Harvard Law School Forum on
Corporate Governance and Financial Regulation

An Important British Version of a New Paradigm for Corporate Governance

Posted by Martin Lipton, Wachtell, Lipton, Rosen & Katz, on Wednesday, March 23, 2016

Editor's note: Martin Lipton is a founding partner of Wachtell, Lipton, Rosen & Katz, specializing in mergers and acquisitions and matters affecting corporate policy and strategy. This post is based on a Wachtell Lipton memorandum by Mr. Lipton. Related research from the Program on Corporate Governance includes The Long-Term Effects of Hedge Fund Activism by Lucian Bebchuk, Alon Brav, and Wei Jiang (discussed on the Forum here), and The Myth that Insulating Boards Serves Long-Term Value by Lucian Bebchuk (discussed on the Forum here). Critiques of the Bebchuk-Brav-Jiang study by Wachtell Lipton, and responses to these critiques by the authors, are available on the Forum here.

The leading British institutional investors, acting through The Investment Association and with the encouragement and participation of the British government, today issued a report detailing steps that the investors will take, and encouraging the UK listed companies they invest in to take, to curtail short-termism and encourage long-term investment.

While broader in scope and more definitive than the statements by major U.S. institutional investors, which I have termed a "new paradigm for corporate governance," the British plan reflects in principle much of the new paradigm. However, the British plan properly focuses mostly on what should be done by the investors to encourage long-term investment by companies, rather than on what companies should do to obtain the support of investors. This is reflected in the following paragraphs:

> While the primary responsibility for promoting the success of a company rests with the Board and its oversight of management, investors play a crucial role in holding the Board to account for the fulfillment of its responsibilities. Shareholder stewardship should aim to promote the long-term success of companies in such a way that the ultimate providers of capital will also prosper. In this sense, there should be a natural alignment of interests: effective stewardship should benefit companies, investors and the economy as a whole.
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> Supporting long-term investment and productivity requires effective dialogue between investors and companies. By exercising stewardship responsibilities effectively, investors are well placed to ensure companies adopt a long-term approach. For example, through purposeful dialogue, shareholders can demonstrate support for expenditures that will boost productivity and challenge companies compromising it as a result of poor capital management.

The full report, Supporting UK Productivity with Long-Term Investment, is available as a summary report here.