communications, summarizing them,

BOX 3: A BOARD-SHAREOWNER DIALOGUE: GENERAL ELECTRIC AND CONNECTICUT RETIREMENT PLANS AND TRUST FUNDS

In proxy season 2003, the Connecticut Retirement Plans and Trusts Funds (CRPTF) filed a resolution submitted to General Electric (GE) regarding the severance package provided to former chair and CEO John F. Welch, Jr. After corresponding with the GE board, CRPTF withdrew the resolution based on two conditions:

- That the independent chair of the compensation committee, Andrew C. Sigler, would meet to discuss GE's executive compensation policy with CRPTF and six other institutional investors who had submitted executive compensation resolutions to the company.
- That CRPTF and GE would continue their discussions on broader corporate governance issues in the future.

Attendees at the March 13, 2003, meeting in New York City consisted of representatives of CRPTF, the Teamster's Pension Fund, the Communication Workers' Pension Fund, the Amalgamated Longview Fund, and the AFL-CIO staff Pension Fund. By teleconference, CalPERS and Responsible Wealth Trust participated, along with a representative from the Council of Institutional Investors.

The meeting was chaired by Mr. Sigler. Connecticut Treasurer Denise L. Nappier opened the meeting by expressing the group's appreciation for meeting with

a non-management representative on an issue such as compensation, where independence is of the utmost importance.

The group spent several hours working through an agenda of compensation issues. One of the outcomes was a commitment by the company to memorialize in GE's compensation policy (Compensation Committee Key Practices) two settlements that had been reached prior to the meeting with institutional investors in attendance. Such changes to the policy included:

- No longer using pension income as a factor in the evaluation of executives' performance.
- Using the same interest rates for salary deferrals for all participants in the plans.
- Explaining factors used in evaluating executive compensation awards as well as severance packages—important clarifications considering that GE does not have employment contracts.

Shortly after the meeting, the company also agreed to a resolution tying compensation to performance. The company and shareholders agreed to meet again and to continue their dialogue on compensation issues.

Source: Connecticut Retirement Plans and Trusts Funds

and then promptly and regularly forwarding summaries and the communications to the board. As a general matter, however, correspondence with directors addressed to the company's offices should be forwarded immediately to the addressee, with copies retained for the company's records and for any summarizing or other review by staff or other directors. The Task Force also recognizes that shareholders will correspond directly with board members and companies should not place obstacles in the way of that direct correspondence.

However, summarizing/organizing mechanisms are inappropriate in certain cases. The Task Force believes that shareowners or others should have a direct route to the board to discuss any important issue of governance, especially company or management practices, policies, or activities that are possibly questionable, unethical, or illegal. In these cases, shareowners have an especially urgent need to contact board members directly and need to be told how they can do this.

If company employees or other parties are responsible for organizing, summarizing, and/or forwarding communications to directors, the company should disclose: (1) who does it, (2) how the summarized information and underlying communications are forwarded to the appropriate directors and/or the full board, and (3) how often summaries and actual communications are forwarded to directors.

For one example, see Box 1 on pp. 6-7, describing the policy of Acxiom Corporation.

3. Appropriate topics for board-shareowner communication should be disclosed to shareowners and should include major, fundamental issues involving corporate strategy as well as governance topics.

The Task Force agrees that corporate governance topics and issues involving corporate strategy (including mergers, acquisitions, divestitures, capitalization) are appropriate for board-shareowner communications.

Example: Campbell Soup's Corporate Governance Guidelines state, "Any person who has a concern about Campbell's governance, corporate conduct, business ethics or financial practices may communicate that concern to the Board of Directors. Concerns may be submitted in writing to the Chairman of the Board or to the non-management directors as a group in care of the Office of the Corporate Secretary at the Company's headquarters, or by email to directors@campbellsoup.com. Concerns may also be communicated to the Board by calling the following toll-free Hotline telephone number in the U.S. and Canada: 1-800-210-2173. To place toll-free calls from other countries in which the Company has operations, please see the instructions listed below. Any concern relating to accounting, internal accounting controls or auditing matters will be referred both to the Chairman and to the Chair of the Audit Committee."

