## *V. Dodd-Frank's Corporate Governance Reform*

### A. Introduction

On July 21, 2010, President Obama signed into law the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank" or "Act"), which is intended to remedy the weaknesses in the U.S. financial system that precipitated the 2008 financial meltdown.[1] While the Act is primarily concerned with financial regulation, it includes a number of provisions that will impact the corporate governance and compensation practices of many public companies.[2] These provisions are focused on providing shareholders with important leverage in "seeking their governance reforms agenda, as well as an inexpensive and efficient alternative to proxy contests."[3] As a result, together with the Sarbanes-Oxley Act of 2002 ("Sarbanes-Oxley"), Dodd-Frank heralds an era of increased federal involvement in corporate governance matters, which are traditionally left to the states.[4] Such a shift, albeit hardly uncontroversial, is authorized by the Commerce Clause, under which Congress has the express power to preempt the field of corporate governance law.[5]

### B. The Corporate Governance Problem

The Enron failure and other widely publicized scandals of the last decade marked a "watershed moment" in the history of corporate governance, and brought to light the pervasiveness of questionable accounting practices, ineffective monitoring mechan-

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[1] *See* Helene Cooper, *Obama Signs Overhaul of Financial System*, N.Y. TIMES, Jul. 21, 2010, http://www.nytimes.com/2010/07/22/business/22regulate.html.

[2] Willkie Farr & Gallagher LLP, *Dodd-Frank Provisions Address Executive Compensation and Corporate Governance*, Jul. 27, 2009.

[3] James Barrall, *Dodd-Frank and the 2011 Proxy Season: SEC Adopts Final Proxy Access Rules*, DAILY J., Aug. 31, 2010, http://www.lw.com/upload/pubContent/_pdf/pub3705_1.pdf.

[4] Stephen Bainbridge, *Dodd-Frank: Quack Corporate Governance Round II*, 15 (Sep. 9, 2010), *available at* http://papers.ssrn.com/sol3/papers.cfm?abstract_id= 1673575.

[5] *Id*.

isms and accountability-free corporate cultures.[6] On July 30, 2002, Congress attempted to address these issues by enacting Sarbanes-Oxley, which mandates "a number of reforms to enhance corporate responsibility . . . and combat corporate and accounting fraud . . . ."[7] Despite its goal to increase accountability and control risk-taking, however, Sarbanes-Oxley was unable to prevent the recent recession.[8] In his inaugural address on January 20, 2009, President Obama emphasized that "[o]ur economy is badly weakened, a consequence of greed and irresponsibility on the part of some, but also our collective failure to make hard choices and prepare the nation for a new age."[9]

In light of these post-Sarbanes-Oxley developments, some commentators have questioned the ability of corporate governance reform bills to close existing loopholes and prevent financial crises.[10] It has been argued, for instance, that Sarbanes-Oxley led to the "bureaucratization of risk assessment," and deflected attention from efforts to curb risk-taking behavior itself.[11] Scholars have also emphasized that compliance with federal regulations "diverts executive time and effort from key issues such as product development, job creation, efficiency, and global competitiveness."[12] Moreover, legislature-driven solutions to corporate governance problems have been faulted with creating a "one-size-fits-all" model for internal control when a more tailored approach may be

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[6] *See* Charles Elson & Christopher Gyves, *The Enron Failure and Corporate Governance Reform*, 38 WAKE FOREST L. REV. 855, 855-56 (2003).

[7] *The Laws that Govern the Securities Industry*, SEC.GOV, http://www.sec.gov/about/laws.shtml#sox2002 (last visited Feb. 26, 2011).

[8] *See generally* Alex J. Pollock, *Sarbanes-Oxley in the Light of the Financial Crisis*, AM. ENTERPRISE INST., Nov. 2009, http://www.aei.org/docLib/01-2009-Reg-Outlook-g.pdf.

[9] President Barack Obama, Inaugural Address (Jan. 20, 2009).

[10] Katie Benner, *Is Sarbanes-Oxley a Failure?*, CNN MONEY, Mar. 24, 2010, http://money.cnn.com/2010/03/23/news/economy/sarbanes_oxley.fortune/index.htm.

