

**NYSE/NIRI Webcast: Convergence of IR and Governance  
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Theresa Molloy	NYSE Euronext <i>VP</i>
Judy McLevey	NYSE Euronext <i>VP - Corporate Actions and Market Watch</i>
Jeff Morgan	NIRI <i>President and CEO</i>
Paul Washington	Time Warner <i>SVP, Deputy General Counsel and Corporate Secretary</i>
Mickey Foster	FedEx Corporation <i>VP - IR</i>

**Presentation**

Theresa Molloy: Hi. Good afternoon, everyone. My name's Theresa Molloy from NYSE Euronext. I'd like to welcome you to today's webinar, the Convergence of Investor Relations and Governance Adapting to New Proxy Disclosure Rules. This forum is hosted in conjunction with NIRI and it's part of our digital exchange forum, which is an ongoing series of educational forums that we have hosted over the past six months in an effort to prepare our customers for new rules that will increase and change certain proxy disclosure requirements.

Today, we've assembled thought leaders from the Investor Relations and Governance communities who will provide insight regarding best practices, as well as a view from Washington. Judy McLevey, who is Vice President of NYSE Euronext Corporate Actions and Market Watch will serve as our moderator and I'm going to turn the program over to Judy in a moment.

I wanted to mention that we would like to make this program as interactive as possible. You can send us your questions online and we will be happy to address them as they come up. At this point, I'm going to turn the program over to Judy. And I'd like to thank everyone, once again, for joining us this afternoon and I'd also like to say a special thanks to Jeff Morgan and NIRI for their participation. Thanks.

Judy McLevey: Thank you. Hi. I'm Judy McLevey and I want to thank our panel today, as well as the audience for listening in. And as Theresa said, 2009 was certainly a year of change on the governance front and also 2010, there's still a lot under consideration.

Rule changes, whether they're real or proposed, they're having a dramatic impact on issuers, investors, Boards and management in the overall market. To successfully maximize the investor outreach today, management and Boards must have a team of professionals that offer both Investor Relations and governance expertise, whether that's related to disclosure, changes in proxy, voting practices or proposed rule changes in legislation.

Instituting a coordinated approach between Investor Relations and corporate secretaries will help you to maximize your communication efforts and best communicate why investors should buy into your company's management, Board structure, business results and strategies.

Our panel today consists of very well known folks and they're going to talk about integrating the knowledge and strengths of these two diverse positions. Just to be clear, we're not talking about combining these positions. We're really just talking about how these two positions can work effectively together and how that will help you to enhance your company's outreach, given the recent pace of change.

So, first here, we have Paul Washington. Paul is Senior Vice President and Deputy General Counsel and Corporate Secretary for Time Warner. He's also Chairman of the Society of Corporate Secretaries and Governance Professionals and also President of the New York Chapter. And Paul is also a member of the Commission on Corporate Governance, which was formed by the NYSE last fall.

We also have Mickey Foster. Mickey is Vice President of Investor Relations with FedEx Corporation. He has a wealth of knowledge in Investor Relations having served in the profession for 25 years. And also Jeff Morgan from National Investor Relations Institute. Jeff is President and CEO of NIRI. He's been there as President since January of 2008, and he serves on the NYSE's Individual Investor Advisory Committee.

So, we're going to start today with Jeff. We're going to talk to Jeff a little bit, and of course, the panel can contribute whatever they would like, as well. But starting with Rule 452, which is an NYSE rule, and we have had the SEC recently approve changes to Rule 452 to eliminate the ability of brokers to vote uninstructed shares held in customer accounts in the election of directors. In addition to that, the SEC is also evaluating and has put a proposal out to contemplate proxy access rules, which will allow for investors to have direct access to companies' proxies.

And so, we've asked Jeff to give us a State of the Union update from Washington.

Jeff Morgan: Well, thanks, Judy. Thanks, Theresa. Thanks, New York Stock Exchange for partnering with NIRI and we are delighted to be here and it's a great panel. And I think that from the State of the Union, we just heard Obama -- President Obama speak in the past week about his State of the Union. And I think we need to rewind and look at what's happened in the past year and that will help us look forward.

