

## PRACTICE CORNER

### Corporate Governance Web Page Practices

by *Dominic Jones*

Large-cap US companies are moving quickly to add corporate governance pages to their corporate Web sites. They are doing so in advance of proposed requirements from the New York Stock Exchange (NYSE) that must still be approved by the Securities and Exchange Commission (SEC). However, small- and mid-cap US companies are lagging far behind their bigger corporate cousins. So far, the vast majority of these companies have failed to make even basic improvements to their online governance disclosures.

These are highlights from a March 2003 study of 270 index-listed companies in seven countries, including 190 US companies in the Standard & Poor's 500, the Mid-Cap 400, and Small-Cap 600.<sup>1</sup> This study follows an earlier one conducted in summer 2002. The earlier study found that a negligible number of large-cap US companies had corporate governance pages at the time that the NYSE board proposed new corporate governance listing standards for listed companies. The impact of these proposals can already be felt, as there's been four-fold increase in companies disclosing governance information on their Web sites. As of March 2003, 40 percent of large-cap US companies had corporate governance pages on their corporate Web sites. This is up sharply from just 10 percent in the days immediately after the NYSE board proposed the new listing standards.

However, the study found that little more than 5 percent of US mid-cap and 8 percent of small-cap companies had added corporate governance sections to their Web sites. The size gap was a pronounced theme throughout the study. The larger the company's market cap, the more likely the company was to have a comprehensive corporate governance section.

Here are some of the highlights from the study.<sup>2</sup>

#### Insider Filings Rare and Unfriendly

The SEC is encouraging companies to post their Section 16 filings on their Web sites ahead of the July

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30, 2003, deadline set by the Sarbanes-Oxley Act of 2002. However, only 20 percent of large-cap companies have obliged. They include Oracle, General Electric, and Pfizer.

Even within this rarified group, practices vary considerably. Most companies simply link to their Section 16 filings on EDGAR. While the practice may meet the letter of the pending requirements, it falls short of meeting the needs of individual investors who have little or no experience deciphering SEC forms.

A handful of companies provide their insider reports in a way that makes it easier for investors to make sense of them. The study highlights three essential ingredients to make insider-trading disclosure meaningful to average investors. They are:

- Each insider's current holdings and their holdings one year ago;
- Summary details of each insider's transactions for the past 12 months, with a link to the full text of each SEC filing; and
- Plain English reasons why the insider conducted each transaction.

#### Highlight How Investors and Others Can Contact the Board

Only 5 percent of companies with corporate governance pages invite investors, employees, or others to contact the board with concerns. Since the information is posted on the Internet, it is best to allow interested parties to submit correspondence electronically, either by email or by submitting an online form. On these pages, it is important to identify the individual accountable for reviewing complaints and to explain how the board processes complaints.

#### Codes of Conduct Should Feel Real

Overall, less than 25 percent of US companies in the study posted codes of conduct on their Web sites, with the percentage rising to 40 percent among large-cap companies. The study notes that codes with text target-

ed to employees are more effective than those that appear to be posted for the benefit of others.

Codes introduced by a memo to employees from the CEO, or which highlight ethics tip lines and whistleblower protections, promote a sense that the company is actively taking action to prevent and deal with abuses. Conversely, those that read like canned legal documents lack the same ring of authenticity.

Some sites include employee ethics training manuals and quizzes, while others take steps to explain how they monitor, measure, and ensure adherence to their codes. In the study, no companies disclosed waivers or exemptions from their codes for senior officers or directors, presumably because none have been granted. However, it is recommended that companies state if no waivers exist to firmly resolve the question.

## Governance Policies and Charters Are Better in HTML

One pleasing development is that more than 65 percent of large-cap companies disclosing governance information online are doing so in HTML rather than in onerous PDF downloads. Usability tests have consistently found that people have difficulty downloading, opening, and reading PDF files.

Although HTML takes longer to prepare, it is more flexible for firms and their end users. Companies can take advantage of HTML's ability to easily link related Web pages, such as linking board committee charters to sections of the proxy statement that highlight committee *activities* rather than just policies and procedures. Again, a focus on actions rather than on words makes corporate governance disclosures more meaningful.

Governance information, such as policies and charters, are also ideally suited to being published in HTML because they change infrequently and are not published under the pressure fixed regular deadlines.

## Best Practice Disclosure Goes Beyond Proposed Minimum Requirements

Besides the usual corporate governance policies, charters, codes of conduct, and Section 16 filings, some companies are providing an array of additional disclo-

tures within new corporate governance pages on their sites. The most significant of these include:

- Details of a company's management committees, internal control systems, risk management, and internal audit functions. Companies providing this information are doing so voluntarily, as proposed rules requiring internal control reports and auditor assurances are not expected to come into force until late 2003.
- Policies for hiring external auditors for audit-related and non-audit services.
- Information about director and executive compensation schemes, including key terms in the service agreements of executives, particularly regarding early termination penalties and retirement perks.
- Disclosure of board action plans for improved alignment with recognized international best practices in corporate governance.
- Copies of bylaws and articles of incorporation. Of those companies with corporate governance sections, half provide these documents (although they always can be found by digging through old SEC filings).

The pace of change is rapid, with more companies adding corporate governance pages by the day. Most large-cap companies in the study are hosting governance information on their own sites, while smaller firms are purchasing new corporate governance template pages from investor relations Web site vendors, like CCBN and Shareholder.com.

Increased governance disclosure, ahead even of any SEC requirement to do so, bodes well for the slow process of rebuilding confidence in corporate America among investors. After all is said and done, it is not enough for companies to strengthen and improve their internal controls and board oversight. They have to tell people about them, too.

## Notes

1. The survey was conducted by Blunn & Company, a Toronto-based investor-relations consultancy.
2. Blunn & Company used the study to produce 120 pages of design guidelines for corporate governance sections on corporate Web sites. The guidelines define common standards and best practices for corporate governance disclosure on the Web.