Directors should be made aware of all communications directed to them. Most communications will fall into three categories:

- *Issues management should generally handle, such as:*
 - Individual employee and retiree complaints about their compensation (e.g., retirement benefits).
 - Customer complaints about products or services.
 - Shareowner complaints about the processing of payments the company makes to them (e.g., failure to receive dividend checks on time).

However, the Task Force recognizes there may be occasional circumstances when items that appear to fall in these categories are appropriate for board attention. For example, directors should receive complaints about product or service problems that could lead to product liability or similar tort suits, and about extraordinary compensation paid to particular individuals.

- *Issues boards should handle, such as:*
 - Alleged or actual legal violations (whistleblower issues).
 - Company performance, including prolonged poor performance relative to its peer group or broad market indexes.
 - Executive and director compensation.
 - Board policies and procedures.
 - Board structure, size, and tenure changes.
 - Director nominations (suggesting qualified nominees).
 - Director selection and evaluation (suggesting criteria for individuals and board).
 - Shareowner proposals, including those addressing corporate governance issues and corporate responsibility issues.

- *Issues either management or the board could handle, such as:*
 - Accounting and auditing policy issues.
 - Corporate strategy (mergers, acquisitions, divestitures, or capitalization issues).
 - Disclosure issues.

Though some subjects may be appropriately handled by either management or directors, if management does not respond in a satisfactory way to shareowner concerns or if shareowners express an interest in discussing these issues with directors and not management, shareowners should be able to contact directors, and the directors should be prepared to respond.

4. Boards should develop, adopt, and disclose policies covering all forms of communication.

A board-shareowner policy should cover all types of communication—including in-person meetings, telephone, e-mail and other electronic communications and other written correspondence. It should ensure that shareowners know how to contact independent directors. Furthermore, it should provide assurances that directors are informed of the content of shareowner communications and will make a good-faith effort to respond to all direct communications from shareowners. There may well be times and issues when the most appropriate response is “We cannot respond to your question or issue at this time because of the following...” However, a good-faith effort implies that the board will use this response only on an exceptional basis, and will provide any necessary follow-up in a timely fashion.

A board-shareowner policy should include such specifics as guidelines for the receipt, content, and mode of communications.

The Task Force recommends the following best practices for each form of communication.

In-person meetings:

annual shareowners' meeting

- All directors should attend annual shareowner meetings (absent emergencies) in order to be available to meet and communicate with shareowners in person at least once a year. Companies should also consider holding open meetings in connection with the annual meetings (before or after) where shareowners can ask questions and communicate their concerns to the independent directors.

Example: The board of Colgate-Palmolive adopted a resolution stating that “each member of the Board of Directors of the Company should attend meetings of stockholders of the Company, unless extraordinary circumstances prevent his or her attendance.”

- The lead director or independent board chair and chairs of the compensation, nominating, governance, and audit committees should be available to take questions from shareowners at the annual shareowners' meeting.² Shareowners should be given an opportunity to submit in advance written questions that they wish directors to address at the shareowners' meeting. Shareowners should not be limited to asking pre-approved questions of directors at annual shareowner meetings.

- If a shareowner resolution wins the support of a significant number of votes cast, even if less than a majority of the votes cast, the board or appropriate committee of the board should meet with the proponent(s), whether or not the board decides to adopt the proposal.

- The board should provide a written explanation of any decision not to adopt a shareowner-recommended action that wins the support of a significant number of votes cast, even if less than a majority of the votes cast. Such disclosure, including a description of the process used to make the determination, should be promptly provided to shareowners and interested parties, disclosed on the company's website, and also included in the proxy materials for the following year.

Other in-person meetings

- Boards should be willing to meet with shareowners, and companies' communications policies should disclose the ground rules under which directors would be willing to meet with shareowners in closed sessions.

- Boards should respond in writing to all requests for meetings, making a good-faith effort to accommodate legitimate and important requests. Boards may either accept or decline requests for such meetings in order to limit the number of such meetings to a reasonable level and prioritize acceptances based on the interests of all shareowners.

- Boards should determine whether outside counsel should be present at meetings with shareowners to monitor compliance with Regulation FD.

² A note for directors from Warren L. Batts, Task Force Co-Chairman: Directors can answer these questions and any other questions raised at the meeting at their discretion. To the extent possible, directors should speak with a unified voice. This does not mean that directors should script their responses. However, as a best practice, directors should designate in advance who will respond to what questions on what topics.

