



Corporate Governance & Nominating Committee
Module

The Anderson School at UCLA
Director Training and Certification
Program

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John F. Hartigan

Morgan Lewis

COUNSELORS AT LAW

Overview

- Background
- Composition and Organization of the Governance and Nominating Committee
- Purpose and Responsibilities of the Governance and Nominating Committee
- Disclosure Rules Regarding the Director Nomination Process and Communication Between Security Holders and Board of Directors
- Proposed Rule Regarding Mandatory Security Holder Access to Proxy Statement to Nominate Directors

Background

- Post-Enron
- SRO Listing Requirements
- SEC Disclosure Rules
- Shareholder Activism
- Institutional Shareholder Services (ISS)

Composition and Organization of Governance and Nominating Committee

- Should a company have a nominating committee?
- What must a company disclose regarding the existence of a nominating committee?
- Should a nominating committee have a charter?
- What disclosures are required with respect to the nominating committee's charter?

Purpose and Responsibilities of the Governance and Nominating Committee

- Develop Corporate Governance Principles and Guidelines
- Establish and Review Criteria for Directors and Identify Nominees
- Oversee the Evaluation of the Board and Management



Purpose and Responsibilities of the Governance and Nominating Committee (continued)

- Identify Recruitment Needs
- Maintain Code of Business Conduct and Ethics
- Management Succession
- Other Responsibilities

Disclosure Rules Regarding the Director Nomination Process & Communication Between Security Holders & Board of Directors

- Disclosure Regarding the Director Nomination Process
 - Disclosure about whether the nominating committee will consider security holder nominations and the procedures that security holders must follow
 - Disclosure of the process for identifying and evaluating director nominees
 - Disclosure about director nominees recommended by 5% security holder or group

Disclosure Rules Regarding the Director Nomination Process & Communication Between Security Holders & Board of Directors (continued)

- Disclosure of the source of referrals of non-incumbent nominees
- Identification of any third-party that identifies or evaluates potential director nominees

Disclosure Rules Regarding the Director Nomination Process & Communication Between Security Holders & Board of Directors (continued)

- Disclosure Regarding Communication with Directors
 - Disclosure about whether the company's board of directors provides a process for security holders to send communications to the board, and if not, a statement as to why not
 - If the company has such a communication process, disclosure of the manner in which security holders can send communications to the board and, if applicable, to specified individual directors

Disclosure Rules Regarding the Director Nomination Process & Communication Between Security Holders & Board of Directors (continued)

- If communications can not be sent directly to the board, disclosure of the processes for determining which communications will be relayed to board members
- Disclosure of the company's policy, if any, regarding board member attendance at annual meetings, including a statement of the number of board members who attended last year's annual meeting

Mandatory Security Holder Access to Proxy Statement to Nominate Directors

- Purpose: To create a mechanism whereby long-term security holders with significant holdings can have their nominees included in the company's proxy materials when there are indications of potential breakdowns in corporate governance

Mandatory Security Holder Access to Proxy Statement to Nominate Directors (continued)

- Two Triggering Events:
 - Any of the nominees for director for whom the company solicited proxies receive “withhold” votes from more than 35% of the total votes cast at an annual meeting of security holders

Mandatory Security Holder Access to Proxy Statement to Nominate Directors (continued)

- A security holder (or security holder group) holding at least 1% of the company's outstanding shares submits a Rule 14a-8 proposal to an annual meeting to activate the security holder access requirements the following year under Rule 14a-11 and the proposal receives a majority of the votes cast at the meeting



Mandatory Security Holder Access to Proxy Statement to Nominate Directors (continued)

- Eligibility of Security Holders
- Eligibility of Nominees