

# PROXY SEASON PREVIEW

## 2012

A GLOBAL LOOK AT THE UPCOMING  
PROXY SEASON



GLASS  
LEWIS & Co.

ASIA  
EUROPE  
LATIN AMERICA  
NORTH AMERICA  
EMERGING MARKETS

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## NORTH AMERICA

### UNITED STATES

#### OVERVIEW

Aside from the second year of mandated say-on-pay, the much anticipated shareholder proposals regarding proxy access, and the remaining regulations that are still pending under the Dodd-Frank Act, a few other corporate governance trends are worth focusing on as well.

#### SAY-ON-PAY

The overarching focus of the 2012 proxy season will be how compensation committees have responded to the shareholder votes on the inaugural say-on-pay proposals of 2011. At companies that received a significant shareholder vote against their say-on-pay proposal—generally anything greater than 25% of the votes cast—shareholders should be looking to see that compensation committees have demonstrated an appropriate level of shareholder engagement and responsiveness. Absent clear evidence of such responsiveness, in our opinion, shareholder action against compensation committee members is warranted in 2012.

#### EXCLUSIVE FORUM PROVISIONS

Over the past year, shareholders have encountered slow but steady growth toward the inclusion of exclusive forum provisions in corporate governance documents. As of early November 2011, approximately 80 companies included such “forum selection clauses” in their charter or bylaws, requiring shareholder derivative lawsuits to be filed in the state of Delaware. Given this trend, shareholders can expect to see even more exclusive forum provisions—whether adopted by the board without shareholder approval, or proposed for a shareholder vote at an annual or special meeting—over the course of the next year.

However, we maintain that any provision limiting a shareholder’s choice of legal venue is not in the best interests of shareholders as such provisions may effectively discourage the use of shareholder derivative claims by increasing their associated costs and making them more difficult to pursue. Shareholders should be wary of approving any limitation on their legal recourse, including limiting themselves to a single jurisdiction—almost always Delaware—without compelling evidence that it will benefit them. For this reason, we recommend that shareholders vote against any bylaw or charter amendment seeking to adopt an exclusive forum provision. Furthermore, we recommend that shareholders take action against the chairman of the governance committee in cases where a board adopts a forum selection clause without shareholder approval.

#### RECENT IPOs: DUAL-CLASS STRUCTURES & ANTI-TAKEOVER DEVICES

As the U.S. economy continues to recover, some investors have placed faith in emerging industries such as social media, whose budding entrepreneurs are increasingly seeking access to public capital markets. The level of attention that such IPOs (i.e. LinkedIn, Zynga, Groupon) or anticipated-IPOs (i.e. Facebook) have received is reminiscent of the dot-com boom of the late 1990s. As exciting as such events can be, shareholders should pay close attention to the corporate governance structures that these nascent organizations are adopting, particularly before their IPOs.

Similar to Google, which completed its initial public offering in 2004, both LinkedIn and Groupon have adopted dual-class stock structures with one class of stock maintaining more voting rights than the

other. Zynga went one step further and adopted a rare three-class stock structure. Interestingly, Zynga CEO Mark Pincus is the sole owner of all Class C common stock with 70 votes per share, while the holders of Zynga's Class B and Class A common stock (those shares offered to the public) maintain 7 votes and 1 vote per share, respectively. Facebook is expected to complete its IPO sometime in 2012 and will likely maintain its dual-class structure as well, providing its founder and CEO, Mark Zuckerberg, with a significant level of control over the firm.

While shareholders likely understand the caveat emptor implications of investing in companies with dual-class structures, we believe shareholders should be aware of a few key stipulations in the governance documents of certain recent high-profile IPOs. LinkedIn, Groupon and Zynga each have articles of incorporation that include exclusive forum provisions limiting shareholders' choice of legal venue to the State of Delaware (LinkedIn Form S-1 filed November 3, 2011; Groupon Form 424B4 filed November 7, 2011; Zynga Form 8-K filed December 21, 2011). In addition, LinkedIn maintains a classified board structure and requires a supermajority vote to amend its bylaws and certain provisions of its certificate of incorporation. Moreover, LinkedIn's board can issue, without further action by shareholders, 100 million shares of undesignated preferred stock. Similarly, Groupon's board can issue an undisclosed amount of undesignated preferred stock without shareholder approval. Such preferred stock could dilute common shareholders and be used as an anti-takeover device.

While Glass Lewis believes that companies that have recently completed an IPO should be allowed adequate time (i.e. one year) to meet basic corporate governance standards, we remain wary of cases in which companies adopt a range of shareholder-unfriendly policies that will remain in place for the long-term. Our focus for 2012 is to, at minimum, highlight these issues at such companies.

#### SHAREHOLDER INITIATIVES - COMPENSATION, ENVIRONMENTAL, SOCIAL, AND GOVERNANCE

Between 2010 and 2011, Glass Lewis observed an overall decrease in shareholder proposals. The most significant decrease was seen in the area of compensation issues, mainly due to mandated advisory votes on executive compensation. Despite this overall decrease in the number of shareholder proposals, we observed a significant increase in support for shareholder proposals. While shareholder support for governance-related proposals, such as those requesting declassification of the board or separation of chairman and CEO, remained strong in 2011, we also saw a drastic increase in shareholder support for environmental and social issues. Most notably, four shareholder proposals that were either environmental or social in nature received majority support, excluding abstentions and broker non-votes. We anticipate seeing similar, if not increased, support for such proposals going forward.

There were several new and popular proposals in 2011 that we anticipate seeing again in 2012. Notable proposals include: (i) requests that boards adopt cumulative voting for contested director elections; (ii) requests that shareholders are granted an advisory vote on director compensation; (iii) requests for increased disclosure on the risks associated with the company's hydraulic fracturing operations; (iv) requests that executive compensation be tied to sustainability metrics; and (v) requests that shareholders be granted an advisory vote on a company's political expenditures.

#### Political Contributions

Shareholder proposals requesting policies or disclosure regarding a company's political expenditures were the most frequent proposal that Glass Lewis reviewed in 2011. These proposals typically received high levels of support, with the proposal at SprintNextel receiving majority shareholder support, excluding abstentions and broker non-votes. Given the broad support for these proposals in 2011 and that 2012 is an election year, we anticipate seeing similar, if not an increased, support for and amount of these proposals in the coming season. Due to the intensified scrutiny on and the importance of a corporations' political spending, Glass Lewis has amended its policy on this issue and will now

recommend in favor of increased disclosure of political contributions, expenditures and issues related to lobbying if a company does not have explicit board oversight of this issue.

#### Proxy Access

We also anticipate seeing a number of shareholder proposals requesting that corporations grant shareholders access to the proxy. Shareholders ability to nominate board candidates has been a consistent issue for investors for a number of years. While Dodd-Frank provided the SEC with the authority to adopt rules permitting proxy access, in 2011, a court ruling rescinded the SEC's ability to adopt these provisions. However, this ruling issued a stay on certain amendments, thus allowing shareholders to submit proposals requesting that companies allow investors access to the proxy. Since the time of this ruling, several proponents have submitted proxy access proposals at a wide variety of companies; however, it should be noted that these proposals can be excluded if management places a competing proxy access proposal on its ballot. Glass Lewis will consider each of these shareholder proposals on a case-by-case basis and will make recommendations based on a variety of factors, including, but not limited to: company size; the shareholder proponent and their reasoning for putting forth the proposal at the target company; percentage of ownership and holding period requirement; shareholder base in both percentage of ownership and type of shareholder; and governance mechanisms in place at the company.

## CANADA

#### OVERVIEW

While no major legislative or policy changes are expected for 2012, the debate surrounding shareholder democracy, corporate governance, and executive compensation remains active in Canada. Though our proxy voting guidelines remain largely unchanged, Glass Lewis has made several noteworthy updates to our policies for the 2012 proxy season.

#### DISCLOSURE OF VOTE RESULTS

Approximately 38% of companies in the S&P/TSX Composite Index (the "Composite") failed to disclose detailed vote results for all resolutions from their last annual meeting and rates of disclosure remain significantly lower still for companies outside of the index. This issue is further exacerbated by plurality voting, a practice that remains common even for companies in the Composite - only 52% have adopted a majority voting policy.

With these concerns in mind, Glass Lewis has introduced a new voting policy based on companies' disclosure of voting results from previous shareholder meetings. For companies in the S&P/TSX Composite, we will now recommend that shareholders withhold votes from the chairman of the nominations and corporate governance committee (or chairman of the board) if a company fails to disclose detailed vote results from its previous annual meeting. Although we will not apply this policy to companies outside of the Composite, we will note a board's failure to disclose proxy voting results in our report, and may consider making this policy more stringent in the future.

#### ELECTION OF DIRECTORS

We have formalized our policy for companies with significant shareholder representation such that shareholders owning between 20% and 50% of a company's issued share capital will be allowed proportionate representation on the board and its committees, subject to a limit of one shareholder representative per committee (excluding the audit committee, which must remain entirely independent). While we have historically approached significant shareholder representation in this way, we have

updated our guidelines to reflect this policy so as to ensure a more consistent approach.

There have also been updates to our voting policies for individual directors in the case of over-commitment. We will now permit directors at TSX Venture companies to sit on up to a total of nine public company boards; however, our limit of six directorships for directors at TSX-listed companies remains unchanged, given the increased time commitment and responsibilities required. Further, in determining a withhold recommendation based on over-commitment, Glass Lewis will consider the individual's attendance, the size of the company for each directorship held, their geographical distribution, and the director's overall expertise, performance and commitment levels. Although over-boarding remains a concern at development-stage companies in Canada, we typically believe that these concerns are outweighed by the presence of highly experienced and knowledgeable board members.

#### COMPENSATION ISSUES

Despite the absence of a legal requirement, advisory votes on executive compensation (say-on-pay) continue to proliferate, with at least 82 issuers confirming their intention to provide shareholders with a non-binding vote on executive compensation in 2012, up from 43 companies in 2011. Given the rapidly growing acceptance of say-on-pay as a fundamental shareholder right, we expect to see more companies adopt this practice in 2012, either voluntarily or as a result of shareholder engagement or resolution. While no Canadian company has received majority opposition to a say-on-pay vote as of yet, an increasing number of companies have seen noteworthy disapproval (10%-25%), a trend we expect to continue in 2012.