[11] Loren Steffy, *Law Can't Stop Failure*, HOUSTON CHRON., Mar. 20, 2008, http://www.chron.com/disp/story.mpl/business/steffy/5637446.html (quoting Professor Charles M. Elson as arguing that Sarbanes-Oxley's requirement for "onerous and extensive" internal controls shifted focus from substantive risk to procedural compliance).

[12] Jill E. Fisch, *The New Federal Regulation of Corporate Governance*, 28 HARV. J.L. & PUB. POL'Y 39, 49 (2004).

desirable.[13] Finally, as securities regulation is typically enacted in the immediate aftermath of a market crash, it is not necessarily the product of prudent policymaking.[14]

At the same time, securities regulation has been under the purview of public law since the establishment of the Securities and Exchange Commission ("SEC") in 1934, which means that it is "neither new nor, from a federalism perspective, particularly troubling."[15] The abundance of corporate scandals and evidence of "poor performance or entrenched mediocrity"[16] even in the absence thereof suggests that government intervention may be necessary to "restore 'investor confidence.'"[17] Indeed, while some investors will be willing to lobby for stronger investor protection, their efforts are unlikely to provide a sufficient counterweight to lobbying by corporate insiders, who do not have to shoulder the cost themselves, but can shift it to the shareholders.[18] Thus, the prevalence of interest-group politics, coupled with a "wave of corporate scandals or a stock market crash," creates a "large public demand" for government intervention in corporate governance matters.[19]

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[13] *See, e.g.,* Scott S. Powell, *Costs of Sarbanes-Oxley are Out of Control*, WALL ST. J., Mar. 21, 2005, http://online.wsj.com/article/SB111136683987384741.html (stating that the "one-size-fits-all" approach is costly and at odds with the American tradition of promoting innovative business practices); Bainbridge, *supra* note 4, at 16 (stating that uniformity inhibits experimentation with different models of regulation).

[14] Larry E. Ribstein, *Bubble Laws*, 40 HOUS. L. REV. 77, 97 (2003) (arguing that "panic regulation" is likely to stifle entrepreneurial activity).

[15] Fisch, *supra* note 12, at 39-41 (explaining that there is a strong public interest in securities transactions because they affect capital markets and, ultimately, the country's economic growth).

[16] *Giving Meaning to the Codes of Best Practice*, FIN. TIMES, Feb. 14, 2002, http://specials.ft.com/afr2002/FT3DD1QQOXC.html.

[17] Ribstein, *supra* note 14, at 79.

[18] Lucian Bebchuk, *Unblocking Corporate Governance Reform* (Sept. 29, 2009), http://www.law.harvard.edu/faculty/bebchuk/opeds/09-09_ProjectSyndicate.pdf (suggesting that institutional investor lobbying is unlikely to occur because "[s]ome institutional investors are part of publically traded firms, and are consequently under the control of corporate insiders whose interests are not served by new constraints. And even those institutional investors that are not affiliated with publically traded companies may have an interest in getting business from such companies, making [them] reluctant to push for reforms that corporate insiders oppose.").

[19] *Id*.

One of the most fundamental principles of corporate governance, the principal-agent model, predicts that the interests of the corporate officers are rarely perfectly aligned with those of the shareholders.[20] The problem of managerial opportunism arises when rational, self-interested agents pursue activities that enhance their own interests rather than those of the shareholders.[21] Therefore, since modern corporate theory is based on the idea of maximizing shareholder wealth,[22] monitoring and regulatory mechanisms could ensure that agents are in fact working in the best interest of the principal.[23] "[M]anagers with failing track records . . . will only improve if they are placed under greater pressure by shareholders empowered to exert more influence on management decisions."[24] Admittedly, past experience has exposed the difficulty of regulating a free market, many of whose players have strong incentives to evade the rules.[25] Nonetheless, Michael Oxley, one of the sponsors of Sarbanes-Oxley, has stressed that "[w]e have laws against homicide and people kill one another every day. That doesn't mean that you back off and stop fighting."[26]

### C. How Does Dodd-Frank Attempt to Rectify the Corporate Governance Problem?

While it is debatable whether corporate governance weaknesses can be isolated as the cause of the current economic meltdown,[27] Dodd-Frank's corporate governance and disclosure provisions are intended to promote increased accountability and to