A year ago, within about two weeks, we inaugurated a new president and that president came in with a mission of change and that change we have seen in many places. But in other places, where we expected change, we just haven't seen it yet. Clearly, from the standpoint of the financial recession, I think two things came out and were very clear.

One was there was a populous belief that corporate governance and -- has run amuck a little bit and that the legislators need to step in there and fix some of that. Whether you believe it or not isn't really the issue, but that is what Washington believes. And so therefore, there has been discussion about all sorts of changes. The other thing was that the regulatory side had become a little bit lax and we needed a lot more oversight.

So, over the past couple of year, as it relates to us from a corporate issuers standpoint, we have seen lots of discussion and we've seen some things start to bubble up -- 452, proxy access. Over the past couple of weeks, we've seen more disclosure and more transparency. But there was talk of all sorts of reform at the level of Congress that we just haven't seen yet.

Through the past couple weeks, and what you saw building into the winter recess is Congress has been focused on health care and other things that have really sucked a lot of time and energy and a lot of our issues have gone to the sideline. Although, Barney Frank has put forward -- and all sorts of other people -- have put forward things from a corporate reform standpoint. Chairman Dodd on the Senate side -- and really, the Senate is where the action is because the majorities are much closer there to get things passed -- is still working on reform. And we'll see that come out in the spring.

But over the past couple weeks, as Congress and the Senate has come back from the holiday recess and particularly with the election of Brown to replace Ted Kennedy's seat in Massachusetts, that that one seat has really thrown Washington into a lot of introspection to say what makes sense here? And you've even noticed over the past couple of weeks the things in Washington have been very quiet relative to what it has been the past year.

So, one of the challenges we have from a Congressional standpoint going into this year is we go into mid-term elections, and many of our Congressmen and Senators are focused on are they going to get reelected. So generally speaking, that means that they're not going to want to do a lot of controversial things and from the corporate reform standpoint, that's probably a positive message for us.

However, where we are seeing the action is really down at the SEC and the SEC, in my opinion, is going to be very active this year as they were last year. And we are going to continue to see, as we've just saw -- in fact, yesterday, they released their climate change interpretive release.

And we're going to continue to see this with proxy access, with some of the other things about redoing shareholder communications, looking at [OBONOVO], looking at proxy advisory services and all these things. Put both the Corporate Secretary and the Investor Relations professional into this situation where they really need to work as a team because a lot of what's going on crosses both their responsibilities.

So, I think today we're going to talk more about that and a lot of these other issues that I just mentioned briefly and I think that gives you the big picture of what's going on in Washington. But it's going to be an active year and I think the activity's largely going to be at the SEC. Judy?

Judy McLevey: Okay. Paul is the Chair of the Society. I wasn't sure if you had anything to add to what Jeff has told us? And also, maybe you could offer your thoughts as to what the hot button issues are and challenges for 2010, as we come into the proxy season?

Paul Washington: Sure. Yes, just to add a bit to what Jeff said in terms of the environment. I think there's an opportunity here in this environment for organizations like the Society of Corporate Secretaries and NIRI to work together in some ways in Washington as kind of -- call it a "good governance coalition."

We have actually been trying to be responsible in the area of corporate governance for quite some time now. And what's been missing, I think to some extent in the debate, is the presence of organizations that have been responsible, that embrace constructive change and aren't, sort of, polarized -- either the sort of do-nothing-ever camp, nor the anything-you-do-is-never-enough-for-us camp. And so, I think there's an opportunity for organizations in Washington to do more. I also think that that sort of leads into sort of the biggest challenges and opportunities for organizations, for companies within this regulatory environment.

In terms of the hot button issues, I think compensation just will continue to be the lead hot button issue for all of us. Having said that, in some ways, the biggest challenge we face, to my mind, is how to maintain an ongoing, constructive dialogue between the company and your shareholders because you've got a situation where there are pressures on a Board that may make the Board want to just circle the wagons in this environment.

I mean, there a lot of we're being attacked by everyone, so why should be even bother? Nothing we do is ever enough for these people kind of thing. And I think that's -- we have to -- I mean, that's a risk. Fortunately, I think, most companies won't fall prey to it. But I was talking to someone earlier today who serves on the Board of a number of companies and who has some colleagues who do, who's aware of three Boards that have basically, sort of, circled the wagons and shut down. So, that's actually a big challenge.

