AGENDA
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Boards Increasingly Toss Political Issues to Nom-Gov Committees

By Lindsay Frost December 9, 2024

More nominating and governance committees disclosed this year that they have responsibility for oversight of public policy and political activities than they did two years ago as major elections, political divisiveness and public policy changes weigh on boards.

Coming into a year with a new presidential administration, this oversight is even more important, sources said. Additionally, shareholder scrutiny of boards' actions through proposals or otherwise is not expected to lift any time soon, wrote **Ki Hong**, partner and head of **Skadden, Arps, Slate, Meagher & Flom**'s political law compliance and investigations group, and **Alexa Santry**, associate in the political law compliance and investigations group, in an email.

"Companies have acknowledged that board oversight of political activities is good governance notwithstanding [shareholder] proposals," Hong and Santry wrote. "As a result, board oversight in this area is here to stay."

Public Policy Boards are increasingly tasked with oversight of public policy issues as new oversight expectations on climate change, cybersecurity and diversity, among other topics, impact companies, sources said.

Other public policy or political oversight topics are related to what companies have decided to publicly disclose, such as political contributions, the company's political action committee's donations, lobbying activity, government relations and payments made to trade associations, Hong and Santry wrote.

As a result, some 42% of nom-gov committees at S&P 500 companies disclosed responsibility for public policy and political or lobbying oversight this year, according to a recent analysis of proxy statements from the **EY** Center for Board Matters.

"It's always seemed to me like nom-gov is a good place to put that responsibility simply because it feels maybe a little bit more governance-focused than some of the other standing committees," said **Kerry Burke**, partner at **Covington & Burling**.

Nom-gov committees are also often the ones to "develop a cost-benefit framework" for public policy issues that most directly impact their companies, wrote **David Larcker**, senior faculty at the Arthur and Toni Rembe Rock Center for Corporate Governance at **Stanford University**, in an email.

However, he added, public policies on general societal topics should have full-board and management oversight as these involve "complex strategic choices."

Companies that disclose nom-gov oversight of public policy issues include **Baxter International**, **Best Buy**, **Charles Schwab**, **Chipotle**, **Elanco Animal Health Inc.** and **Oshkosh Corp.**, according to committee charters and other disclosures.

"The committee shall oversee and biannually assess the effectiveness of the company's policies and programs relating to environmental, sustainability and social responsibility policies, goals and programs, and public policy issues significant to the company and make recommendations, as appropriate, based on such oversight and assessment," according to Chipotle's corporate governance committee charter.

Additionally, companies are largely choosing to give this responsibility to nom-gov committees as opposed to establishing separate committees tasked with the oversight of public policy and related issues. Only 8.2% of S&P 500 companies have a separate corporate social responsibility or public policy committee, according to **ESGauge**.

Political Lobbying and Spending Boards also should continue to keep a close eye on political spending, especially coming off an election year with enhanced scrutiny around spending and increasing political divisiveness, sources said. Indeed, 75% of more than 500 directors surveyed by **PwC** earlier this year said they had concerns about political divisiveness in the U.S., but 58% had not discussed corporate political activity at all in the last 12 months.