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[20] Nicola Faith Sharpe, *Rethinking Board Function in the Wake of the 2008 Financial Crisis*, 5 J. BUS. & TECH. L. 99, 101 (2010).
[21] *Id*.
[22] Robert W. Hamilton, *The Crisis in Corporate Governance: 2002 Style*, 55 ME. L. REV. 351, 357 (2003).
[23] Sharpe, *supra* note 20, at 101.
[24] Carl Icahn, *The Economy Needs Corporate Governance Reform*, WALL ST. J., Jan. 23, 2009, http://online.wsj.com/article/SB123266999517008241.html.
[25] Benner, *supra* note 10 (quoting Michael Oxley, former U.S. Representative and one of the sponsors of Sarbanes-Oxley).
[26] *Id*.
[27] Stanley Keller, *Corporate Governance, Disclosure and Capital Raising Provisions of the Dodd-Frank Act*, 14 WALL ST. LAWYER 1, 1 (Sept. 2010).

regulate compensatory practices that fueled excessive risk-taking.[28] In other words, "[l]ax and ineffective boards, self-serving managements, and failed short-term strategies" are likely to at least have contributed to the financial crisis.[29] A number of commentators have argued that—because "there exists a great incentive for passivity and acquiescence to management's initiatives and little incentive to actively monitor management where directors 'owe their positions to executive largesse'"[30]—repairing the economy necessarily entails reforming corporate management.[31] It should be noted, however, that since many of the Act's provisions are subject to additional rulemaking by the SEC, their exact scope and implications are still to some extent uncertain.[32]

### 1. Shareholder Proxy Access

Section 971 of Dodd-Frank authorizes the SEC to adopt rules permitting the use by a shareholder of the company's so-called proxy materials for the purpose of nominating directors.[33] On August 25, 2010, the SEC adopted Rule 14a-11, which requires public companies to include the names of all board nominees, not just the company slate, on the annual proxy ballot sent to all shareholders.[34] The provision and the accompanying rule are intended to alleviate the significant financial burden on shareholders who wish to nominate alternative directors, but are currently required to file and

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[28] The Wall Street Reform and Consumer Protection Act of 2010, Pub. L. No. 111-203, 124 Stat. 1376 (2010) [hereinafter *Dodd-Frank*].
[29] Icahn, *supra* note 24.
[30] Elson & Gyves, *supra* note 6, at 857.
[31] Icahn, *supra* note 24.
[32] *Corporate Governance Issues, Including Executive Compensation Disclosure and Related SRO Rules*, SEC.GOV, http://www.sec.gov/spotlight/dodd-frank/corporategovernance.shtml (last visited Feb. 11, 2011).
[33] Dodd-Frank § 971(b).
[34] Facilitating Shareholder Director Nominations, Exchange Act Release Nos. 33-9136; 34-62764, 75 Fed. Reg. 56,668 (Aug. 25, 2010). The rule has been put on hold, pending the outcome of a lawsuit filed against it by the U.S. Chamber of Commerce and the Business Roundtable. Press Release, U.S. Chamber of Commerce, U.S. Chamber Joins Business Roundtable in Lawsuit Challenging Securities and Exchange Commission (Sept. 29, 2010), http://www.uschamber.com/press/releases/2010/september/us-chamber-joins-business-roundtable-lawsuit-challenging-securities-an.

distribute their own ballots.[35] In this respect, Dodd-Frank could lead to more "diversified boardrooms, give shareholders a stronger voice in [decision-making] and create a more open selection process."[36] Most importantly, invigorated board elections and the threat of replacement are expected to make incumbent boards more accountable and responsive to shareholders.[37]

Some analysts have warned that shareholder proxy access may allow special interest groups to monopolize the election process.[38] Yet others have argued that mandatory proxy access "forces each firm into the same governance box without regard to what may be best for the enterprise and its shareholders."[39] The evaluation of these arguments, however, is obstructed by the remarkable lack of empirical evidence on the actual effect that the provision would have on the value of public corporations.[40] It is nonetheless noteworthy that at least one sophisticated study has demonstrated that proxy access is conducive to overall shareholder value improvement.[41] Moreover, assuming that a mandatory approach to corporate governance may be inappropriate in some circumstances, Section 971 explicitly provides that the SEC may exempt an issuer from the proxy access requirement where

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[35] Milbank, Tweed, Hadley & McCloy LLP, *Corporate Governance Highlights of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010*, Jul. 21, 2010.