At the same time, it is hard to maintain a constructive dialogue if people are always asking for more. We as companies in many ways over the past years, have done a lot to have constructive conversations with their shareholders, reach reasonable accommodations. So for example, at Time Warner, we've eliminated super majority voting requirements. We have an annual policy where we rigorously review whether to combine or separate the Chair and CEO positions. We have policies on equity dilution and paper performance, all sorts of things that have actually come out of constructive dialogues with shareholders.

The challenge is that how do you -- what do you do in an environment when people are just asking for more beyond that that may not be in the best interest of the company? I mean, I know that's sort of a global challenge. But it really is hard, I think, to keep the dialogue going with all of your shareholders, both the activists and your big ones and so forth, in this sort of -- it's not poisonous, but it's really challenging environment.

Jeff Morgan: Well, I'll just add that I think, from a Washington standpoint, if you can't regulate it or legislate it, what you can do is make it more transparent and require disclosure. And we're seeing lots more disclosure and the goal is not to be adversarial, but it almost becomes adversarial because of how it's being done.

Paul Washington: Well, and so here's the challenge, for example, within this environment that relates directly to disclosure. A big challenge facing companies this year is how to describe why you have each director on your Board, why you're nominating them. And the SEC has made it clear that they want this to be on a director-by-director basis. They've made that very clear.

The challenge is that that's not actually how Boards look at themselves. You actually say we want all of our Board to sort of work together. So, you don't actually have, sort of, check-the-box mentality. So, you've got the SEC disclosure requirements, which are going to propel you into saying this director has these specific qualifications, when in fact, I think for most companies, when we look at our Board, we have sort of three buckets of qualifications we look at.

We want every director to have independent judgment, every director to have integrity, every director to have the time and ability to devote to the job, every director to have good business judgment, every director to have leadership experience -- so, individual qualities. We also need to make sure our directors qualify for regulatory standards and independence and so forth.

And then, we want a set of skills, but it's not that each -- like legal skills, financial skills and so forth. But it's not that each director has one or two of those skills. They have a blend of skills and in varying degrees and what you want to do is capture the fact that your whole Board, as a package, brings these qualities.

So, we've got a challenge. We have a story that we want to tell about how you actually put together the Board and sort of sell your Board to your shareholders in a responsible way, not over-promoting. It's sort of like your college essay application, so you can't really oversell yourself. But you want to do it in a responsible way.

But the SEC is wanting us to do it on a director-by-director basis. So, that's a challenge I think we're all facing in this environment, even when we can all agree that more disclosure is good, the kind of disclosure we're getting, it's going to be a challenge to do it right.

Jeff Morgan: And I think the other thing that compounds that is when you have required disclosure, it becomes a legalistic type of disclosure. And the SEC has admitted that the disclosure documents have

gotten voluminous and very difficult to read, and they understand that that's a challenge, too, that they need to get their arms around and want to get their arms around. So, there's a real problem here that's a clash of how do we deal with this?

Paul Washington: Yes, because a proxy becomes a compliance document, not a communication document. And -- yes, it's -- so, these aren't necessarily new challenges, but I think to some extent, they are more acute this year. And it's all done against the backdrop, particularly when it comes to director qualification disclosure, against the backdrop of proxy access, potentially. And so, everyone is having to describe their Board, keeping in mind that next year, you might have other friends putting their candidates into your proxy statement.

Judy McLevey: We'll talk a bit more about disclosure in a second because there certainly is a lot of change there. But maybe, Mickey, if we could talk to the man in the trenches on the IR side. Wondered what best practices are in place at FedEx that are helping you to deal with all of the current changing environment? And if you could share how you and, perhaps, the Corporate Secretary's team share and interact, that would be helpful to our audience. And also, how that might be helping you to best prepare the management and Board at FedEx.

Mickey Foster: Sure. I probably talk to our proxy area, general counsel area probably every day. They're down the hall; they're very close. They know everything going on in Investor Relations. Usually, almost every email I have, one would go to the legal department, one to the corporate communications and then the CFO. And so, they know what's going on in Investor Relations on a real time basis.