#### SHAREHOLDER ACTIVISM

Each year, the major Canadian banks hold their annual meetings in February and March. The large institutional shareholder base at each of these banks, combined with the global focus on financial institutions, result in a substantial number of shareholder proposals at these companies' annual meetings. The frequency and intentions of these shareholder proposals typically serve as a precursor to shareholder activism during the subsequent proxy season.

The most active shareholder proponent in Canada is arguably Mouvement d'Éducation et de Défense des Actionnaires ("MÉDAC"), which usually puts forth proposals at these banks and several other large companies each year. MÉDAC's proposals have historically dealt with issues such as gender diversity, pay ratios, tax havens and compensation benchmarking practices and we anticipate seeing proposals of this nature in the coming year.

In 2011, we also saw a number of governance-related proposals, including proposals requesting that steps be taken to separate the role of chairman of the board and CEO and requesting that a majority voting standard be adopted. Additionally, a new shareholder proposal was submitted in 2011 that requested companies to allow shareholders to abstain from certain proxy items. We also anticipate seeing a number of these proposals in the coming year.

Shareholders have recently submitted several new environmental and social proposals to Canadian companies in anticipation of their annual meetings. Specifically, these proposals include requests for reports on climate change, human rights, and environmental impacts. Glass Lewis is also aware of several compensation-related proposals that have recently been submitted to several Canadian banks that request disclosure of performance targets used to determine executive compensation.

#### REGULATORY DEVELOPMENTS

During 2011, the TSX proposed several amendments to its listing requirements, prompted in part by a

review of shareholder democracy conducted by the Ontario Securities Commission ("OSC") in January 2011. The TSX amendments largely reflect the issues addressed in the OSC review; however, the TSX made note of its ability to implement such changes faster than the OSC. If enacted, the proposed amendments would: (i) prohibit the use of slate elections and require that each director be submitted for election individually on an annual basis; (ii) introduce a "comply or explain" majority voting requirement; and (iii) require issuers to disclose when a director fails to receive majority support from shareholders in an election if they have not adopted majority voting. The comment period for these proposed amendments closed on October 11, 2011, and will become effective upon approval by the OSC.

A new disclosure requirement from the Canadian Securities Administrator ("CSA") relating to executive compensation (Form 51-102F6) will apply to issuers with fiscal years ending October 31, 2011 and later. The new form requires, among other things, that issuers describe the policies and practices adopted to determine compensation for directors and executive officers as well as any fees paid to compensation consultants or advisors for the past two years. Additionally, issuers that rely on an exemption from disclosing performance criteria when such goals would "seriously prejudice the issuer's interests" will be required to disclose and explain the use of this exemption.

On December 22, 2011, the Supreme Court of Canada ruled that proposed legislation to introduce a single national securities regulator for Canada was unconstitutional. However, several provincial ministers responsible for securities regulation have noted their intention to work with other provinces and the federal government following the Court's ruling. Additionally, the Canadian Securities Transition Office was established last year, and seven of the ten provinces are represented on its advisory committee, which could allow for revisions and progress toward new legislation. In the meantime, Canada will remain without a national securities regulator, with the responsibility falling to individual provinces.

## OVERVIEW

While all eyes may be focused on the attempts to solve the European sovereign debt crisis throughout 2012, European companies will certainly not escape scrutiny in the upcoming proxy season. In fact, the pace of corporate governance reform has increased in many ways in the past few months, with several notable developments likely to affect the 2012 proxy season. In 2012, we expect three trends in particular to be apparent at the general meetings at a large number of companies across all European markets: (i) a continued focus on remuneration issues; (ii) increasing initiatives to promote board diversity; and (iii) efforts to reinforce capital and reduce risk exposure. In addition, we believe that shareholders will continue to benefit from the reduced barriers to voting and earlier and better access to information that developed during the past few proxy seasons, contributing to a steady increase in the involvement of institutional shareholders in the governance process at European companies.

It is also worth noting that regulatory authorities, particularly at the EU level, are already working on a number of regulations and recommendations that will likely have tangible far-reaching effects on European companies by the 2013 proxy season. As companies anticipate another round of increased regulation that is already taking shape, they may begin to take precautionary measures in 2012. Among the relevant topics currently being worked out at the EU level include reform of the audit market, changes to the comply-or-explain corporate governance framework, heightened disclosure requirements (particularly around remuneration issues), changes to share and voting rights disclosure rules, regulation of proxy advisors, quotas to support board diversity, and even stronger capital requirements for financial institutions.

## EUROPE-WIDE DEVELOPMENTS

### SAY-ON-PAY

Regulators across Europe are stepping up their efforts to provide more detailed guidance on compensation matters to issuers in their respective markets. The biggest change for the upcoming season will be the introduction of mandatory say-on-pay in three European markets. The change from voluntary to mandatory say-on-pay will result in a significant increase in the number of compensation-related proposals in Belgium, Italy and Spain. We do not expect significant changes in other European markets that would affect the number of proposals we see during the course of the season.

Further, we find that regulators are focusing on compensation disclosure, particularly in markets where mandatory say-on-pay is arriving for the first time. Regulators in Italy, Spain and Belgium will introduce more stringent disclosure requirements, with particular emphasis on the disclosure of the various features of equity awards. Companies in these markets will also be required to disclose executive compensation on an individualized basis. Further, regulators are requiring companies to provide shareholders with the information necessary to identify the differences between current and proposed compensation guidelines. We believe such measures will serve to clarify what shareholders are actually approving at the meeting.

Following the recent global financial crisis, various authorities have directed significant attention to the reform of compensation policies at financial institutions in order to mitigate risk to relevant stakeholders. In October of this year, the Financial Stability Board published a report assessing the implementation of its Principles for Sound Compensation Practices. The Principles, which are meant to be applied across FSB jurisdictions, were developed by the FSB with the aim to align compensation with

prudent risk-taking, particularly at significant financial institutions. While the report found that there was a high adoption rate of the Principles among FSB jurisdictions, the report also found that much of the focus of supervisory and regulatory oversight is currently on the larger financial institutions. Notably, the report identified the principle recommending independent compensation committees as a low-hanging fruit and highlighted the importance of compensation disclosure as outlined by the Basel Committee, both issues which have been targeted recently by European regulators. In 2012, we expect regulatory authorities in European markets to begin more stringently enforcing requirements for financial institutions that require, notably: (i) deferral of a significant portion (typically 40%) of variable compensation; (ii) granting a portion of variable compensation in the form of equity; and (iii) clawback provisions for bonuses.

### CAPITAL REQUIREMENTS

At the international level, the Basel Committee on Banking Supervision (BCBS) established minimum standards regarding bank capital adequacy under Basel III which apply to all “internationally active banks” in G20 countries. The European Commission then unveiled a comprehensive new regulatory package in July 2011 which included a proposed new capital requirements directive (“CRD IV”) and associated regulation. Once in effect, this will make the EU the first jurisdiction to fully incorporate Basel III into binding European law. The final version is projected for completion in line with the implementation of new requirements under Basel III by January 1, 2013.

The proposed capital directive will replace the capital requirements directives (2006/48/EC and 2006/49/EC) currently in effect and requires implementation at the national level. However, the regulation component establishes prudential requirements which will take immediate effect in all EU member states.

Specifically, the package is aimed at strengthening the European banking sector, ensuring financial growth, and reducing the probability of another banking crisis. Measures to improve governance of financial institutions are included in the Commission’s proposal, addressing areas such as: (i) gender balance in board appointments; (ii) separation of chairman and CEO positions; (iii) establishment of remuneration and nominating committees; (iv) limit on board mandates; and (v) use of equity-linked or derivative instruments for senior executive variable remuneration. Another particularly significant aspect of the directive involves the capital adequacy requirements established by Basel III which will be phased in as of 2013. In the upcoming proxy season, we expect to see companies across Europe improving their corporate governance structures and increasing their capital adequacy ratios in anticipation of this deadline.

### BOARD DIVERSITY

After a series of recent legislative changes in a number of EU member states, Glass Lewis anticipates board diversity will be a clear focus of the 2012 European proxy season.

In a notable development, Belgium, France and Italy all passed legally-mandated gender quotas during the last year. The Belgian Commercial Law Committee enacted a measure in March 2011 that ensures women constitute at least 30% of the boards of publicly-listed companies moving forward. Similarly, France’s largest companies must reserve at least 40% of their boardrooms for women by 2017. Italian companies will be subject to a comparable quota; a recent law in that country established a goal of 30% by 2015.

While these three countries may lag behind their peers in Norway and Spain (diversity quotas have been in place in these EU member states since 2005 and 2007, respectively), others have yet to institute such legally-mandated quotas. Companies in Germany and the United Kingdom, for instance, have remained outspoken in their commitment to increase board diversity but insist that flexible, voluntary quotas

better fit their needs. Critics in these countries often express concerns that strict quotas would inevitably force companies to nominate or appoint less-qualified candidates. Currently, about 9% of the board-level positions in Germany and the UK are held by women. This may be an indication that commitment alone will not suffice to bring about the desired results. However, all companies in Germany's DAX30 and a growing number of companies in the UK's FTSE 100 indices have recently made commitments to target specific quotas for female representation on the board over the next few years. Dutch companies are currently subject to a flexible quota, though compliance has been limited. Nevertheless, we expect that the growing tide of appointments of women in these markets seen in the past year will certainly continue, if not increase, in 2012.

As discussions of the necessity and institution of legally-mandated gender quotas continue in Europe, shareholders can expect this topic to play a central role in the upcoming proxy season. Glass Lewis believes the developments in 2011 are a clear indication that board diversity will continue to be an area of intense interest in the years to come.

#### COUNTRY-BY-COUNTRY DEVELOPMENTS

Below, we have provided a country-by-country snapshot of significant internal developments. Where the changes expected in a market align with the issues discussed above, we have not provided separate commentary.