[36] Diane Schooley, *Corporate Governance Reform: Electing Directors Through Shareholder Proposals*, CPA J. (Oct. 2005), http://www.nysscpa.org/cpajournal/ 2005/1005/essentials/p62.htm.

[37] J.W. Verret, *Defending Against Shareholder Proxy Access: Delaware's Future Reviewing Company Defenses in the Era of Dodd-Frank*, 3 (Aug. 8, 2010), *available at* http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1655482.

[38] Schooley, *supra* note 36.

[39] Troy Paredes, Comm'r, Sec. & Exch. Comm'n, Statement at Open Meeting to Adopt the Final Rule Regarding Facilitating Shareholder Director Nominations ("Proxy Access") (Aug. 25, 2010), *available at* http://www.sec.gov/news/speech/ 2010/spch082510tap.htm.

[40] Steven M. Davidoff, *The Heated Debate over Proxy Access*, N.Y. TIMES, Nov. 2, 2010, http://dealbook.nytimes.com/2010/11/02/the-heated-debate-over-proxy-access/.

[41] *See* Bo Becker, *Does Shareholder Proxy Access Improve Firm Value? Evidence from the Business Roundtable Challenge* (Nov. 22, 2010), *available at* http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1695666.

compliance would be disproportionately burdensome.[42] Indeed, Rule 14a-11 gives small companies, those with $75 million or less in market value, a three-year deferral from compliance.[43]

### 2. Shareholder Vote on Executive Compensation ("Say-on-Pay")

Section 951 of Dodd-Frank requires public companies to hold shareholder advisory votes on executive compensation no less frequently than once every three years.[44] "Golden parachute" compensation—payments in connection with "an acquisition, merger, consolidation, or proposed sale or other disposition of all or substantially all the assets of an issuer"—is subject to shareholder advisory approval as well, at least once every three years.[45] On January 25, 2011, the SEC adopted implementing rules and specified that "frequency" votes are to be held at least once every six years in order to allow shareholders to decide how often they would like to give their input on executive compensation.[46] Similar to the rules on proxy access, the "say-on-pay" ones include a temporary exception for smaller reporting companies.[47]

Because these votes are non-binding on a company's board of directors, critics have cogently pointed out that their exact function and consequences could be ambiguous.[48] Some have further argued that a favorable vote may reflect nothing more than shareholder inertia.[49] Such concerns are undoubtedly justified, but "say-on-pay" votes seem to nevertheless provide shareholders with a

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[42] Dodd-Frank § 971(c).

[43] Facilitating Shareholder Director Nominations, *supra* note 34, at 70-71 n.176.

[44] Dodd-Frank § 951(a)(1).

[45] Dodd-Frank §§ 951(b)(1), 951(b)(2).

[46] Shareholder Approval of Executive Compensation and Golden Parachute Compensation, Exchange Act Release Nos. 33-9178; 34-63768, File No. S7-31-10 (Jan. 25, 2010).

[47] *Id*.

[48] Dino Falaschetti, *Dodd-Frank and Board Governance: New Political-Legal Risks to Monetary Policy and Business Judgments?*, 29 No. 12 BANKING & FIN. SERVICES POL'Y REP. 1, 5 (Dec. 2010) (suggesting that ignoring a negative shareholder vote could potentially shake the foundations of the business judgment rule or statutorily imposed fiduciary duty considerations).

[49] Keller, *supra* note 27, at 5.

meaningful opportunity to openly and unequivocally express their opinion on a company's pay practices.[50] Due to negative votes, "certain directors . . . may be the target of withhold vote campaigns, receive negative recommendations from proxy advisory firms or be challenged by proxy access nominees."[51] To avoid the public embarrassment of a "no" vote, companies are, at the very least, likely to engage in meaningful dialogue with their shareholders.