- Boards should have the ability and resources to hire independent experts, including outside counsel, to assist with in-person meetings, when deemed appropriate.

Example: Sprint's Corporate Governance Guidelines state: "The Board and each committee, as well as the Lead Independent Director on behalf of the non-employee directors as a group, have the authority, to engage the services of advisors, at Sprint's expense, to assist in the discharge of their duties."

Telephone, webcasting, or other live audio communication

- Companies should broadcast their annual meetings via webcast for shareowners who cannot attend in person, and, where possible, should permit shareowners to participate via webcast. Such webcasts should supplement, not replace, the in-person meeting.

Example: Fannie Mae webcasts its annual meeting. Shareowners are encouraged to forward questions and comments to the board of directors. Shareowners are able to vote by telephone or on the Internet prior to the meeting.

- In addition to participating in the company's webcast meetings, independent directors should be given a summary of issues raised by shareowners in the webcasts.

Electronic communication

- Boards should provide e-mail addresses for shareowners' use to communicate with independent board members as a whole and with each committee chair individually.

Example: Pfizer's website, under "For Investors," includes the following: "The Chairs of our Audit, Compensation, and Corporate Governance Committees rotate responsibility for chairing the executive sessions of our outside (non-management) directors. You may communicate with the Chair of any of these committees by sending an e-mail to auditchair@pfizer.com, compchair@pfizer.com, or corpgovchair@pfizer.com, or with our outside directors as a group by sending an e-mail to non-managementdirectors@pfizer.com." (See Box 2 on p. 8 for more details on the policy of Pfizer.)

- The e-mail may be staffed by a corporate employee or a person retained by the board for this purpose, but each independent director should have direct access to receive all incoming e-mails.
- In addition to direct access to all electronic communications, independent directors should be given a summary of issues raised by shareowners by e-mail.

Written (non-electronic) communication

- Boards should supply a mailing address to which shareowners may send correspondence intended for board members.

Example: El Paso's Corporate Governance Guidelines state: "Stockholders may contact non-management members of the Board by sending written correspondence to the director to the following address:

_____, Director
c/o David L. Siddall
Corporate Secretary
P.O. Box 2511
Houston, TX 77252

The Corporate Secretary will forward all such correspondence to the appropriate Board member or members."

- In addition to receiving copies of all written communications, independent directors should be given a summary of issues raised by shareowners in any medium, including comments written on annual proxy ballots.
 - Boards should disclose what procedures are followed concerning this correspondence and whether management opens or is given copies or summaries of all correspondence.

Example: Sealed Air provides an address to send communications to non-management directors. The communications are routed through the corporate secretary's office, but Sealed Air's website, under "Corporate Governance," states that: "correspondence will be forwarded to the Chair of the Nominating and Corporate Governance Commit-

tee of the Board of Directors, who will communicate with other directors as appropriate."

5. Boards should be committed to communications policies and should ensure that policies and practices are up to date and effective.

Board-shareowner communications should be considered an ongoing process that should be continuously reviewed and updated to maximize effectiveness. Boards must be committed to the communications process. Without a serious board commitment to ensuring that policies are observed and updated on an ongoing basis, the board-shareowner communications process may fail. Responsibility for board-shareowner communications should be delegated to a specific committee, such as the nominating/governance committee, with an independent chair. The chair of that designated committee should in turn have the responsibility to report back to the full board on board-shareowner communication issues and policies.

CONCLUSION

Board-shareowner communications will continue to be a focus for reforms in coming months and years. Companies that improve their communications policies now on a voluntary basis will be able to accommodate any new regulations or listing standards that may arise. More important, such companies will strengthen their long-term financial performance by not only retaining and attracting investors, but also learning from them.



APPENDICES

Appendix 1: The Council of Institutional Investors Policies Relating to Board-Shareowner Communications

Appendix 2: American Society of Corporate Secretaries Survey on Shareowner-Director Communication

Appendix 3: NACD Online Survey Results

APPENDIX 1: THE COUNCIL OF INSTITUTIONAL INVESTORS POLICIES RELATING TO DIRECTOR-SHAREOWNER COMMUNICATIONS

The Council believes shareowners should have meaningful ability to participate in the major fundamental decisions that affect corporate viability and meaningful opportunities to suggest or nominate director candidates and to suggest processes and criteria for director selection and evaluation. Shareowners should be allowed to vote on any major change in board size.