I think also, every week our Chairman, President and CEO, it's the same, Fred Smith our founder, actually every Friday sends something to every Board member. And included in that packet could be an analyst report or two. So, they know what the Street is saying about the company -- good and bad -- and some financials and everything.

But in addition to that every month, the Investor Relations group, we have our own memo that goes right to the Board of Directors that says who's buying our stock, who's selling FedEx stock -- mistakenly -- and maybe what their cost basis is because they're taking a profit, which you can't blame them, huh? But also their investment styles and even the meetings that we've met with them. So, that's sort of the communications that we have from FedEx to internally, within the company.

But also, from an Investor Relations standpoint, we are very, very proactive, meeting institutions all the time. For example, I'm here in New York today for this meeting. Tomorrow, I'm meeting with five or six institutions, including TIAA CREF, Alliance Bernstein -- both are investors in FedEx stock -- having lunch with 20 investors, doing some hedge funds, whatever -- doing that. But also, just in general, we have a very proactive program where we're always meeting on a quarterly basis our shareholders, large and small.

And I'll just give you an example. In the last two weeks in October, first two weeks in November, we called one-on-ones with probably 300 institutions in 27 cities in 14 different countries, and it was just the Investor Relations group that did that. In addition to that, we're on a May 30th fiscal year. For the last couple of years, we've had our Chairman go meet with our large investors in probably August, usually before the proxy even comes out, and just meets with the shareholders and answers any questions they have.

But in addition to that, I guess even every quarterly analyst conference call -- it's our Chairman who is quarterbacking the call and all of his direct reports are around the table and we probably have eight microphones. And everyone answers the questions that the shareholders or analysts have on the company and we do that every quarter religiously. And so, they know the management team very well.

So, those are some of the ways that I think we continue to be proactive meeting our investors so that when they have these proxy proposals, they know at least management review and know how we run the company.

Judy McLevey: So, when you meet with a group like TIAA CREF, say for instance or other institutions, are you trying to, in addition to maybe get to the portfolio manager or try to have a direct conversation with, say, the governance people, as well?

Mickey Foster: Usually, like tomorrow, I will meet with the portfolio managers and analysts. In August, I call in the corporate governance person, usually, and we have them join in the meeting with us for the session. In some cases, they want a private session afterwards. We'll do that. So, sometimes the portfolio manager gets a big say in how the vote goes. Sometimes, at some institutions, they don't. But usually, we know if an institution votes with risk metrics or if they make their own decision. And so, we know going in how they might vote.

I have had some institutions, one based here in New York that actually says we have a policy where we vote on separating Chairman and CEO. He says, "Mickey, I'm writing a letter to the people who vote the proxy saying, in this case, we shouldn't." So, there are exceptions to every rule, particularly, if you know the investors closely, so.

Judy McLevey: Paul, I don't know if you want to add your comments with respect to Time Warner and also maybe touch on what involvement your Board has in communications.

Paul Washington: Sure, happy to. You were just mentioning the investor who has the general policy. I guess one of the challenges that I know a number of companies face is how to reach that sector of your investment community who just follow certain proxy advisory firm's recommendations and actually don't take your call. I'd be interested in your thoughts on that because there are some -- our top votes do. They will talk to us because they are flexible. It's the next tier sometimes, where they're just overwhelmed, they don't have the resources.

So, maybe you guys -- ?

Mickey Foster: Because we're on a May 30 fiscal year, it's very, very slow and I've never had -- I've really never had a proxy person at a firm not take my call and usually, there's two or three. I don't have -- I can call many and talk to them, so.

Judy McLevey: Interesting.

Paul Washington: Besides your personal charm, it may be -- the key may in fact be the fiscal year thing. That's something to keep in mind.

I would say that at Time Warner, and we're not unusual in this respect. The collaboration between IR and the Corporate Secretary's area and legal area goes -- it's ingrained and it runs deep. I mean, one of the things that saddens me sometimes is when I hear of some companies that either IR does the meetings with investors always alone or that the Corporate Secretary's office owns the governance relationship. I actually think that's kind of unhealthy because both perspectives are important to bring to bear.