##### AUSTRIA

The Austrian Code of Corporate Governance ("Kodex") was updated and republished on January 1, 2012, though the changes have been few. Perhaps most interestingly, the Kodex now recommends that companies take appropriate consideration of the age, sex and nationality of supervisory board members. While the addition of this rather vague recommendation to the Kodex represents a much less specific approach to improving board diversity than that of many of Austria's EU-counterparts, this step is another clear indication that board diversity is promising to be one of 2012's hot-button issues in the sphere of European corporate governance.

Another noteworthy development to the Kodex involves the addition of a number of recommendations and legal stipulations aimed at companies' audit committees. These changes are geared toward improving the dialogue and accountability of audit committees and supervisory boards with respect to the outcome and presentation of year-end reviews.

##### BELGIUM

The Law on the Reinforcement of Corporate Governance in Listed Companies of April 2010 (the "Law") introduced a number of rules regarding executive compensation, one of which was the requirement for companies to submit their remuneration report to shareholders for a non-binding vote on an annual basis. Because this requirement applied only to fiscal years opening after the publication of the law, the 2012 season will be the first one in which shareholders can vote on the compensation practices of all companies. This first say-on-pay vote will undoubtedly be a central focus of the 2012 proxy season in Belgium.

The Law will also certainly lead to vastly improved disclosure of executive remuneration policies. It requires that every company publish a remuneration report that presents, among other elements: (i) the company's procedures for developing its remuneration policy and determining individual remuneration; (ii) the compensation paid to the CEO on an individual basis, and to the rest of the executive team as a whole; (iii) the number and terms of all equity-based awards that were granted or exercised, or that expired, during the previous fiscal year; (iv) any significant changes in executive compensation compared to the previous year; (v) the terms of all severance agreements from which executives could

benefit; (vi) a justification for every severance indemnity disbursed in the previous fiscal year; and (vii) the existence of claw back provisions for the variable compensation of executives.

While the shareholder vote on the remuneration report remains non-binding, the Law also mandates that companies submit specific elements of executive compensation to shareholders for a binding vote. Under the terms of the Law, unless shareholders provide their express approval, companies may not distribute performance-based compensation to non-executive directors, grant equity-based awards with vesting periods of less than 3 years, or implement severance agreements exceeding 12 months (or 18 months, following a reasoned opinion of the remuneration committee). Similarly, if an executive's variable compensation exceeds one quarter of total compensation, one quarter of the variable compensation must be evaluated over at least two years and another quarter over at least three years, unless shareholders explicitly approve shorter performance periods. While these rules were already in effect in 2011, we expect to continue seeing a large number of such proposals this year, as companies submit new compensation packages for shareholder approval.

Another important legal development in Belgium was the introduction of quotas for female representation on boards of directors. Pursuant to a law dated July 28, 2011, at least one third of directors will have to be of a different gender than the other board members by 2017. If this ratio is not met, the payment of director fees will be suspended, and any nomination of a director of the overrepresented gender will be considered null and void. As a result, although companies have several years to comply, we anticipate a significant increase in the number of female nominees during the 2012 season.

##### DENMARK

The Danish Corporate Governance Recommendations were revised in 2010, in order to reflect changes in: (i) the Danish Companies Act; (ii) the Financial Statements Act and the Act on Approved Auditors and Audit Firms; as well as (iii) the EU Commission recommendations, including those regarding remuneration of members of the governing bodies of listed companies.

During the past season, these revisions resulted in improved disclosure of companies' executive compensation--most notably that of individual executives. Further, as the revised Recommendations provide more specified requirements for variable components included in the compensation guidelines, the links between compensation, expected risks and value creation for shareholders have become more visible to shareholders. We believe that this trend of improved company disclosure will continue during the 2012 season.

The second-stage revisions of the Danish Companies Act became effective during 2011. These changes, by providing a new procedure for capital reductions and setting a new legal minimum share capital, have a less direct effect on local corporate governance. However, as a part of the renewal, the Danish Business Authority is establishing a shareholder register and company disclosure system, which allows company disclosures without publishing them separately in the Danish Official Gazettes.

##### FINLAND

Recent corporate governance related public discussion in Finland has focused on the issue of board diversity. The most debated question of this discussion has been the necessity of mandatory minimum limits for the representation of both sexes serving on company boards. We believe this discussion will have an effect on the election of directors in Finland during the 2012 season. However, we note that currently, boards of Finnish companies consist of a higher number of female directors than on average in Europe. Therefore, we do not expect drastic one-time changes in the composition of boards during this season.

A high-profile price-fixing case among three of Finland's largest companies will likely continue to be of interest to shareholders in the upcoming proxy season. In 2009, the Finnish Market Court reached a verdict on the alleged price-fixing and collusion agreement between three large Finnish paper and pulp companies, UPM-Kymmene Oyj, Metsäliitto Cooperative and Stora-Enso Oyj. The court found that the companies violated antitrust laws from 1997 to 2004 by sharing price information and fixing prices for timber. Over 1000 individual forest owners, 35 municipalities, as well as the Finnish government are currently seeking damages, which total over €350 million. Legal compensation processes and related complaints are estimated to run all the way to 2013.

The cartel verdict and following legal processes spurred public discussion on the relationship of paper and pulp companies and forest owners. It has been suggested that upcoming legal, forest management related, negotiations between the forest companies and the Central Union of Agricultural Producers and Forest Owners ("MTK") have negatively affected the position of forest owners. We anticipate that this issue will have material effects on the shareholder meetings of large Finnish pulp and paper companies during the 2012 season. Interested shareholders should watch these meetings closely for the possibility of shareholder proposals regarding environmental issues or the ongoing effects of the cartel ruling.

Finally, the Finnish Shareholders Association initiated several shareholder proposals in 2011 that sought to abolish the supervisory boards in seven Finnish listed companies. The association believes that the supervisory boards of the Finnish publicly traded companies are acting contrary to shareholder interests. Glass Lewis supported these proposals in cases, where the supervisory boards: (i) did not allow shareholders to elect the board of directors directly; (ii) clearly failed to act as an appropriate avenue for shareholder involvement in the company's governance; or (iii) failed to implement best practices established by the Finnish Corporate Governance Code. We anticipate that shareholder proposals seeking the abolition of supervisory boards will continue in 2012, especially at companies where the proposal was presented but not approved during the past season.

## FRANCE

In France, there were few legal developments in the past year that are likely to have a significant impact on the 2012 proxy season. Nevertheless, several market trends and controversies at past general meetings will certainly be the subject of specific shareholder scrutiny in the coming year.

One important trend that emerged in 2011 was a modification in how a number of companies structure the approval of related party transactions at their general meetings and, arguably, a consequential reduction in the ability of shareholders to voice their concerns on certain transactions. In France, related party transactions are reviewed by a company's independent auditors, who prepare a report presenting new transactions (i.e., those entered into during the last fiscal year), and ongoing transactions (i.e., those approved by shareholders at previous annual meetings and still in effect during the previous fiscal year). Until 2011, companies submitted both new and ongoing transactions for shareholder approval, either in one global proposal, or in separate proposals; when there were no related party transactions, approval of the auditors' report was nevertheless the object of a separate proposal. In 2011, however, a number of companies only submitted new transactions to a shareholder vote; in some instances where there were no new transactions, the meeting agenda did not have any proposal that allowed for the approval of related party transactions. Although Glass Lewis only bases its voting recommendations on new transactions, we expect a growing number of shareholders to voice concerns, including through a vote against directors or ratification proposals, when a company fails to submit the entire auditor's report on related party transactions to shareholder vote.

We also expect several controversies from past shareholder meetings to come up again during the 2012 proxy season. One issue that arose at a number of meetings was the inability of minority shareholders to add items to meeting agendas: at Total's 2011 general meeting, PhiTrust Active Investors unsuccessfully attempted to submit a resolution to obtain better disclosure of Total's oil sands operations; at Société Générale's 2010 general meeting, PhiTrust Active Investors failed to add a proposal to allow shareholders to vote on the combination of the chairman and CEO positions. At both of these companies, the concerns that motivated the efforts to submit shareholder resolutions have not been resolved; we therefore expect to see continued investor scrutiny, and possibly renewed engagement, at these companies' meetings. Although investor Guy Wyser-Pratte successfully included two resolutions on the agenda of Lagardère's 2010 meeting, he has publicly contested the exactitude of the vote results provided by the Company, and petitioned the AMF to look into the matter.

The three cases above illustrate the difficulties that shareholders in France have faced when seeking to add resolutions to meeting agendas, even in situations where the legal threshold was met. In May 2011, the AMF launched a working group to evaluate the organization of general meetings in France. The group's conclusions are expected in early 2012, and although the specific subjects they will address remain uncertain, they could concern the incorporation of abstain votes in France, modifications to the thresholds for submitting shareholder resolutions, or modified disclosure of regulated agreements. Thus, the impact of these shareholder engagement initiatives may ultimately be primarily regulatory, although it is unlikely that any change will affect the 2012 season.

## GERMANY

As is the case in other EU countries, we expect board diversity to be a chief area of concern during Germany's 2012 proxy season. The country's 30 largest and most liquid publicly-listed companies announced targets for increasing the percentage of women serving on supervisory and management boards in October 2011, ending over six months of public debate on the subject. In an effort to achieve an 'appropriate' level of female representation, as the German Corporate Governance Code has described it, DAX30 companies have proposed individual targets and plan to fulfill their goals (typically a 30% quota) in accordance with varying timelines. Perhaps as a sign of things to come, a shareholder proposal at Siemens' January 2012 annual meeting requests the institution of legal quotas rather than the currently-used voluntary ones. Glass Lewis expects the dialogue on this subject to continue in the coming year.

As in recent years, executive compensation will again be a leading issue for shareholders of German companies in 2012, though the number of compensation policies that will be proposed for shareholder approval in the upcoming season remains unclear. While over 40% of German companies had say-on-pay votes in 2010, only 26% did so in 2011. Similarly, while nearly every DAX30 company had a say-on-pay vote in 2010, less than half proposed policies for approval in 2011. Glass Lewis attributes this decrease to the relative nascence of such advisory votes in Germany. We anticipate particular scrutiny to be focused on Deutsche Bank in the upcoming season. The Company received significant shareholder disapproval of its compensation policy in 2010 and failed to present shareholders with a consultative vote again in 2011.