BOARD ACCOUNTABILITY TO SHAREOWNERS

Majority shareowner votes. Boards should take actions recommended in shareowner proposals that receive a majority of votes cast for and against. If shareowner approval is required for the action, the board should submit the proposal to a binding vote at the next shareowner meeting

Interaction with shareowners. Directors should respond to communications from shareowners and should seek shareowner views on important governance, management and performance matters. All directors should attend the annual shareowners' meeting and be available, when requested by the chair, to answer shareowner questions.

Shareowner-director communication. All companies should establish a mechanism by which shareowners with non-trivial concerns could communicate directly with the independent directors. At a minimum, there should be an open meeting in connection with the company's annual meeting (before or after) in which shareowners could ask questions and communicate their concerns to the independent directors.

Access to the proxy. Companies should provide access to management proxy materials for a

long-term investor or group of long-term investors owning in aggregate at least 5 percent of a company's voting stock to nominate less than a majority of the directors. Eligible investors must have owned the stock for at least three years. Company proxy materials and related mailings should provide equal space and equal treatment of nominations presented by qualifying investors

SHAREOWNER MEETINGS

Corporations should make shareowners' expense and convenience primary criteria when selecting the time and location of shareowner meetings.

Appropriate notice of shareowner meetings, including notice concerning any change in meeting date, time, place or shareowner action, should be given to shareowners in a manner and within time frames that will ensure that shareowners have a reasonable opportunity to exercise their franchise.

Polls should remain open at shareowner meetings until all agenda items have been discussed and shareowners have had an opportunity to ask and receive answers to questions concerning them.

Companies should not adjourn a meeting for the purpose of soliciting more votes to enable management to prevail on a voting item. Extending a meeting should only be done for compelling reasons such as vote fraud, problems with the voting process or lack of a quorum.

Companies should hold shareowner meetings by remote communication (so-called electronic or "cyber" meetings) only as a supplement to traditional in-person shareowner meetings, not as a substitute.

APPENDIX 2: AMERICAN SOCIETY OF CORPORATE SECRETARIES SURVEY ON SHAREHOLDER-DIRECTOR COMMUNICATION

The Council-NACD Task Force sent a survey on director-shareholder communications to members of the American Society of Corporate Secretaries on Aug. 7, 2003, requesting that comments be submitted by Sept. 30. The 82 responses received are summarized below. Interesting examples of individual company practices or policies are included in italics.

Who is responsible for processing shareholder communications?

- 62% Investor Relations
- 39% Corporate Secretary
- 9% Chief Financial Officer
- 4% General Counsel/Legal
- 2% Corporate Governance

What is the process for responding to shareholder communications?

How are shareholder requests to meet with company officials handled?

How are requests to meet with independent directors/board committees handled?

Each surveyed company said it tried to respond to every shareowner communication in a timely fashion. In most cases, shareowner inquiries are screened by the corporate secretary or the investor relations department and are either answered or forwarded to the relevant company official or department.

Requests to meet with company officials or directors are similarly screened. In most companies, a meeting is arranged only if the request comes from a large shareholder. Several companies forward requests to the officials or directors and leave it to them to contact the shareholder if they wish.

“We set aside two days per quarter specifically to [have shareholders] meet with management (group meetings). We occasionally make management available at other times depending on the circumstances.”

“Hold regular meetings of major shareholders for them to address concerns.”

“Try to be proactive by making committee chairs available to shareholders (e.g., attend institutional events).”

“Parties may contact the presiding director directly through the address listed in the proxy. Requests coming from alternative avenues are channeled through the corporate secretary’s office.”

“Individual or shareholder requests for meetings with the board are directed to the office of the corporate secretary for handling. The corporate secretary coordinates the handling of such matters with the presiding director/committee chair. Individual board members may, from time to time, meet or otherwise communicate with various constituencies. Board members will generally speak with individuals or shareholders only with the knowledge of management.”

Are procedures for dealing with shareholder communications formalized?