So, to give you examples of how we sort of integrate or coordinate our operations. It actually starts with the materials we provide to the Board. We involve -- IR is aware of what we're telling the Board and I'm aware of when we're putting together the materials for the Board what we're planning to say to investors about our earnings.

And we actually do a little document called inFOCUS for our earnings every quarter where -- for our investors that gives more than just the numbers; it actually tells the company's story. It talks about our movies or television programs ratings, stuff that you wouldn't normally put in a release. That's a goldmine of information that will go to our investors that I also am able to tap for the Board. So, just sharing that information in advance of going out to our constituencies, where there's investors, employees, the press generally, or the Board is really helpful and it's ingrained.

And then again, as you guys do, when we meet with investors on governance topics, we do it together. We have regular outreach to our top investors, as many as will take our calls. We also talk to all of the stockholder proponents, the folks who come in together. And we meet beforehand, so it's a really -- it's just a natural thing.

And just to give you a little sense of why it helps us. I think as governance professionals, sometimes corporate secretaries, listen to -- a lot of what we hear are either ourselves or we hear some of the activist investors a lot. And it's great to work with the IR people because they're often talking to a different type of investor, some of your larger institutional investors who may also have a set of concerns about the company or whatever.

But it's nice to marry the two together. It keeps you from veering off one way too much or the other in coming up with your governing policies because you're not going to be too complacent or maybe too irresponsibly responsive. So, I think it's really helpful to have sort of deep and ingrained coordination.

In terms of our Board's involvement in our shareholders' communications, I think like most companies, our nominating and governance committee reviews all our responses to shareholder proposals. Our compensation committee reviews any proposals relating to comp. Our audit committee, those relating to audit and control. So, we run them through the Board. We talk to the Board about it a number of times as we're getting ready to respond before it gets to the full Board for approval.

We also keep our governance committee informed on, at least a quarterly basis, usually more, about any significant governance developments, just as part of a regular governance update. It's a nice vehicle for telling them about changes and we do the same thing with our compensation committee. If there's a significant new compensation disclosure requirement, our compensation committee knows about that. And similarly, we give them analyst reports and all that.

We also send our Board clips, news clips about the company, which is another way of making sure that they know what everyone else knows about the company. And again, we coordinate with corporate communications on that. So, it's actually maybe a triumvirate of corporate communications, Corporate Secretary and IR working together to make sure that the story we're telling is the appropriate one, the right one and a consistent one.

Judy McLevey: Jeff, I don't know if you wanted to make any additional observations as the role has changed a lot in the past couple of years of Investor Relations and what we're seeing today?

Jeff Morgan : Yes. I think I'll make a couple comments because both of you are very large cap companies that really do this very well. And either one of you could be poster children for -- to me for what the model should be. And I think that sometimes, and Paul you mentioned it, about how IR and the Corporate Secretary sometimes get separated and pushed off so that they don't talk and that's unfortunate for that company.

And I think regardless of the size, what you need to understand is the communication is a two-way discussion. And sometimes, IR is stereotyped, "Oh, they just put the message out there." And really, IR is very strategic in what they hear from investors, as is the Corporate Secretary what you're hearing. And it is a marriage and you need to bring that information together so there is consistency and a balance.

I think that there's also the case and I hear it sometimes in smaller caps where IR doesn't send information to the Board. And to me that is a huge disservice to the Board to not hear what's going on in the investor community. They need to be apprised to this, particularly as we get into these new disclosure requirements. Your Board really needs to be up-to-date and needs to have that dialogue.

I imagine in both your organizations -- Mickey, I heard you say that you do regular reports. The IR does, I'm sure, the same as with you, Paul. And maybe you get -- the IR gets in once a year to have a dialogue with the Board directly so that they can do Q & A. And I think that -- those types of lessons, regardless of your cap size, need to go throughout all sizes of companies.

Mickey Foster: Yes, I've talked to the Board when we had a perception study done, where we went out and asked our buy-side and sell-side investors questions about the company, their positive and negative views and the Board wanted to hear that. So, it was very helpful, so.