The German finance-giant has been making waves elsewhere in the corporate governance world as well. Deutsche Bank recently abandoned its plans to name CEO Josef Ackermann as its new supervisory board chairman. A lack of shareholder support may have changed the Bank's decision to proceed with a move that clearly violates good governance recommendations. In our view, this change of plans is evidence that German companies are being held to ever-higher standards, a theme we expect to see furthered in the 2012 proxy season. Nevertheless, Deutsche Bank does not appear to have engaged

in much public debate with shareholders on the topic, seemingly still following old habits of making important decisions without sufficient input from all shareholders.

Shareholders will certainly be closely following Deutsche Börse's planned merger with NYSE Euronext. The merger, which has already made significant progress since the initial agreement was signed in February 2011, may be blocked by European antitrust regulators. As the companies prepare to respond to the possible failure of the plan, we expect that shareholders will be carefully evaluating Deutsche Börse and NYSE Euronext's next steps. Similarly, Deutsche Telekom's shareholders will also be closely following the telecom giant's next move after its failed attempt to sell T-Mobile USA to AT&T in 2011, a plan that was scuttled by US antitrust authorities. The sale, or potential for a sale, has been a topic of contention for some of Deutsche Telekom's shareholders for years. The Company is now in the position of trying to make important strategic decisions regarding the T-Mobile unit's future that will make shareholders happy. We expect to see this issue featured prominently during and leading up to the 2012 annual meeting.

#### GREECE

During the 2012 proxy season, Greek companies will continue to implement the Shareholder Rights' Directive which was recently incorporated into Greek company law. In addition, the first Greek "comply or explain" corporate governance code was finalized by the SEV Hellenic Federation of Enterprises on March 24, 2011, and it addresses areas such as remuneration policy, board committees, and independence criteria. We expect to see more substantial conformity with the amended law and code in the upcoming season, as reflected in improved disclosure and amended articles of association. We view these legal changes and governance recommendations to be a positive step in aligning Greek company policy with the procedures established in other continental European countries.

Also of particular note, in light of the current debt crisis, the Greek state has established a plan in consultation with authorities from the ECB and IMF which involves the swapping of government bonds in order to privatize some of the nation's debt burden. In the upcoming season we expect to see Greek companies restructuring their debt and equity in order to mitigate the crisis facing the country as a whole.

#### IRELAND

Significant progress was made in 2011 toward restructuring the Irish economy; however, these developments were largely painful for investors and particularly subordinated bondholders, who saw losses of up to €6 billion under forced recapitalizations. Irish Nationwide and Anglo Irish Bank have been merged and will be wound down. The EBS building society has been merged with Allied Irish Banks, which along with Bank of Ireland, will form two "pillar" banks. Bank of Ireland avoided nationalization after the government sold its 35% shareholding to private investors for €1.1 billion in July. The fate of Irish Life & Permanent, which is over 99% government owned, remains uncertain as the euro crisis has complicated plans to sell the Irish Life business.

Irish companies generally remain subject to UK governance standards. However, in conjunction with the new UK Corporate Governance Code (the "UK Code"), the Irish Stock Exchange introduced the Irish Corporate Governance Annex (the "Annex") in late 2010. While compliance with the UK Code remains low, the Annex appears to have achieved its goal of encouraging more specific explanations in areas of non-compliance, and reducing boilerplate disclosure in that regard.

In addition, governance codes were released with respect to two specific types of entities. In October, the Central Bank of Ireland ("Central Bank") issued its Corporate Governance Code for Captive Insurance

and Reinsurance Undertakings; and in December, the Irish Funds Industry Association ("IFIA") released a voluntary Corporate Governance Code for Collective Investment Schemes and Management Companies (the "CIS Code"). The CIS Code, which was developed at the request of the Central Bank of Ireland, became effective for financial periods commencing on or after January 1, 2012, with a twelve month transitional period. The Central Bank is expected to complete an analysis of compliance in 18 months, and may choose to compulsorily apply the Code at that time.

In April, the ISE issued a consultation paper regarding potential revisions to the listing regime to improve harmony with the recently revised UK listing regime. In particular, the ISE reviewed the introduction of "Premium" and "Standard" listings, whereby premium-listed companies would be required to comply with the UK Code and Annex, and standard-listed companies would only be required to comply with minimum standards outlined in EU Directives.

#### ITALY

In Italy, substantial changes have recently been made to the Consolidated Law on Finance regarding compensation and board diversity. In the past, only Italian banks and financial institutions were legally required to submit remuneration reports to shareholders; however, during the 2012 proxy season, all Italian companies will be subject to new requirements. Italian companies must now submit a remuneration report divided into the following two parts: (i) a section providing information regarding the proposed remuneration policy to be implemented in the next fiscal year; and, (ii) a section detailing the remuneration policy applied during the past fiscal year. Shareholders will vote annually to approve the first section with a non-binding resolution. However, for banks and insurance companies, the shareholder vote is binding in accordance with the relevant rules. Specifically, the first section must disclose certain aspects of the new policy, such as intended beneficiaries, proposed rationale, performance considerations, as well as any changes made in relation to previous policies. The second section on the past remuneration policy will be subdivided into the following two categories: (i) components of past remuneration in general; and, (ii) an analytical illustration of the amounts paid by the company and/or its subsidiaries during the last fiscal year.

Furthermore, the Consolidated Law on Finance has been amended to enact a quota system of gender diversity on boards to go into effect in August 2012. The law will require that at least one-third of all boards be composed of female directors; however, there will be a transitional provision which reduces this requirement to one-fifth of the board for the first elected term of up to three years. There is the possibility that some companies may incorporate this gender diversity in the upcoming season, in anticipation of the August 2012 deadline. However, in practicality, we expect that Italian companies will not introduce this quota system until their first board elections in the 2013 proxy season.

#### NETHERLANDS

While we do not expect widespread corporate governance changes in the Netherlands in the coming year, a few notable legal changes may affect a number of companies' general meetings in 2012. Enacted on June 6, 2011, by Royal Decree and effective January 1, 2012, publicly traded companies in the Netherlands will be allowed to migrate to a one-tier board structure, following shareholder approval. Previously, only large multinationals such as Unilever were not specifically required to have a one-tier board. The law was changed in order to provide clarity, and to potentially attract foreign investment looking for an "Anglo-style" one-tier board. It is not clear how many companies will change to a one-tier board structure. However, given the long-standing tradition of having very independent all non-executive supervisory boards in the Netherlands, some companies choosing to change to a one-tier board may

face significant opposition from shareholders should they fail to provide adequate protection against the potential for conflicts of interest on the board.

In the same decree, a comply-or-explain principle was included regarding gender diversity on publicly traded company boards. By 2015, if a Dutch company does not have a board composed of at least 30% men and 30% women, it will be required to issue an explanation on the matter. While companies still have several years to comply, we believe many will likely seek to increase board diversity in 2012.

#### NORWAY

On October 20, 2011, the Norwegian Corporate Governance Code was amended by: (i) harmonizing it with the Accounting Act, which stipulates that the board of directors must provide a report on the company's corporate governance; (ii) including a clarification on the comply or explain principle; (iii) making the needed amendments to follow the changed Issuer Rules for Oslo Børs regarding the public disclosure of the corporate governance report and the composition of the board of directors; and (iv) amending it to reflect the changes of the Stock Exchange Regulations regarding the audit committee and its composition.

The amendments aim to improve reporting and disclosure on the corporate governance of Norwegian companies and to clarify the position of the audit committee. They also stipulate that two members of the board must be independent of the company, material business contacts and major shareholders. The changes are likely to unify corporate governance practices in Norway that have traditionally been more heterogeneous than in neighboring countries Sweden and Finland.

#### POLAND

In Poland, we do not expect any significant corporate governance changes to affect the 2012 proxy season; however, one small change to disclosure requirements bears mentioning. While shareholders will still have to contend with inconsistent disclosure of some important issues, such as board independence, disclosure regarding board diversity should improve. According to Resolution No. 20/1287/2011, passed October 19, 2011, companies will be required at the end of the fiscal year to disclose the gender ratio of the board for the past two years. This should help shareholders more precisely identify companies' compliance with a very general recommendation, added to the Code of Best Practice for WSE Listed Companies ("Code") in 2010, encouraging companies to ensure a balanced composition for boards between men and women.

In addition, we believe that shareholders will continue to note the Polish government's divestment of portions of its equity stakes in government-controlled entities. During the 2011 proxy season, several companies attempted to prepare for a government divestment by including anti-takeover provisions in their articles of association. We expect to see more of this type of proposal in the coming proxy season.

#### PORTUGAL

As part of Portugal's €78 billion bail-out package, in July, 2011 the Portuguese government abolished the "golden shares" it held in state-owned companies including Galp Energia, Energias de Portugal and Portugal Telecom. Golden shares allowed the government to maintain a degree of control over privatized companies and most notoriously allowed the government to exercise veto rights regarding strategic decisions such as takeovers and acquisitions. Now, all shareholders - individual, institutional, governmental or otherwise - have equal voting rights. The elimination of golden shares, along with the proposed regulation of the Comissão do Mercado de Valores Mobiliários ("CMVM") to suspend restrictions on the transfer of shares and remove limits on shareholder voting rights during takeover bids paves the way for full privatization of state owned companies. Shareholders can expect to see a significant increase in M&A activity in Portugal during the 2012 proxy season.

No additional noteworthy developments pertaining to Portuguese corporate governance or the say-on-pay framework occurred over the course of 2011 that will significantly impact the 2012 proxy season. However, despite further guidance from the CMVM regarding remuneration content and disclosure, we expect an increase in favorable recommendations for say-on-pay proposals in respect of the 2012 proxy season, in line with our historical three-year positive trend.

#### SPAIN

For the 2012 proxy season, we expect that say-on-pay, overall transparency and corporate responsibility will be leading issues for shareholders as companies attempt to comply with the LES, which came into effect in March 2011. The LES, among other things: (i) requires listed companies to explicitly disclose the independence classifications of directors; (ii) introduces a stricter definition of director independence; (iii) requires companies to submit an annual remuneration report for shareholder approval; and (iv) will outline the structure and content of companies' corporate governance and remuneration reports once finalized by the Ministry of Finance and Economy and the CNMV.