A significant majority (71%) handle shareholder communications through verbal or more informal channels.

“Process, though informal, is mentioned in the proxy statement.”

What procedural changes have been made since January 2000 to handle requests?

Most companies (74%) said they have made no changes. A few companies have made adjustments to comply with Regulation FD, such as drafting formal disclosure policies and requiring corporate relations or counsel to be present at all meetings with shareowners.

Are communications from institutional investors and individual shareowners processed similarly?

- 73% Yes
- 27% No

In each case where shareholder communications were handled differently, communications were processed by different company departments. In some cases, institutions were given a more direct route to senior company management than individuals.

Does the company website include:

- 39% FAQ (frequently asked questions)
- 0% Shareowner/Director/Executive Chat Rooms
- 5% Direct Board Member E-mail Addresses

Are directors informed of all communications and meeting requests from shareholders?

- 35% Yes
- 65% No

“Typically by VPs of Investor Relations, as appropriate, based on the subject matter. Transfer agent provides aggregate information and trends.”

“Institutional shareholders—yes. Individual shareholders—depends on if it is a substantive issue.”

“Directors are generally advised of all substantive communications from shareholders.”

Is there a process to deal with shareholder-suggested candidates for the board?

- 69% Yes
- 31% No

Most companies with formal processes forward the suggested candidates to the nominating and corporate governance committee, which then reviews, analyzes, and considers the candidate for nomination to the board of directors.

“All shareholder-suggested candidates are reviewed by the board affairs committee against written guidelines for selection of non-employee directors, which have been approved by the board. Suggested candidates meeting the guidelines are considered for the nomination slate as a director at the next annual meeting. Those determined by the board affairs committee or the board not to meet the guidelines are provided a written response indicating that determination.”

Are directors willing and available to meet with shareholders?

- 99% Yes
- 93% At annual meeting
- 22% Any other meeting
- 49% Specially requested circumstances

Have any directors actually met with shareholders?

- 68% Yes
- 32% No

Most meetings of shareowners and directors take place at the annual meeting or in informal sessions after the annual meeting. Several companies limit contact with directors to institutional investors or shareowners with important topics to discuss.

Do directors have concerns about Regulation FD and worry about liability relating to meetings with shareholders?

If so, briefly describe how the company deals with these concerns.

Each company surveyed has taken steps to ensure FD compliance (education of management and directors, coordination with general counsel, constant reminders, etc.). About half of the companies continue to express concern over FD, while half feel it is not a problem.

Suggestions for improving shareowner-director communications.

“Institutional investors could be asked to appear at board meetings to discuss their perception of the company, its operations and management.”

“There must be a mechanism to filter out the routine (e.g. where’s my dividend?) from the important. Most shareholder issues can be handled by the company staff. Directors would need additional personnel to filter out and respond to the real issues. Maybe a company website set up by categories (executive comp, etc.) with a summary of company policy could be created.”

“Company officials should receive a safe harbor from FD when conducting meetings in a town hall setting with online webcast.”

“Large companies could develop staff trained in FD and PR to inform shareholders fairly.”

“When making a recommendation, consider the impact of e-mail and the potential for special interest groups to flood directors with correspondence on the same issue.”

“Provide a link on each company website to send an e-mail to directors.”

“Common sense—talk to your owners!”

“Shareholders should communicate with management unless the contact is to report a violation (e.g., Sarbanes-Oxley).”

“If management is doing its job, there should be almost no requests for meetings with directors.”

“All companies are struggling to determine the most effective way to increase communication with the board. Many inquiries directed to the board are customer service complaints or feedback not specific to shareholder concerns. The company’s current plan is to set up an e-mail box with an appropriate filter to ensure the nature of inquiries is specific to shareholder concerns.”

“Our shareholders can access the board of directors by e-mail and voice mail that is monitored on a daily basis.”

“We would take any legitimate shareholder request seriously and handle with integrity. We do not need to design, install and document a governance process for something that simple business principles and common sense/common courtesy should address.”

“Provide channels—Internet or correspondence—for direct communication, but limit messages so as not to overburden directors. May require a company official to filter messages so as to limit spam, name-calling, trite or inappropriate comments.”

“Funnel through one individual all shareholder concerns.”

