Regulatory Issues

Will Dodd–Frank and the CEO Pay Ratio Be Repealed?

A look at what the U.S. presidential election portends for the future of financial reform.

By Bob Romanchek and Tony Meyer

It has been six years since the enactment of the Dodd-Frank Wall Street Reform and Consumer Protection Act, which mandated that the Securities and Exchange Commission (SEC) develop rules intended to address the then-current financial crisis.

One such rule concerns the ratio of CEO pay to median worker pay, which was finalized on Aug. 5, 2015, after the SEC solicited commentary. The rule becomes effective Jan. 1, 2017, with the first related public disclosure hitting annual proxy statements in early 2018. The SEC currently has three additional executive compensation-related Dodd-Frank rules that have been proposed but not yet finalized: a hedging policy disclosure, a pay versus performance disclosure, and a clawback policy requirement. These proposed rules were issued on Feb. 19, 2015; April 29, 2015; and July 1, 2015, respectively.

It appears unlikely that these proposed rules will be finalized in 2016. Reports indicate that Republican SEC Commissioner Michael S. Piwowar will not sit for any vote to approve these rules, thus depriving the SEC of a quorum. With the departure of Commissioners Daniel M. Gallagher and Luis A. Aguilar in 2015, the SEC is down to three members. Filling either seat anytime soon appears unlikely. The Senate recently postponed a vote on two commissioner nominations due to Democratic objections to the nominees refusing to pledge to adopt new rules requiring companies to disclose spending on political activities.

This delay comes after SEC Chair Mary Jo White repeatedly stressed the agency's commitment to releasing the rules as soon as possible, and during what is likely the winding-down of her position with the agency. Although she has said that she could not predict when the final rules will be released, she has declared that reviewing public commentary and the sheer complexity of the rules requires significant bandwidth.

So, after six long years, the question remains as to whether the proposed rules will ever be finalized. Moreover, within the context of the 2016 election cycle, will Dodd-Frank be repealed altogether? Some politicians have disclosed a plan to do just that, contingent upon a win in the 2016 presidential race.

A full repeal of Dodd-Frank may be a component of the Republican platform. "Dodd-Frank has made it impossible for bankers to function," Republican presidential nominee Donald Trump told Reuters. "It makes it very hard for bankers to loan money for people to create jobs, for people with businesses to create jobs. And that has to stop." When pushed on how far he would go in making changes, Trump responded that "it will be close to [a] dismantling of Dodd-Frank."

On the other hand, Democratic presidential nominee Hillary Clinton has defended Dodd-Frank, stating that "attacking financial reform is risky and wrong." Clinton has made it clear that she does not support changes or repeal of the legislation. Instead, Clinton has said that it is "better for Congress to focus on jobs and wages for middle-class families."

If Trump wins the White House, and if the Republican Party gains control of both the U.S. Senate and the House of Representatives after the election, Trump may be able to fulfill his wish and repeal Dodd-Frank. However, in all other scenarios, Dodd-Frank appears to be here to stay, and the three remaining executive compensation-related provisions will likely be finalized in 2017.

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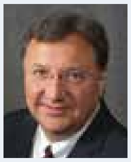

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