Until the proposed templates for the aforementioned reports are implemented, companies will be required to submit an addendum incorporating the corporate governance provisions mandated by the LES which are not provided for in the current format of the corporate governance report. Further, companies will be required to submit a complete, clear and comprehensible remuneration report, including a discussion of remuneration policy for the most recently completed year and future years, as well as disclosure of individual remuneration. However, companies will not yet be required to disclose this information in a more detailed or standardized structure or format. Since the CNMV has not indicated when the new report formats will be finalized, we can expect remuneration report disclosure to vary significantly among Spanish companies during the 2012 proxy season.

In the wake of the recent economic crisis which showcased serious flaws in risk controls within the financial sector, Spain responded with a set of reforms in line with the Financial Stability Board/G-20 recommendations and with the European Capital Requirements Directive. Pursuant to Royal Decree 771/2011 implemented in June 2011, the remuneration policies of financial institutions must not encourage excessive risk taking and they must be in line with a company's business strategy, goals, values and long-term interests. Among the key provisions are: (i) a balance of fixed and variable compensation; (ii) delivery of half of variable remuneration in shares or other equity instruments; (iii) the deferment of between 40% and 60% of variable compensation for at least three years; and (iv) claw-back mechanisms.

The 2012 proxy season will bring votes on the remuneration policies of Spain's troubled savings banks and other financial institutions. Shareholders of the newly minted mega-savings banks Bankia and Banca Civica, which had their IPOs in July of 2011 (La Caixa, Spain's largest savings bank and third largest bank by deposits shelved its IPO), will have their first look into the pay practices of these institutions in 2012.

With respect to capital authorities, best practice in Spain, although not clearly indicated in any codified recommendations, implies that authorizations to issue shares without preemptive rights should be limited to 20% of a company's issued share capital. As such, for the 2012 proxy season, we may recommend voting against an authority to issue shares and/or convertible securities if the board will be granted the authority to issue shares without preemptive rights in excess of 20% of a company's share capital or if it does not clearly limit share issuances without preemptive rights to 20%. However, we will consider each authority on a case-by-case basis, taking into account a company's rationale for exceeding the aforementioned limit and whether a company has a history of issuing shares without preemptive rights. As a result of our stricter policy on share issuances without preemptive rights, we expect to see an increase in the number of "against" recommendations for these proposals.

In August 2011, the Ley de Sociedades de Capital (“LSC”) was partially reformed for the full implementation of Directive 2007/36/EC (“Shareholder Rights Directive”). During the 2012 proxy season, we expect to see an increased number of proposals to amend companies’ articles of association to incorporate the aforementioned changes. As a result of these developments, we expect better disclosure from Spanish companies across the board. However, we are concerned with the ability of companies to call extraordinary general meetings (“EGMs”) within 15-days, a decrease from the previous 21 notice period. We do not believe that 15 days is sufficient for shareholders to receive a ballot, weigh the issues and vote. Further, issues at EGMs are by nature often more complex than routine annual general meeting proposals and require a deeper and more time-consuming review. Electronic communication may mitigate the negative aspects of a shortened notice period, but we think not enough to provide shareholders with sufficient time to adequately review EGM proposals. For the 2012 proxy season, we will recommend voting against any reduction in the notice period, whether bundled with other amendments, or on a stand-alone basis.

## SWEDEN

During 2011, banks and financial institutions had a central role in Swedish corporate governance discussions. The shareholder meetings of Investor AB and Investment AB Öresund drew attention to the topic of the investment company discount in publicly-traded investment companies. This discussion, initiated by Thomas Hjelmström’s thesis “The Closed-End Investment Company Premium Puzzle” (Stockholm School of Economics), led to shareholder proposals aiming to delist or split investment companies, in order to decrease the discount. Further, risk management of the Swedish financial institutions garnered public attention -- most notably due to the failure of HQ AB.

We expect that themes related to financial companies will arise during the upcoming season as well.

On January 2, 2012, Dagens Industry reported that the Swedish Financial Supervisory Authority (“SFSA”), in its letter to the Ministry of Finance, stated its worry regarding major shareholders serving as the chairmen of financial company boards. SFSA notes that the shareholdings of the chairmen may endanger their independence, and suggests that the Ministry of Finance initiate a legal change that would establish an “absolute requirement” for the independence of a chairman, in order to create stronger boards. We do not believe these legal changes would take place during the 2012 season, but we note that this discussion may affect the election of directors at financial companies -- most notably in Nordea AB and Skandinaviska Enskilda Banken AB.

On December 7, 2011, SFSA issued a comment to Nordea regarding deficiencies in its bonus structure that was accompanied by a fine of SEK 3.0 million. Further, the compensation and perks of the Company’s CEO, especially his housing benefits, have been discussed in the Nordic press at some length. We believe shareholders should look especially closely at Nordea’s compensation guidelines proposed at the 2012 annual meeting. Finally, Fredrik Reinfeldt, prime minister, has questioned Nordea Bank AB’s 15% ROE target for the fiscal year by suspecting that this target might be an indication of unhealthy competition in the Nordic industry. We will be monitoring whether any further action on this topic may affect shareholders in 2012.

## SWITZERLAND

As in 2010 and 2011, we expect shareholders in Switzerland to focus much of their interest on the issues surrounding executive compensation in the upcoming proxy season. After receiving widespread disapproval of their compensation practices in 2010, both UBS AG and Credit Suisse AG, Switzerland’s two largest banks, updated their compensation plans and again submitted them for shareholder approval. During the 2011 proxy season, shareholders voiced their dissatisfaction with those companies’ plans for the second time. Over 32% and 23% of the companies’ share capital voted against the updated

compensation policies of UBS and Credit Suisse, respectively. We anticipate this ongoing dialogue to continue as shareholders insist their compensation concerns be addressed. As of yet, it remains to be seen how exactly the two banking-Goliaths will respond in 2012.

The 2012 Swiss proxy season will not feature substantial legal or procedural departures from the previous year regarding compensation-related issues. The Minder Initiative, a grassroots campaign aimed at hedging executive compensation, appears to be lacking forward progress. While the Swiss Federal Assembly promised a response to Mr. Minder’s initiative, the years-long standstill persists. If approved, legislation would require binding say-on-pay votes and would also substantially limit boards’ flexibility to determine compensation. The assembly is currently working on a less severe counterproposal, though it would presumably also carry the possibility to greatly expand shareholders’ powers in 2012 and beyond. Nevertheless, as in previous years, we expect an increase in say on pay as companies prepare for the eventual implementation of rules on the subject and respond to ongoing shareholder pressure to increase transparency and hold annual say-on-pay votes.

Under Basel III, the Basel Committee on Banking Supervision established minimum standards regarding capital requirements for all internationally active banks in G20 countries, which Swiss regulatory authorities have recently adopted. Notably, however, Swiss regulators have set higher capital requirements--Tier 1 Capital of 10%--for UBS and Credit Suisse. As Swiss regulators continue to work with these two companies, along with other financial institutions, to improve capital adequacy ratios and reduce risk exposure, shareholders of these companies may have a chance to weigh in on related capital proposals in the season to come.

## UNITED KINGDOM

While no major changes are expected for the 2012 proxy season, the debate surrounding governance and remuneration issues remains active in the UK, particularly with regard to financial institutions.

The prime minister, David Cameron, stepped into the fray recently in calling for remuneration report voting to be made binding. While annual say-on-pay votes have been held for nearly a decade in the UK, they have been strictly non-binding, advisory votes up to this point. Legislation is expected this spring; however, the prime minister did not disclose details of how binding remuneration votes would work in practice. Concerns have been raised regarding the legal practicalities of a failed proposal, and the implications on voting practices. Investors who have used advisory votes as a means of registering discontent and sparking engagement may be less likely to voice their opposition if a failed vote would create a serious distraction for the board and management.

Increased investor responsibilities may not be limited to approving executive pay following a recent victory for the Serious Fraud Office (the “SFO”). In January, the SFO won a civil recovery order against the principal shareholder of a private company convicted of corruption, forcing it to repay previously received dividends. While such action has not been taken in relation to publicly listed entities, the SFO stated that it is willing to use civil recovery procedures to pursue shareholders for dividends previously paid by public companies engaged in illegal activity. The director of the SFO, Richard Alderman, stated that “Where issues arise, we will be much less sympathetic to institutional investors whose due diligence has clearly been lax...” (<http://www.sfo.gov.uk/press-room/latest-press-releases/press-releases-2012/shareholder-agrees-civil-recovery-by-sfo-in-mabey--johnson.aspx>). This comes just weeks after reports that the U.S. justice department is preparing criminal charges against BP plc in relation to the Deepwater Horizon explosion.

The Financial Services Authority (“FSA”) recently published an extensive report on the 2008 failure of the Royal Bank of Scotland (“RBS”), which listed “underlying deficiencies in RBS management, governance and culture” and inadequate oversight of the 2007 ABN AMRO acquisition as key factors in the collapse.

Although no action will be taken against individual executives or directors, the FSA made suggestions for increased accountability going forward. These include changing the law to hold executives and directors of failed banking institutions “strictly liable” for their actions, or setting pre-established clawbacks on remuneration and even pension. In addition, the FSA called for increased regulation of banking institutions, including a requirement for formal FSA approval of any major bank acquisitions, and a ban on success fees for advisers working on such acquisitions.

In addition, in December 2011, the Financial Reporting Council (“FRC”) released a progress report on the UK Corporate Governance Code (“UK Code”) and Stewardship Code for institutional investors, which were introduced in summer 2010. In assessing their implementation, the FRC reasserted support for the “comply or explain” model underlying each code, rejecting calls for a stricter policy in line with European requirements. However, the FRC highlighted audit committee reporting as an area where it would consider further amendments to improve disclosure. The report also confirmed a revision to the UK Code to include board diversity as one of the factors to be considered in relation to overall board effectiveness, and requiring companies to report on their board-level diversity policy annually with effect from October 1, 2012. However, in line with the “comply or explain” model, no formal diversity targets have been introduced.

