COMMENTS ON

FEDERAL RESERVE SYSTEM

Docket No. OP-1570

Proposed Syupervisory Guidance

By

Orlando G. Rodriguez

October 2017

One of the many issues that have surfaced during many financial crisis is the oversight, or, rather, the lack thereof, by the board of directors of financial institutions.

Not a new problem, and not exclusive to financial corporations. The cozy relationship that exists between management and directors of public corporations is well-known and recorded. Entities like The Corporate Library have as their mission to look into and provide commentary on appropriate standards of corporate governance.

It should come as no shock to say that in today's corporate America management wields too much power. Directors, accountants and rating agencies are beholden to those that provide their compensation. The work of lobbyists, compensation consultants and others employed by management to further its self-interest has tilted influence to the detriment of shareholders, employees, the public at large and other stakeholders. The playing field is not level, the balance is not even.

The imbalance is exacerbated by the fact that there are few if any serious consequences for bad corporate behavior.The Dodd-Frank Wall Street Reform and Consumer Protection Act, passed in 2010, was intended to provide a comprehensive framework to prevent mismanagement. *Prima facie*, as evidenced by what happened in Wells Fargo, it failed. It failed to prevent massive fraud, and there was a failure to prosecute those responsible for the malfeasance. The Wells Fargo fiasco is a catastrophic statement on just how much risk a CEO should be willing to take to further his or her personal gain.

Then proposal in essence provides marginal adjustments to the job descriptions and a call for directors to be beholden to the shareholders they (nominally) represent, and to exercise their responsibilities faithfully, will not improve the structural issues that prevail. It is time to go much further and break the ties that bind directors, accountants, rating agencies and others to management. One way to do that is for:

- The directors, accountants, and rating agencies to be appointed by an impartial third party from a pool of candidates vetted and selected by the third party.

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- Compensation for the directors, accountants and rating agencies to come from the same impartial third party, funded by a pool provided the corporations that employ these services.

Ideally the payment pool would be controlled by the shareholders of the corporations. However, that would be totally impractical. Whether that impartial third party could be an existing government agency (the SEC comes to mind) or a *de novo* one, as Washington likes to do, would be part of the political process necessary to approve and implement this idea.

A structural reform along these lines would require legislation as well as cooperation from the SEC. Whether all the planets can be aligned is a political question beyond describing the scope of what is needed.

Whether this proposal, or any other proposal that upsets the status quo and creates a new playing field can be approved and implemented is, frankly, doubtful. This approach, like any others, has shortcomings. Still it would be an improvement over the blind fool approach that we have been living under up to now. Structural change has to be made, or we may not make it out of our current predicament. The Federal Reserve Bank should take on the thankless task of saying it can not fulfill its obligations without major structural reform in the existing corporate structures. As every one else is silent, it must speak out. Otherwise, the next Wells Fargo event can de deemed to be its responsibility, and its alone, for knowingly allowing an unsatisfactory status quo to perpetuate itself.

There is a tremendous need for a new Hellhound of Wall Street. One should not the wonder if Ferdinand Pecora were alive and entrusted with the responsibility of finding a mechanism that would mitigate the chances of another financial crisis he would again change the structure of how Wall Street works rather than just tinker around the edges.