Paul Washington: And you can do it part of sending analyst reports. You can do it as part of your quarterly report on your financial results to the Board before they're made public to bring in -- these are the metrics we think stockholders are going to care about. This is what's been moving the stock price thus far. You can do it in the Board meeting and whether it's the CFO or the head of IR, sometimes, who does it.

Those sorts of -- that information is sometimes when the Board pays the most acute attention to the financials because, actually, they've read all the financials in advance. But it's those kind of insights about what investors really care about, what are the potential catalysts for your stock, what are the concerns that are sort of really matter.

Mickey Foster: I can tell you that every quarter, before we announce the quarterly earnings, there's an audit committee phone call the day before, and I'm part of that committee. It's usually telephonic and inevitably, the investors ask what do you think is going to be the market reaction of the stock price on the news of the earnings? And then also, the Chairman also asks -- I mean wants to know how the market might -- what are the positives and negatives that are embedded in the release, basically. And so, they want that feedback and so, you're part of that loop.

Paul Washington: Under the heading of your Board just someone surprises.

Mickey Foster: Right, right.

Judy McLevey: Right. Just building on that, I'm curious if any of you have any thoughts as to how the teams can build their strengths in, kind of, the opposite area. So, as an example, Investor Relations educating themselves more on the governance front or the Corporate Secretary's office becoming stronger on the financial side. I don't know if you have any thoughts for our audience on that?

Jeff Morgan: Yes, I think some of it may even be our societies, I mean the society in NIRI in that we have certainly started down the road of having a closer relationship. I am trying to do what I can and when I write my weekly column and when we do webinars and things to help the IR folks understand these governance issues, and I know that that's a healthy discussion. I think awareness and understanding is when you have that knowledge and you see it. It's like, yes, that makes a lot of sense, so I think those types of things.

Paul Washington: I think that is probably one of the most efficient ways to do it because I was thinking it's a little hard, for within a company, to have much in the way of a formal training program for your new IR people to immerse them in the land of governance and for your new governance people, or your current ones, to immerse them in the land of Investor Relations, and so forth.

But what you can do within a company is sit in on each other's meetings and make sure you've shared the materials. And it's a little thing, but just take a little extra time if the IR -- to bring the IR folks up to speed on latest governance regulations and for the IR people -- at least I'm not shy about asking. I just don't understand why this makes sense, or why this is important to investors. Could you take a little time to explain it to me?

And they are very gracious and patient and actually bring me along. And that helps me do a much better job for our Board because suddenly I understand what investors care about and I can understand it well enough so that I can help explain it to a different constituency.

So, I think there's that informal training that can go on. But the formal training, I actually think we can do more joint programs and probably ones that are sort of financial -- not financial literacy, but sort of something like that. Financial literacy training for corporate secretaries and IR sort of training a little bit for corporate secretaries and vice versa. I think there's a real opportunity there.

Jeff Morgan: That makes sense.

Judy McLevey: Great. That's good. So --

Paul Washington: You've got a great facility here. We could do it here.

Judy McLevey: That's right. We're happy to help. I'm sure if everybody would benefit from that, that would be excellent. So, Paul, you touched a little bit on the SEC's new disclosure rules, but thought we should maybe open that up a little as well for further talk. Obviously, they touch upon director qualifications and experience, risk management. They have, even more recently, is just climate change, leadership structure, et cetera, compensation as well.

So, I guess to the extent that you guys are thinking about how you're going to deal with these disclosures, that would be helpful for the audience to hear your views. So, I don't know if, Mickey, if you would like to think about starting, or maybe talking --?

Mickey Foster: Well, I mean separating the Chair and CEO, for example --

Judy McLevey: Yes, that's a perfect one.

Mickey Foster: -- I think we lay that groundwork every day at FedEx and that two weeks ago or last week, we got named by Fortune magazine Best Places to Work. And I think it's 11 out of 12 years straight getting that --

Judy McLevey: Wow, that's great.

Mickey Foster: -- and being one of the largest companies in that top 100. Also, Most Admired companies, many, many years in a row. Institutional Investor magazine rating your CEO top in the industry. Even Barron's magazine rating your CEO one of the best 30 globally.