Annual director reelections are now the recommended standard for FTSE 350 companies under the UK Code, which will apply to all issuers for 2012. We saw widespread adoption of this practice in 2011 throughout the FTSE 350, and voluntary compliance from some smaller All-Share companies as well. We expect almost all FTSE 350 companies to comply with this provision, and will scrutinize companies that have serious governance issues that shareholders are unable to address due to staggered boards.

## ASIA

### OVERVIEW

While there were some notable scandals that came to light in the past year, such as Olympus in Japan and SK in Korea, overall, Asian markets have shown improvements in their corporate governance standards and regulatory framework.

Lawmakers in the majority of the major Asian markets have been striving to promote efficient and transparent corporate regulations. Among others, the following are intended to attract more attention from international investors: (i) the proposed revision of the Companies Act and re-examination of listing rules in Japan; (ii) the adoption of corporate governance rules at financial firms in Korea; (iii) regulations governing remuneration committees in Taiwan; and (iv) potential amendments to the Companies Act, listing rules and code of corporate governance in Singapore. Recent regulations and recommendations in each market are likely to affect companies listed on Asian markets during the upcoming proxy season.

### CHINA

Under the auspices of the China Securities Regulatory Commission (“CSRC”), Chinese corporate governance has shown considerable improvements in oversight and disclosure in recent years. In 2011, no significant developments occurred in the regulatory areas in relation to corporate governance. While most of our policies will remain the same as in 2011, we will continue to keep an eye on issues related to boards of directors and supervisors, particularly independence and transparency, new share issuances, financial transactions, and compensation.

Related party transactions will remain a significant item subject to shareholder scrutiny in 2012. We generally approve of related party transactions that fall within a company’s regular course of business, provided that the terms are fair and reasonable and that they are supported by the special reports of independent directors. More and more large Chinese companies commonly establish financial arms, known as “non-bank financial institutions,” in order to centralize treasury-management operations and bring convenience to the group during financial transactions. Although many Chinese companies have recently started to strengthen the risk controls related to these transactions, considering the nature and extent of the financial services provided by these financial arms, we are still concerned that this practice may expose shareholders of a listed company to undisclosed risks. Thus, absent a compelling economic rationale and effective risk management, we generally do not support financial services transactions within a group.

In recent years, we have found that the number of Chinese companies dual-listed in China and Hong Kong keeps increasing. When we come across such dual-listed Chinese companies, we scrutinize their corporate governance under the laws, regulations and policies applicable to both listing jurisdictions. Where there are differences between Hong Kong and Chinese policies, in general, we apply Hong Kong policies, which more strictly protect shareholder value.

### HONG KONG

While Hong Kong listing rules allow companies to issue shares representing up to 20% of the total issued share capital without preemptive rights at a discount of up to 20% (the “General Mandate”),

beginning in the 2011 proxy season, our guidelines seek a 10% issue limit and 15% discount limit on the General Mandate.

We believe that the authorization of the board to issue shares amounting to up to 20% of the share capital is a dangerously high level of discretion over a company's capital structure, which may negatively affect shareholders' interests; therefore, Glass Lewis intends to maintain the above thresholds on the General Mandate for 2012.

During the 2011 proxy season, we were encouraged to see that Hong Kong Exchanges and Clearing Limited ("HKEx") sought its first General Mandate since 2004, proposing a 5% issuance limit and a maximum 5% discount. We believe that the example set by HKEx, the controlling shareholder of The Stock Exchange of Hong Kong Ltd ("SEHK"), which is in charge of the listing rules, will lead to positive changes in the General Mandate provisions of all other listed issuers in Hong Kong.

Pursuant to the "Consultation Conclusions on Acceptance of Mainland Accounting and Auditing Standards and Mainland Audit Firms for Mainland Incorporated Companies Listed in Hong Kong" issued by the SEHK in December 2010, and the related amendments to the listing rules, HKEx allows Mainland incorporated issuers to prepare their financial statements using mainland accounting standards. Also, mainland accounting firms that have been approved by the Ministry of Finance of the PRC and the China Securities Regulatory Commission are eligible to provide auditing services using mainland auditing standards. We therefore anticipate that many more mainland incorporated companies in Hong Kong will adopt mainland accounting standards in 2012 given that such standards may increase market efficiency and reduce compliance costs. Mainland accounting standards are very similar with the widely recognized International Financial Reporting Standards ("IFRS") so we do not believe accepting mainland accounting standards and mainland auditors will impact the quality of a company's accounts and audit process. However, we will continue to make note of this issue.

## JAPAN

As a result of the financial scandals at Olympus Corporation and Daio Paper Corporation, the fairness and transparency of the Japanese financial market has once again come under global scrutiny. However, according to "CG Watch 2010," published in collaboration with the Asian Corporate Governance Association, Japan elevated its corporate governance standing in Asia from fifth to third place in 2010 by revamping its regulatory framework; the Financial Services Agency (FSA) mandating new disclosure rules on compensation, corporate governance structure, cross-shareholdings and voting results; and the Tokyo Stock Exchange (TSE) requiring the appointment of at least one independent member on the board of directors or statutory auditors.

Since the Democratic Party of Japan (DPJ) came into power in 2009, the Legislative Council, under the supervision of the Ministry of Justice, has been meeting to update the Companies Act, and in December of 2011, it released an interim proposal containing revisions to the Companies Act. The draft discusses the appointment of one or more outside directors, a new definition for the term "outsider" and the establishment of an audit and supervisory committee at companies with boards of statutory auditors. Additionally, the proposal covers the selection and dismissal of independent auditors, the protection of all shareholders (as opposed to just majority shareholders) by giving shareholders the right to vote on a third party allotment when it results in a change of control and the ability of shareholders of a parent company to hold directors of subsidiaries accountable. Other issues involve changes in corporate structures.

Subsequently, the TSE announced that it would reexamine its listing rules in an effort to clarify the definition of independence and the expected roles of independent directors and statutory auditors in order to strengthen their oversight capabilities. The revisions considered by the TSE also include

stimulating IPOs of small to medium companies to increase trading. It is worth noting that the TSE is slated to merge with the Osaka Stock Exchange, a transaction that is to be completed in 2013. This announcement followed recent news that the TSE lost its dominant spot in the Asian markets after the Shanghai Stock Exchange became the largest player late last year.

### DIRECTOR INDEPENDENCE AT CONTROLLED COMPANIES

In Japan, a majority of boards are comprised solely of inside directors. While some boards may have one or more outsiders in an effort to strengthen their oversight capability, the independence of these outside board members is often compromised due to the broad definition of the term outsider. In the past, Glass Lewis generally exempted controlled companies from having a minimum number of independent directors on their boards. However, we believe that minimal independence, even at controlled companies, is essential to ensure that minority shareholders' interests are protected and promoted. We therefore will begin requiring a minimum of two independent directors at controlled companies in 2012.

### COMPENSATION COMMITTEE COMPOSITION

We generally recommend shareholders vote against the election of CEOs who chair their compensation committee based on the belief that the committee should be unencumbered in its ability to ensure that CEO compensation reflects the company's performance, in addition to individual performance. We also believe that CEO compensation policies should be designed to maximize shareholder value. This oversight is likely more complicated and less rigorous when a CEO chairs the committee that determines his/her compensation. In addition, when top executives serve as members of the compensation committee, we believe that the chairman of this committee should be an outsider.

### RETIREMENT BONUSES

A majority of companies have already done away with the retirement bonus system, which is based on seniority rather than an individual's contribution or overall company performance. However, given the traditional practice of such payments, we expect that these proposals will continue to be put forward with some regularity for a shareholder vote. When granted, retirement bonuses make up a large portion of compensation for directors and statutory auditors and the amount of compensation is usually left to the discretion of the board of directors or board of statutory auditors. Most companies do not disclose the amounts paid out in retirement bonuses, and shareholders lack sufficient information to make an informed judgment on this issue. Furthermore, shareholders are extremely skeptical of outside board members receiving these bonuses, as evidenced by significant against votes on this type of proposal in 2010 and 2011. In 2012, we will recommend that shareholders vote against proposals that do not disclose the specific amounts awarded through these payments. If the amounts are disclosed, we will analyze these proposals on a case-by-case basis.

## KOREA

On December 15, 2011, the Financial Services Commission released notification of pending legislation entitled "The Governance Rules of Financial Institutions," which shall be implemented subject to the approval of the National Assembly.

If approved, the new governance rules will require financial firms to disclose relevant information and internal regulations with regard to CEO succession and appointment procedures, executive appointments and board operations.

The new requirements will not allow executives of a parent company to serve as independent directors on the boards of non-banking subsidiaries. In addition, the number of independent directors required

on a board will be changed from 50% or more of the board to a majority of the board for financial firms. Any director who previously held an executive position in a group of companies will not be eligible to be an independent director for three years, a threshold currently set at two years after their resignation. If these new rules become effective, we will apply a three-year look-back period for most relationships, including former service as an executive.

Pursuant to the proposed governance rules, it is recommended that financial institutions establish both a remuneration committee and a risk committee on the board. The remuneration committee should be charged with determining remuneration arrangements and the methods of compensation, and disclosure of an annual compensation report. The risk committee should serve to approve and review asset management and other transactions to avoid excessive risk exposure. In addition, boards should also have an independent director candidate nomination committee which shall be required to have a minimum of three members and shall no longer allow the participation of executive directors.

Korean lawmakers are also pushing for complete executive compensation disclosure at all listed companies, which will contribute to improving the Korean corporate governance structure and provide transparency into senior executives' salaries. Korean public companies are currently only required to disclose the total amount paid to all executives, not the individual amounts for each executive, therefore, we believe shareholders will benefit from detailed reports pertaining to executive compensation.

## SINGAPORE

In June 2011, the Ministry of Finance (MOF) published a consultation paper drafted by the steering committee, which had been reviewing the Companies Act in order to promote an efficient and transparent corporate regulatory framework. Key recommendations included: (i) extending conflict of interest disclosure requirements to CEOs; and (ii) allowing shareholders to appoint multiple proxies.