“Give Sarbanes-Oxley and its progeny a chance to work! There is no need for drastic changes in the current rules. Corporate boards are truly stepping up their independence and accountability. The positive effects will become clear but it will take a little time.”

“Communications should be one-way from shareholders to directors only.”

APPENDIX 3: NACD ONLINE SURVEY RESULTS

The NACD conducted an online survey of persons serving on the boards of public companies, asking them to answer a number of questions about board-shareholder communication. As of January 2, 2004, 42 directors had responded. Following are the results:

Please characterize:

Your board's approach to communications with shareholders, including long-term institutional investors:

- 19% Passive
- 36% Neutral
- 38% Pro-active
- 7% Adversarial

Your long-term institutional investors' approach to communications with your board:

- 19% Passive
- 38% Neutral
- 40% Pro-active
- 2% Adversarial

How would you describe your board's relationship with the company's long-term institutional investors?

- 7% Excellent
- 40% Very Good
- 50% Satisfactory
- 2% Poor

How would you describe your board's relationship with the company's individual investors?

- 7% Excellent
- 26% Very Good
- 57% Satisfactory
- 10% Poor

What is your view of the SEC's proposed rule to require more disclosures about how board governance/nominating committees operate, and how to contact directors?

- 14% Excellent Idea
- 31% Good Idea
- 43% Not Sure
- 12% Poor Idea

Under what circumstances do you believe shareholders should amend bylaws to enable direct election of directors (bypassing the nominating committee)?

- 21% Under any circumstances
- 52% When directors are not disclosing nomination process and/or where there is evidence that directors are ignoring shareholder requests
- 26% Under no circumstances

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Members of the Task Force Advisory Board

James E. Heard, CEO,* Institutional Shareholder Services
Nell Minow, Editor, The Corporate Library
Edward V. Regan, President, Baruch College

Corporate Representatives

Joyce P. Haag, Assistant General Counsel, Eastman Kodak Company
Robert B. Lamm, Corporate Secretary and Director of Corporate Governance, Computer Associates International, Inc.
Mark Preisinger, Director, Shareowner Affairs, Coca-Cola Company

Shareowner Representatives

Alan Cleveland, Legal Counsel, New Hampshire Retirement System
Bruce Kallos, Administrator, Arlington County Employees Retirement System
Ted White, Director of Corporate Governance, California Public Employees' Retirement System
Jennifer O'Dell, Corporate Affairs Analyst, International Brotherhood of Teamsters
Sheila Morgan-Johnson, Chief Investment Officer, District of Columbia Retirement Board
Linda Kimball, Manager of Investment Responsibility, Stanford Management Co.

Legal Assistance

Andrew Entwistle, Entwistle & Cappucci LLP

Task Force Staff Assistance

Tom Brier, Deputy Director for Corporate Governance, Pennsylvania State Employees' Retirement System
Kay Evans, Executive Director, Maine State Retirement System
Margaret M. Foran, Esq., Vice President, Corporate Governance, and Corporate Secretary, Pfizer Inc.
Janice Hester-Amey, Principal Investment Officer, California State Teachers' Retirement System
Mark C. Hill, Senior Vice President, Corporate Secretary, and General Counsel, Radio Shack Corp.
Mike McCauley, Director of Investment Services, State Board of Administration of Florida
Meredith Miller, Assistant Treasurer of Policy, Connecticut Retirement Plans and Trust Funds
Elizabeth D. Mozley, Corporate Affairs Manager, State Board of Administration of Florida
Michael Musuraca, Trustee, New York City Employees' Retirement System
Ken Sylvester, Director of Pension Policy, Office of the Comptroller, City of New York

Council and NACD Staff Assistance

Peg O'Hara, Consultant, Council of Institutional Investors
Michael McCartin, Analyst, Council of Institutional Investors
Alexandra R. Lajoux, Senior Research Analyst, National Association of Corporate Directors
Deborah J. Davidson, Senior Editor, National Association of Corporate Directors
Mary A. Graham, Designer, National Association of Corporate Directors

American Society of Corporate Secretaries

David W. Smith, President – for the Society's outstanding research contributions.

* Mr. Heard was CEO during the Task Force's deliberations. Effective March 1, 2004, he is Vice-Chairman.