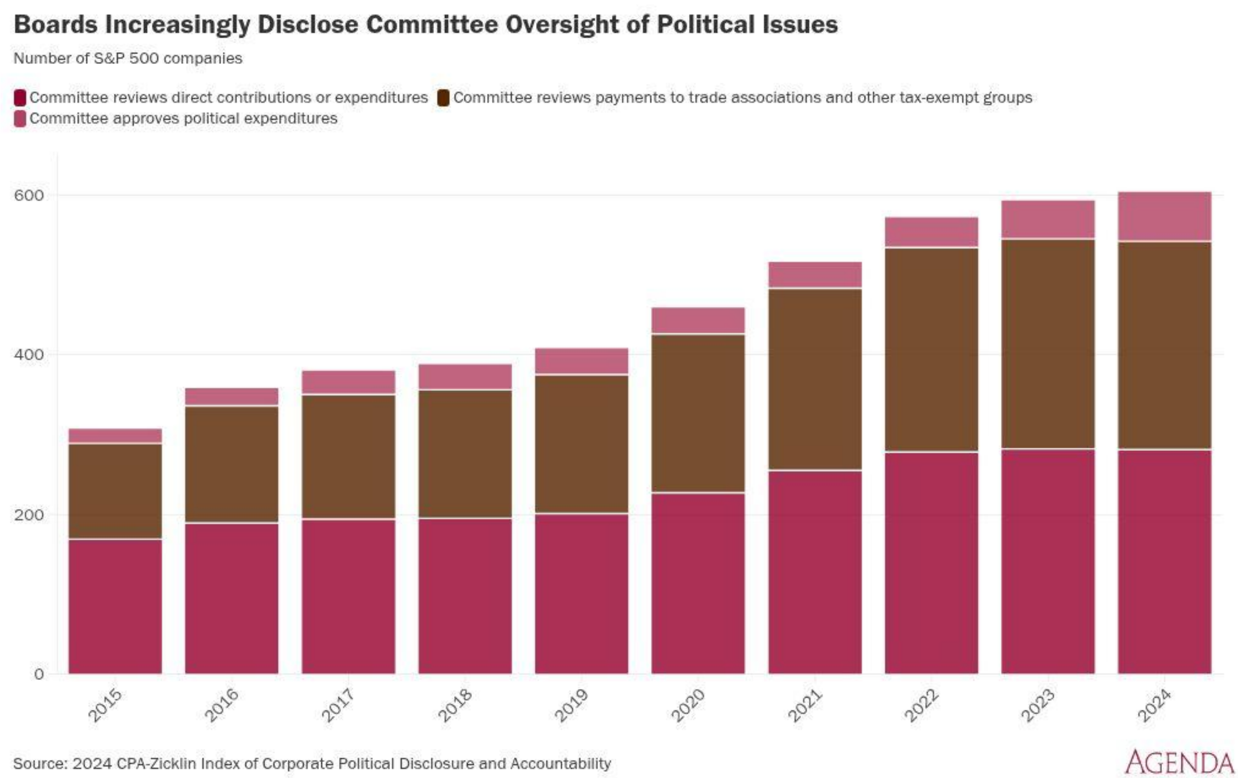
"As a board member, you would want to have a handle on at least the general scope, at sort of a broad level, of what's being done, the issues that are important, where the company is spending its political money and what it's lobbying for," Burke said. "They also should get a handle on year over year how that is changing."

Sources said this is another topic that fits well with the nom-gov committee because of its governance focus. The high risk of getting political spending wrong makes it ripe for focused oversight, said **Bruce Freed**, president of the **Center for Political Accountability**.

"There's a recognition that they need [to have focused oversight in place] given the type of pressures that companies will be feeling," Freed said. "The risk from conflicted spending is very high."

For example, companies that disclose nom-gov committee oversight of political activity, spending and lobbying include **Accenture**, **Bristol Meyers Squibb**, **CVS Health**, **Moderna**, **Norwegian Cruise Line Holdings** and **Voya Financial**.

The disclosure of board committee review of direct political contributions, as well as contributions passed through third-party groups, has risen steadily over the past nine years.



In terms of lobbying specifically, beyond the issues that directly impact companies the most in their respective industries, companies are increasingly lobbying around climate change-related policies, responsible AI and other broad issues. Some 41% of S&P 500 companies disclose lobbying expenditures, according to an analysis from **ISS-Corporate**.

"[Boards] need to have full knowledge of political spending, what it covers, what it entails and what their responsibilities are," Freed said. "They need to conduct very rigorous, robust due diligence."

Drivers and Future OversightMuch of this enhanced oversight has been driven by "the investor community demanding additional information, particularly for companies where they have maybe a larger component of political activity," Burke said.

Not only have shareholders increasingly filed proposals asking companies to disclose more on their political spending activities, but these proposals have gained relatively high support, according to the ISS-Corporate analysis. Over the past 10 years, 985 proposals filed at S&P 500 companies have averaged 30% support.

For example, a lobbying-related proposal at **Caterpillar** garnered 23% support earlier this year, while proposals at **Goldman Sachs**, **Morgan Stanley** and **Verizon Communications** all got more than 30% support this year. One proposal focused on transparency in lobbying at medical technology company **DexCom** passed with 51% support.

Companies should work to improve their CPA-Zicklin scores, consider proxy advisor voting guidelines, weigh the demands, negotiate with shareholders and make sure proper oversight is in place and disclosed when negotiating political spending-related proposals, according to Covington & Burling.

Along with investors, the general public also wants to see enhanced oversight. Some 86% of 800 adults surveyed by **Mason-Dixon Polling & Strategy Inc.** and the CPA this summer said they supported requiring corporate boards to oversee and approve all direct and indirect political spending, while 89% said corporate political contributions should require the oversight and approval of the board.

Meanwhile, the new presidential administration in 2025 is expected to bring with it a host of regulatory and public policy changes touching on everything from climate change to tariffs to taxes. Boards should monitor staff appointments and prepare for more robust discussions early next year, sources said.

"It's going to be important to keep a very close eye on who the heads are of all the agencies and what their priorities will be," Burke said. "Early next year, as things start to shake out a little bit more, it may be a better time to sort of recalibrate, see how [the change in administration] might impact the company's business going forward and adjust from there."