### 3. Recovery of Erroneously Awarded Compensation ("Clawbacks")

Section 954 of Dodd-Frank requires public companies to adopt a policy under which they would recover from current or former executive officers any excess incentive-based compensation, including stock options, that would not have been awarded but for an accounting restatement resulting from erroneous financial data.[52] Section 954 functions as a significant expansion of the mandatory recoupment provision in Section 304 of Sarbanes-Oxley.[53] The latter, for instance, is only triggered when the erroneous accounting statement results from misconduct, and applies only to the CEO and CFO of a company.[54] Dodd-Frank's provision, on the other hand, dispenses with the executive wrongdoing requirement and effectively imposes strict liability in the event of a restatement.[55] It is also broader in its reach, as the term "executive officer" is likely to encompass anyone with policy-making functions.[56] Finally, national securities exchanges will be prohibited from listing any security of an issuer that has failed to comply with this "clawback" provision.[57]

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[50] Chadbourne & Parke LLP, *Dodd-Frank Act: Compensation and Corporate Governance Provisions*, Aug. 12, 2010.

[51] Cravath, Swaine & Moore LLP, *Corporate Governance and Executive Compensation Provisions in the Dodd-Frank Wall Street Reform and Consumer Protection Act*, Jul. 21, 2010.

[52] Dodd-Frank § 954.

[53] Pepper Hamilton LLP, *Dodd-Frank's Mandatory Executive Compensation Clawback: A Practical Review and Assessment*, Aug. 18, 2010.

[54] *Id*.

[55] Deborah Lifshey, *Summary of Clawback Policies under Dodd-Frank Reform Act*, CORP. BOARD MEMBER (July 23, 2010), http://www.boardmember.com/Article_Details.aspx?id=5146&page=1.

[56] Pepper Hamilton LLP, *supra* note 53.

[57] Dodd-Frank § 954.

It has been suggested that Section 954 would work more efficiently if it is voluntary.[58] While there is no evidence that companies will be willing to implement their own policies,[59] the provision could nonetheless be problematic for different reasons. To escape its reach and accompanying uncertainty, companies may find it necessary to increase fixed-salary compensation at the expense of incentive-based compensation, thereby providing insurance against increased risk and undermining the very goal which led to the enactment of the bill.[60] The SEC could perhaps address this problem by proposing sufficiently clear and precise rules, which would alleviate the stress, costs and confusion associated with the "claw-back" process.

### 4. Other Provisions

Under Section 952 of the Act, compensation committees must be comprised of independent members, where the definition of "independence" must take into account a director's sources of compensation and her affiliation with the issuer or any subsidiary or affiliate of the issuer.[61] Compensation committees are further required to contemplate the independence of legal counsel and other advisers prior to selecting them.[62] In addition, under Section 953, companies are required to disclose the relationship between their financial performance and the amount of executive compensation awarded.[63] Section 953 further aims to measure pay equity by requiring companies to disclose the median total compensation of all

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58 Benjamin W. Heineman, Jr., *Making Sense Out of "Clawbacks"*, HARVARD L. SCH. BLOG ON CORP. GOVERNANCE & FIN. REG. (Aug. 13, 2010, 4:10 PM), http://blogs.law.harvard.edu/corpgov/2010/08/13/making-sense-out-of-clawbacks/#comments.

59 *Id*. ("[A] fact-based approach, building on prior voluntary clawback policies adopted by corporations, is far superior to the rigid, procrustean legislative mandate of Dodd-Frank, if (a big if) companies take design and implementation of their own policies seriously as an important method of promoting balanced business leader and employee behavior and holding them accountable.").

60 Sanjai Bhagat & Roberta Romano, *Reforming Executive Compensation: Focusing and Committing to the Long-Term*, 26 YALE J. ON REG. 359, 366 (2009).

61 Dodd-Frank §§ 952(a)(2), 952(a)(3).

62 Dodd-Frank § 952(b).

63 Dodd-Frank § 953(a).

employees other than the CEO, the total annual compensation of the CEO, and the ratio of the two.[64] Disproportionately high CEO compensation could signal "a lack of performance opportunities for lower tier officers, or a tendency towards CEO entrenchment."[65] While Section 953 does not contemplate any direct penalties, the requirement for disclosure itself and the threat of a tarnished public image are likely to stimulate enhanced reconsideration of compensation practices.