So, when it comes down to the institution voting on separating the Chairman CEO, usually it's a pretty easy decision, particularly after all that. And also, he does, like I say, lead these quarterly earnings calls and he also goes and visits investors in person in their offices. So, I think there's a lot that you can do by keeping -- I mean it's a total package going, so.

Judy McLevey: Right.

Paul Washington: On that topic, what we've done is, last January, we adopted a policy that requires the nominating committee to conduct a really disciplined, rigorous annual review of the topic of the entire leadership structure of the Board and whether, in particular, to separate the positions.

And as part of that, we're required -- we state we will look at everything from investor views, practices in the United States, in other countries. We will look at academic literature and see what it says. We will look at regulatory requirements. We will look at views expressed by our shareholders. We will look at the work load of the positions, the responsibilities of the positions, all of those sorts of things.

That's eight factors that we look at and make a determination because our policy is we don't say it should always be combined or it should always be separated. In fact, we have separated it at different times during succession periods. So, we take an open-minded look at it every year.

And what helps us with the new disclosure requirements is that we've got that policy in place. And so, we can go through it in a sort of rigorous way. And I think what we also strive to do is to make sure that it's not a, sort of, cookie cutter, hear the arguments that every company could make on this. But, why does it really work for us? Why does the leadership structure work for us? And really, talk honestly about -- and both internally with the Board and with our shareholders.

You know, there are, in fact, advantages -- if you care about information flow to the Board -- to having your CEO be the person who has a strong influence on the Board's agenda, possibly as Chairman, because that makes sure that you don't have a sort of part-time intermediary as Chairman serving and filtering what goes from management to the Board. That works if the Board also gets a choice to say no.

But you know what? We also want to have this stuff on the agenda. So, as long as your Chairman and CEO combined is doing a good job of getting information to the Board and the Board is getting a good -- is getting what it wants in terms of information and can add items to the agenda, maybe the combination works.

One final thing on this. One recent study said -- because basically, the studies are inconclusive as to corporate performance linked with the separating of Chair and CEO -- that there was one recently that

came out that said that the only time where it's really clear that company performance goes down after, is when companies separate the positions in the wake of outside activism. So, if because of outside pressure, you separate your positions, you're likely to have worse corporate performance. It's an interesting study.

Judy McLevey: Yes, this is. Jeff, did you want to add?

Jeff Morgan: I'll just add one comment that I think -- and it relates just to climate change, which came out. The SEC released an interpretive release and we're seeing two different ways the SEC is doing this with the director change. You know they put it out for comment with -- and then passed a ruling with what we saw yesterday with climate change and the interpretive release came out. They approved it the week before. They are adding on to existing information or requirements that's already out there.

But I think it's very easy for us, particularly in IR, to read the two-page summary that we might get from our outside counsel. However, in this case, it's a 29-page document and it is not a difficult read. And I think from an IR standpoint, we can spend 20 minutes reading that document to help us understand what the expectation is because those types -- once you understand it, you'll understand that (inaudible - technical difficulty) where investors are coming from and I think it better equips us. So that I think we have a responsibility to be equipped and not take the shortcuts. So, that's really my only thought to add on this.

Judy McLevey: That was a good point. Sticking with disclosure, disclosure has certainly been a big topic this year. When you factor in the financial institutions and their executive compensation issues or Bank of America and the Merrill Lynch transaction or even Apple with Steve Jobs' health. I was curious about whether your companies -- or what do your companies do with respect to crisis communications and whether you've dusted off the policy in light of the recent regulatory changes.

So, for instance, how would you handle a "vote no" campaign or, if for instance, something popped up in your director qualifications that was of a concern as you went through your proxy preparations, what you might be thinking about on how to handle that?

Paul Washington: Who here has experience with crises? Everything [is falling, right? Always.] I'll speak sort of generally, because I've been part of some discussions of what companies have done successfully in crisis situations and the level of crisis obviously can vary. But one thing that -- a couple things have been helpful is you bring together on, let's say, maybe a weekly basis the people who are responsible for dealing with the various constituencies.

So, you bring together IR, Corporate Secretary, Corporate Communication, outside counsel, maybe investment bankers and others to just make sure that everyone's coordinated in how you're responding to the particular crisis. You have a bit of a plan, which obviously changes over time. But it's just really important to bring together those constituencies and make sure that everyone says, okay, here's the things we're going to facing this week and this is what we're planning to do about it."