The Singapore Exchange Ltd. (SGX) also proposed amendments to its listing rules to enhance shareholder engagement by requiring companies to hold meetings in Singapore, mandating voting by poll and disclosing vote results. The most notable of these changes is the amendment to adopt voting by poll rather than the current system of voting by a show of hands. This amendment would end a system that separates the economic interests of shareholders from their voting rights since each shareholder is only entitled to one vote, regardless of his/her actual holding when voting by hand.

Further, in November 2011, the Monetary Authority of Singapore (MAS) issued a consultation paper on proposed revisions to the Code of Corporate Governance. In addition to recommending voting by poll and disclosing vote results, the paper recommended refining the definition of director independence, increasing the board independence threshold to half or a majority under certain circumstances, providing director training, placing a cap on multiple directorships, disclosing remuneration practices, discussing the company's remuneration policy and including full disclosure of the remuneration of each director and top executive on a name-by-name basis in company filings. It also highlighted the need to address risk management in light of corporate scandals in the last few years.

While the MOF and the SGX have not announced when the proposed revisions will take effect, the proposed revisions by the MAS to the Code are to take effect beginning in the financial year starting on or after July 1, 2012. As result, we expect to see changes taking place in the next few years.

## TAIWAN

While Taiwan's corporate governance regime lags international best practices in certain respects, last year was host to encouraging signs of progress.

According to the Financial Supervisory Commission of the Executive Yuan (FSC), Taiwanese companies showed progress in their implementation of independent directorships and audit committees. As of March 2011, 717 publicly traded companies, or 53% of the total, had incorporated independent directors onto their boards. Meanwhile, 58 publicly traded companies had established audit committees to oversee their financial affairs.

We are heartened by the increase in independent representation on Taiwanese companies' boards of directors, though we are concerned that their ability to contribute to effective corporate governance will be impaired pending wider adoption of audit committees in Taiwan. We also find that the enthusiasm for independent representation on the board of directors has not reached most supervisory boards. We will monitor this situation as 2012 progresses.

Another positive sign was the FSC's March 2011 promulgation of the Regulations Governing the Appointment and Exercise of Powers by the Remuneration Committee. The new regulations state that companies should establish remuneration committees to apply greater oversight to the compensation of directors, supervisors and executives. The new regulations will likely result in both additional oversight and amendment of many companies' governance documents. We will apply heightened scrutiny to companies' implementations of these new regulations.

Poor disclosure of information regarding candidates up for election as directors and supervisors was a major issue during the 2011 proxy season. The names and biographical information of directors and supervisors of Taiwanese companies are seldom released in time for thorough analysis and review, limiting the ability of shareholders to participate in the assembly of accountable and effective boards. In the absence of affirmative regulatory changes to encourage companies to the contrary, we have reason to believe the disclosure practices will remain a substantial concern for shareholders.

Beyond these board-related issues, we will pay considerable attention to amendments to articles and procedural rules, companies' dividend policies and the issuance of securities, as well as shareholder proposals during the coming proxy season. In keeping with recent trends, shareholders should benefit from increasing regulatory scrutiny applied to companies. We anticipate additional progress in the areas of transparency and accountability for the coming year.

## OVERVIEW

In 2011, Latin America was yet again divided in terms of corporate disclosure and best corporate governance practices between Brazil and the remaining markets in the region. We expect this trend in divergence to continue throughout 2012. The Brazilian securities regulator, *Comissão de Valores Mobiliários* (“CVM”), has continued to improve disclosure requirements for corporate governance and remuneration practices, bringing them more in line with those of more developed capital markets with high exposure to foreign capital. An increase in the amount of information disclosed to shareholders in advance of a general meeting means that foreign shareholders are able to take part in the management of Brazilian corporations alongside their Brazilian investor counterparts. For the rest of Latin America, local asset managers within driving distance of corporations’ headquarters will continue to dominate the scene. Further, we will continue to see companies with concentrated ownership dominated by families and company groups in Latin American countries outside of Brazil.

## COUNTRY-BY-COUNTRY DEVELOPMENTS

### BRAZIL

The reform of Brazil’s BM&FBOVESPA’s special listing segments was a noteworthy regulatory and corporate governance development in 2011. During 2012, we expect an increasing number of companies to migrate to the Novo Mercado listing segment, demonstrating the willingness of Brazilian companies to transform themselves from traditional, family-owned firms with limited free-float to first-class corporations capable of competing in the international capital market.

While Brazil has made important corporate governance advances over the past year, the most important of which are discussed in detail below, there is still much room for improvement with respect to remuneration and board disclosure. We note that 2011 marked the second year for mandatory say-on-pay in Brazil and was the first year that such a proposal was rejected by shareholders. In April, a majority of PDG Realty shareholders, dissatisfied with the level of disclosure with respect to maximum, minimum and average compensation paid to executives, voted against the Company’s remuneration policy. The policy was finally approved in late June but only after PDG agreed to fully disclose the remuneration paid to its CEO. During the 2012 proxy season, shareholders can expect more companies to fully comply with the minimum requirements of Instruction 480 regarding disclosure. Although the overall sentiment to increase corporate governance disclosure is promising, improvements with respect to board disclosure, if any, are undeterminable for the coming proxy season.

### Electronic Voting

In June 2011, the Brazilian government sanctioned Law No 14.431 (the “new law”) which, among other things, amends article 121 of Brazilian Companies Law 6.404/76. The new law allows shareholders to remotely participate in general meetings and exercise their voting rights electronically, in line with regulations enforced by the CMV. Shareholders will be able to vote online and express their opinions in real-time, eliminating the need to cast their votes in advance of a meeting. This will be particularly beneficial for minority and foreign shareholders in situations where minority candidates/representatives are brought forward the day of the meeting. Further, foreign shareholders may retire the need for tedious and costly powers of attorney and will have more time to review and consider management proposals.

In order to meet the demand for an electronic voting platform that is independent of issuers and maintains the confidentiality of shareholders’ votes, the Association of Investors in Capital Markets (“AMEC”) and the Brazilian Financial and Capital Market Entities Association (“ANBIMA”) have partnered to develop a virtual voting website. The proxy voting website seeks to create a setting that encourages minority shareholder participation.

While the CVM has yet to formulate the rules regarding electronic participation and voting, we expect them to be released this year. As shareholders become more aware of new tools available to them, we expect the growing trend in shareholder activism to continue through 2012.

### Take-Over Panel

In their current state, Brazil’s laws and regulations are not sufficiently capable of completely curbing abuses and dealing with all conflicts that arise from mergers and acquisitions. In partnership with Brazilian capital market institutions such as AMEC, ANBIMA and the Brazilian Institute of Corporate Governance (“IBGC”), the BM&FBOVESPA launched the Mergers and Acquisitions Commission (“CAF”) in early 2011. The CAF’s purpose is to check corporate reorganizations for compliance with principles of equity and ethics, monitoring and delimiting rules of conduct for operations involving transfer of control of listed companies, and supervising takeovers and mergers so that terms are transparent and equitable for all parties involved. In Brazil, takeover bids and mergers are a frequent cause for disputes between majority and minority shareholders, primarily due to the unequal treatment of minority shareholders where exchange ratios are indubitably in favor of controlling shareholders or, among other scenarios, minority shareholders are not offered the same rights as controlling shareholders.

The CAF currently operates independently; however, the goal is to develop a national version of the takeover panel and the CAF can be seen as the first step. Due to the increase in companies with dispersed ownership and minority control, shareholders can expect M&A activity to be a hot topic during the 2012 proxy season.

### Code of Self-Regulation

After two years of discussion among members of the Brazilian Association of Publicly-Traded Companies (“ABRASCA”), they implemented the ABRASCA Code of Self-Regulation and Good Practices for Publicly-Traded Companies (the “Code”) in August 2011. Inspired by the UK Combined Code, the Code introduced the notion of the “comply or explain” approach to Brazil. It allows ABRASCA-member companies who have voluntarily chosen to adhere to the Code to comply with its rules or explain their reasons for non-compliance in section 12.12 of the Brazilian Reference Form.

The Code’s recommendations include practices which, at the current stage of corporate governance in Brazil, could not be in the form of a rule. The following principles and rules are particularly notable: (i) an explanation of the role of the board in defining a company’s mission, policies and strategic objectives; (ii) an annual, individual, evaluation of the CEO and other executive officers; and (iii) mandating that the board of directors ensure that any related party transaction be carried out on an arms-length basis or subject to appropriate compensation.

Approximately 95% of companies listed on the BM&FBOVESOA are ABRASCA members. Already, companies across all listing segments such as Banco Bradesco, Redecard, Totvs, Energisa and Localiza Rent a Car have voluntarily chosen to adhere to the Code. We expect many more will choose to do the same during the 2012 proxy season.

### Rotation of Auditors

In November 2011, the CVM implemented Instruction No. 509 (the “Instruction”), also known as the auditor rotation rule. Pursuant to the Instruction, publicly-listed companies in Brazil that establish audit

committees may contract independent auditors to provide audit services for up to 10 consecutive years, an increase from the previous five-year term limit.

For the 10-year term to apply, companies must have an operating audit committee during the entire term of the independent auditor. Audit committees must have between three and 10 members, one of which must be a non-executive director, the majority of the members must be independent, and one member should have sufficient accounting and finance experience. The 10-year term may be used by companies that have established active audit committees as of December 31, 2011, which meets the requirements of the Instruction and/or amend their articles of association to account for the existence of an audit committee within 120 days of January 1, 2012.

During the 2012 proxy season, we expect to see an increasing number of companies establishing audit committees in line with the Instruction. While we generally believe that only current board members should serve on the audit committees of Brazilian companies, we note that this Instruction allows for audit committees to be comprised of outside members. As such, we will note our concerns in these instances but refrain from making voting recommendations on this basis at this time.

#### Remuneration Policies of Financial Institutions

For the 2012 proxy season, Glass Lewis will apply the rules of Resolution 3.921/2010 (the “Resolution”), which became effective in January 2012, to financial institutions when analyzing say-on-pay proposals. The Resolution seeks to improve the alignment between executive remuneration and risk. In line with the Resolution, Glass Lewis believes that financial institutions should incorporate the following into their remuneration policies:

- At least 50% of variable remuneration should be paid in shares or other share-based instruments;
- A clawback policy should be set in the event of a reduction in recurring profit or significant losses;
- Along with a company’s performance, a portion of variable compensation should take into account individual performance; and
- Guaranteed bonuses should only be used in exceptional circumstances such as recruitment or relocation and should be adequately justified.

