

New Front Opens in Shareholder Demands for Comp Disclosure

LARGE INVESTORS are leaning on a new Harvard study as they demand more thorough disclosure of pension benefits. CalPERS and the AFL-CIO want enhanced disclosure, and they're serving the study up as evidence of why it's needed.

The study tabulates the extent of pensions for recently retired or soon-to-retire CEOs with "defined benefits"—setups where the payout sum is related to the individual's final salary and years of service. About two thirds of companies have such plans. The actuarial values of the pensions vary widely, from \$3.3 million to \$73.4 million, with a median value of about \$15 million.

"Once the pension values are included, it turns out that pay is much less linked to performance than investors realize," says **Lucian Bebchuk**, professor at **Harvard Law School** and co-author of the study with **Robert Jackson**. "Investors should have an accurate picture of the extent to which an executive's pay is linked to performance and how it compares with the compensation of other executives," Bebchuk says. "A main point of our study is that investors now lack such an accurate picture," he says.

While bonuses to CEOs increased 20% in 2004, the award of stock options, which are often tenuously linked to performance, fell dramatically, from 69% in 2001 to 31%, the study argues, the amount tied to performance is overestimated. Without what Bebchuk calls the "stealth compensation" of pensions, the non-variable element of comp packages (salary during the executive's service and pensions afterwards) is 15% of the total. But if you include the pensions, the percentage rises to 39%.

While most companies release tables of data on what executives are going to receive each year and the contractual terms, companies don't disclose the actual value for executives individually. And that's something that institutional investors, who have had great success in pressing for greater transparency in bonuses and other executive compensation, are now including in their demands.

"Someone was just holding up that study in a meeting," CalPERS spokesman **Brad Pacheco** says. "CalPERS wants an open book on the

whole area of compensation for executives," his colleague **Darin Hall** says.

Ann Yerger of the **Council for Institutional Investors** says her organization calls for complete enhanced disclosure, and that the study provides evidence that confirms CII's suspicions that "executive pay is being hidden by non-disclosed vehicles like pensions."

AFL-CIO Office of Investment research analyst **Brandon Rees** says his organization will be using Professor Bebchuk's research, since "it takes a Harvard professor" to figure out how much executives are being paid. "We will incorporate his research into our efforts to improve executive compensation [through shareholder resolutions and discussions]," Rees says, noting that Bebchuk is a leader in the field whose book *Pay for Performance* has already had a major impact. "We would like to see companies disclose actuarial present value of retirement benefits," he says.

Most proxies provide info that allows investors to make a ballpark estimate of executive pensions, but not necessarily enough to get it right. Sometimes inaccessible variables are involved, such as the age at which a CEO has married, which figures into calculating survivorship benefits.

"Since the companies already have this information, the calculation is not that difficult for them to do," says Bebchuk. "They use actuaries for these plans anyhow. It would just take an hour."

Some comp consultants, such as **Paul Dorf**, managing director of **Compensation Resources**, have gone so far as to suggest linking pensions to performance, though he hasn't had any takers for this idea. **Tyco's Jack Krol**, says that his first reaction to this idea is that performance is already taken care of through other elements of compensation.

Dorf also argues that companies should make their consulting fee arrangements for departing CEOs, which are alternatives to defined-plan pensions, renewable. "They should be for a fixed period of time, such as a year, and then boards can renew them each year. They should not be guaranteed for life to an octogenarian living in Florida who never comes to meetings."

Some unions will use the study as well. "The study shines a bright and factual light on the maldistribution of capital at public companies," says **Marco Turbovich**, assistant to the president of the **United Steelworkers of America**, which represents 850,000 workers in 10 different industrial sectors. Turbovich says that the steelworkers union will be using the study at the negotiating table. ■