Dodd-Frank's pay equity provision has nonetheless been met with substantial, well-founded skepticism. First, commentators have indicated that it may distort a company's business decisions.[66] Companies that hire part-time workers, for instance, will necessarily be characterized by high income disparities.[67] In addition, if a company decides to improve its ratio, low-paid employees will be in an especially vulnerable position.[68] Thus, the pay equity provision will be useful only to the extent that "the media or Congress . . . demonstrate an appreciation of the nuances behind such a deceptively simple ratio."[69] Second, the compilation of detailed compensation statistics is likely to be particularly burdensome for corporations with international employees in multiple jurisdictions.[70]

The "pay-for-performance" provision is similarly problematic. Bebchuk and Fried have proposed that the focus should not be on cash salary amounts to begin with, but on the restructuring of executive compensation systems.[71] They argue in favor of various incentives schemes which would induce executives to generate long-term value for their shareholders: implementing "unwinding limitations designed to prevent executives from attaching excessive

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[64] Dodd-Frank § 953(b).

[65] Cleary Gottlieb Steen & Hamilton LLP, *The Pay Disparity Ratio*, Sept. 22, 2010.

[66] Keller, *supra* note 27, at 8.

[67] Cleary Gottlieb Steen & Hamilton LLP, *supra* note 65.

[68] *Id*.

[69] *Id*.

[70] Chadbourne & Parke LLP, *supra* note 50.

[71] *See* Lucian Bebchuk & Jesse Fried, *Paying for Long-Term Performance*, 158 U. PA. L. REV. 1915 (2010). Such a proposition is, admittedly, not universally accepted and other scholars believe that compensation should reflect company performance. *See* Charles Elson, *The Answer to Excessive Executive Compensation is Risk, Not the Market*, 2 J. BUS. & TECH. L. 403, 403 (2007) (equating excessive executive compensation with stealing and emphasizing its demoralizing effects).

weight to short-term prices without creating perverse incentives to retire"; preventing compensation arrangements that would increase executive pay at the expense of public shareholders; and ensuring that the executives cannot easily bypass the proposed arrangements.[72] In contrast, the "pay-for-performance" provision possesses significant inflammatory potential, but does little to restructure the underlying suboptimal compensation practices.

### D. Conclusions

The main goal of a corporation is to "create durable value for shareholders and other stakeholders through sustained economic performance, sound risk management, and high integrity."[73] A successful corporate governance agenda would therefore attempt to strike a fine balance between risk-taking and creativity on one hand, and risk management and financial discipline on the other.[74] The board of directors has ample discretion to balance these considerations but, in recent years, deficiencies in risk assessment have highlighted the need for enhanced responsiveness to shareholders' interests.[75] Because market forces cannot always compel boards to adopt value-increasing governance changes, the interests of management and the shareholders will rarely be aligned.[76]

As change is unlikely to arise endogenously, the Dodd-Frank Act, which contains various corporate governance and executive compensation provisions, emphasizes transparency and accountability that are "symbolic of shareholder protection."[77] At present, the "clawback," "pay-for-performance" and pay equity provisions appear

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[72] Bebchuk & Fried, *supra* note 71, at 1919-20.
[73] Heineman, *supra* note 58.
[74] *Id*.
[75] *See* Barbara Black, *The U.S. as "Reluctant Shareholder": Government, Business and the Law*, 5 ENTREPRENEURIAL BUS. L.J. 561, 566-68 (2010).
[76] Lucian Bebchuk, *Letting Shareholders Set the Rules*, 119 HARV. L. REV. 1784, 1789-91 (2006) ("While markets impose some constraints on management, these constraints are by no means stringent. Consider, for example, the market for corporate control. . . . Because management can block hostile bids . . . hostile bidders must be prepared to pay a substantial premium to gain control. The disciplinary force of the market for corporate control is further weakened by the prevalence of golden parachute provisions and payments acquirers make to target company managers. The market for corporate control thus leaves management with considerable slack.").
[77] Black, *supra* note 75, at 573.

ambiguous and could potentially lead to unintended consequences. Clear and effective SEC rules could possibly ensure that, in conjunction with the other provisions in the Act, they will ultimately encourage the administration of pay packages that are in the best interest of the shareholders. Proxy access, arguably the most significant provision, is expected to reduce the substantial barriers that shareholders face when they seek to replace incumbent directors, and to thus minimize the problem of board insulation. Together with the advisory vote on executive compensation, this electoral reform is a crucial empowering device that could have a strong positive impact on governance arrangements. In conclusion, while the exact results remain to be seen, Dodd-Frank's corporate governance provisions are an ambitious attempt to give meaning to the shareholders' ownership of the company.

Mirela V. Hristova[78]

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[78] Student, Boston University School of Law (J.D. 2012).