The Resolution mandates that publicly-traded financial institutions establish remuneration committees composed of at least three members, one of which must not be a board member. We will be holding financial institutions to the standards of the Resolution during the 2012 proxy season.

#### Arbitration Law

In September 2011, the BM&FBOVESPA approved amendments to rules of the Market Panel. The Market Panel aims to provide an independent, confidential, agile and cost effective forum for settling both corporate and stock market disputes, in accordance with the Brazilian Arbitration Law. The key changes to the Market Panel rules include the possibility of appointment of an urgency arbitrator. If a party requests urgent measures to prevent imminent harm or irreparable injury, before the arbitration panel has been constituted, the party may submit the request to the president of the Market Panel who may then appoint an emergency arbitrator. After hearing the opposing party, the emergency arbitrator will decide if the request merits urgent review.

For the upcoming proxy season, we expect an increasing number of companies proposing to amend their articles of association to allow the arbitration panel to act more quickly in order to prevent potentially lengthy discussions of arbitration issues in court. We will generally recommend in favor of such amendments.

#### Market Integration

Brazil has long been an advocate of regional capital market integration. In the coming months, Paulo Oliveira, the chairman of Brazil Investments and Business (“BRAIN”), an organization created by institutions in Brazil, including the Brazilian Association of Financial and Capital Markets, is expected to visit Argentina, Chile, Colombia, Mexico and Peru to present a proposal for the integration of the capital, investment fund and corporate debt markets of Brazil and the aforementioned countries. BRAIN is proposing that the listing rules of member bourses be modeled on the best standards currently applied in the six markets. Since Brazil has some of the best corporate governance and transparency practices in Latin America, investors should certainly keep an eye on this initiative during 2012.

#### CHILE, COLOMBIA, MEXICO AND PERU

There have been no significant reforms to the corporate governance of Chilean, Colombian, Mexican and Peruvian companies in 2011. As financial markets become increasingly integrated, the procurement for capital is becoming increasingly competitive. Companies listed in Chile, Colombia, Mexico and Peru would benefit from updating their corporate governance practices and aligning them with, at minimum, the provisions of the Brazilian Novo Mercado to attract foreign investors. While regulatory developments may occur, there are currently no corporate governance developments forecasted in these markets for 2012.

#### Integrated Latin American Market

In order to compete with Brazil’s BM&FBOVESPA, the largest securities exchange in Latin America, as well as in the international and emerging market space, the Chilean, Colombian, Mexican and Peruvian stock exchanges and their respective securities regulators have partnered to integrate the securities markets of these four countries. Pursuant to the Mercado Integrado Latinoamericano (Integrated Latin American Market or “MILA”), regulatory adjustments will be made over the next several years in order to harmonize reporting practices across these markets.

MILA is expected to create economies of scale and scope and add value in order routing, with the hope of increasing the liquidity of the equities trading in these markets and attracting both local and foreign investors. The integration process, which began its first phase in May 2011, will be long-term and gradual. Once completed, however, MILA will be the largest Latin American market in terms of companies listed, with approximately 700 issuers available to investors and is expected to have a market capitalization of approximately \$1.1 trillion, compared to BM&FBOVESPA’s \$1.5 trillion market capitalization.

In terms of regulation, MILA member companies will continue to be subject to the legal framework and corporate governance practices of the countries in which they are listed until changes, if any, are made.

## EMERGING MARKETS

### OVERVIEW

Access to timely and reliable information, inconsistent disclosure standards and the lack of substantive rights for minority shareholders are among the many challenges that face investors in emerging markets. Moreover, with concentrated ownership structures and poor enforcement mechanisms common in many of the emerging markets, sound governance practices in most of these countries have been absent for the most part. Over the last several years, however, many of the emerging markets have begun to propose or implement regulatory and legislative changes in an effort to align their commercial laws and governance structures with those of more established markets. While the extent of these proposed reforms has varied by market, most of the changes, such as increased disclosure requirements, improved board accountability or higher independence thresholds, have been intended to improve the business climate in the various markets, thus making them more attractive to prospective investors.

In 2012, we expect to see continued improvements in the governance practices of many of the emerging markets, particularly with respect to disclosure. Over the last year, there were a number of regulatory and legislative reforms adopted in Turkey and Egypt that should give shareholders in these markets access to financial information and meeting materials in a timelier manner. Moreover, a government-initiated drive is underway in Russia to improve the investment climate and decrease the influence of the State in private enterprises. While most of these reforms are generally positive for shareholders, enforcement of the law has been a challenge in these markets, and it remains to be seen how effectively these changes will be implemented. Moreover, with Egypt still at the cusp of political instability and the leadership succession plan in Russia in flux, it is certainly possible that a single event could derail any of these developments.

### MIDDLE EAST/NORTH AFRICA

We do not expect many momentous changes in 2012 with respect to corporate governance practices in the Middle East/North Africa region. With the exception of Egypt, which recently adopted changes to their corporate governance codes, no markets in this region have made any recent updates to their laws or corporate governance codes that will have a substantial effect on shareholders during the upcoming season.

We note that in December 2011, the United Arab Emirates announced that it expected to finalize a new Companies Law in the next several months, which, if adopted, would represent a major overhaul of the current corporate law and should make the market more attractive to prospective domestic and foreign investors. Among the changes being sought are the introduction of uniform accounting standards for all companies, revised guidelines for share offerings, and increased limits for foreign investors, who are currently disallowed from owning more than 49% of Emirati companies. Nevertheless, these changes are not expected to be finalized until after the 2012 proxy season.

#### EGYPT

The level of public disclosure has typically been far from rigorous in Egypt, particularly with respect to corporate governance-related issues. However, in February 2011, updates to the Egyptian Code

of Corporate Governance (the “Code”), which had been under review for some time, were finalized. Among the changes envisaged by the revised Code are: (i) a requirement to disclose meeting materials, governance information and financial data on the company’s website and/or the stock exchange website; and (ii) additional requirements for the appointment of the independent auditor. Moreover, in August 2010, the Egyptian Financial Supervisory Authority also passed a resolution imposing additional disclosure requirements for companies listed on the Egyptian Stock Exchange.

Given the political turmoil in Egypt last Spring and the ensuing volatility it caused, we did not expect to see, nor did we observe, many of the above mentioned changes being implemented in 2011. However, with the current political situation less precarious and the government eager to project stability in the market, we anticipate that many companies may be compelled to begin complying with the new requirements and provide more timely disclosure of information to shareholders this year. Nevertheless, as enforcement of corporate laws has generally been weak with few, if any, substantive punitive actions taken against offending companies, the extent to which companies comply with these changes, if they comply at all, remains uncertain. When materials are unavailable, we will continue to reach out to companies directly.

While adoption of the new disclosure requirements would represent a significant shift in the governance practices of Egyptian companies, we recognize that improving governance in Egypt continues to be a very fluid process.

### RUSSIA

In 2011, President Medvedev issued instructions to the government as part of his plan to improve the investment climate in Russia. The instructions included matters such as improving shareholders’ rights to access of information, lowering the number of government-appointed directors from publicly traded companies controlled by the government, and reducing the market influence of state-owned companies.

Mr. Medvedev also announced plans to increase the scope of privatization of the largest state-owned companies, by 2017. The government will sell its entire stake in several important companies such as Inter RAO UES, VTB Bank, RusHydro or Rosneft, and will downgrade its shareholdings in United Shipbuilding Corporation, and Russian Railways, among others. Should the planned privatizations be carried out completely, Gazprom Neft will be the sole state-controlled oil company. In every case, the government will maintain control either through a majority shareholding, or a “golden share” giving the government the power of veto over many meeting items.

However, given that “economic reform” was something championed by Mr. Medvedev, Vladimir Putin’s decision to run for the presidency leaves some doubt as to whether or not these announced reforms will be carried through as originally planned. Furthermore, due to the unexpected and growing opposition to Vladimir Putin’s rule of the country, it is becoming more difficult than ever to predict events in Russia.

### TURKEY

In January 2011, Turkey took an important step to strengthen its governance practices when it adopted the revised Turkish Commercial Code (the “TCC”). The new TCC, which had not been significantly amended since 1957, is aimed at aligning the market’s commercial laws with those of the European Union (the “EU”), emphasizing transparency, equity and accountability. The new changes are not effective until July 2012, but because approval of the revised TCC had been anticipated for some time, many companies have already begun implementing some of the disclosure requirements.

Some of the significant changes envisaged by the revised TCC are as follows:

- Companies will be required to maintain a website where shareholders can access important financial information, business and performance reports, and meeting documents;
- The board's liability will be regulated; unless a specific person is assigned, board members will be jointly liable for each and every transaction of the company;
- Companies will be required to incorporate internationally accepted accounting practices in the preparation and audit of their financial statements;
- The requirement to have statutory auditors will be abolished; and
- New, severe sanctions will be introduced for failure to comply with the Code's new requirements.

We expect corporate governance practices in Turkey to continue to improve, particularly if the market is serious about further integration with the EU. While compliance with the new TCC will not be required until after the 2012 proxy season, we suspect many more Turkish companies will start adopting the disclosure provisions of the TCC during the upcoming year. If this is indeed the case, we expect to be able to provide additional information to shareholders about proposals being voted on at meetings and the number of abstain recommendations we are forced to issue due to a lack of information will continue to decrease.

One of our primary concerns remains the lack of sufficiently independent boards and audit committees in Turkey. In most instances during the past several years, Turkish companies failed to meet the independence thresholds set for boards and audit committees; in some cases, there was not even one independent director on the board. We recognize that many Turkish companies have concentrated ownership structures and are typically controlled by one family. Nevertheless, we believe that minority shareholders' interests should be protected by having at least two independent directors. We will continue to monitor this issue in 2012, and will recommend voting against boards that do not meet these minimum independence standards.

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