Another thing that I think is important in handling a crisis is actually to have the people who are involved in -- let's say it's a proxy contest or something -- separate it a little bit from the other people who are running the business because these can be all-consuming things. And so, you don't want to take your eye off the ball in running the business. So, I think it's helpful to -- as much as some people always like to be involved in the latest, greatest, breaking crisis at a company because it's kind of an adrenaline rush or something, it's helpful to sort of say, you know what? We're just going to keep it.

Although everyone has something to add and you have to find opportunities for everyone to weigh in, you really do sort of want to kind of cauterize the problem a little bit and not have it affect the entire organization by having a group of people who are primarily responsible for dealing with something like that with a big crisis. Anyway, those are just the coordination and the sort of cauterization, I think two things that are helpful to do.

Mickey Foster: I think that's exactly what we do in a crisis. I mean, you get a team together of the people involved and a lot of times, it's their job 24/7 until the crisis done. And depending on what it is, we'll have somebody from IR and somebody from legal, somebody from finance and somebody from Corp. Comp. and maybe a couple of people, sometimes, depending on how big it is, but --

Paul Washington: To Jeff's point, this is probably a lot harder to handle -- segregate this group at a smaller mid-cap company because it will. That's one of the challenges for things like proxy access for small and mid-cap companies, who may be more vulnerable to it than others and who, if they are facing a challenge by someone who is well-financed and does this at companies sort of all the time and they never have to face it, this could really have a very negative effect on -- depending on how the rule is implemented -- a very negative effect on the small and mid-cap companies.

It could cost a lot of their shareholder value just because they're distracted for maybe six months dealing with a contest. Even if they win, even if they reach a settlement or something, it can still be incredibly distracting, I think, for small and mid-caps.

Judy McLevey: So, I'm also curious about how disclosure and governance might fit in with director education. Director education is another area that's very much of interest today. So, given all of the changes that are underway and contemplated, how might that fit in with the director education?

Mickey Foster: I think we certainly, when we have new directors, obviously, even before they come on Board, the annual report, the 10-K, past proxy statements, earnings releases, we also send them analyst reports to get them up to speed on the company. So, there's a lot involved.

I've been in other companies where -- one company where I was asked by the Chairman to take directors to visit the major facilities for a two or three-day trip and actually let them see these huge chemical complexes, for example. And so, when they're approving hundred-millions of dollars of capital spending, they know what it's going for.

Judy McLevey: Right, right.

Mickey Foster: Because unless you've seen it, it's tough to figure out. So, director education can be on many different levels.

Paul Washington: Yes, and it's one of those things that I think companies -- I think it's critically important. And I think companies will have been doing it and will continue to do it sort of regardless of disclosure requirements, regardless of whether its risk metrics provides accreditation for director education programs, which I guess they are now no longer going to do. It's just in the company's best interest to do it, whether it's providing materials in advance, having them -- if they're joining the Board, having to meet with management a few levels down after they've joined the Board, keeping them up to speed.

The intersection between director and education and disclosure is kind of interesting to me because, we don't really, right now, have to disclose that much about it. There's not -- as far as I know, we don't have a huge, affirmative obligation to say what we do, even though it is so important. Where I do think it might come into play, though, in disclosure is when you're talking about whether your directors are qualified to be re-nominated. You can't just go back to why you brought them onto the Board in the first place because actually, at that time, they didn't know that much about your company, most likely.

But part of the reason why they're re-nominated is that this is the group of 11 or 12 people -- whatever it might be -- who really know your company deeply, who understand its operations, who understand its strategic challenges. This -- apart from very senior management, these are your most educated and, of course, IR. These are you most educated and familiar people with the challenges facing your organization.

So, somehow, I know that's not what the SEC has asked for and it may be sort of gilding a lily. But actually, in truth, that is a good, big reason why you want these people to continue to be on your Board. They ask good questions, they bring out the best in management and they do all that because they actually understand your company and that relates to director education. So, somehow we'll sneak it in there.

Judy McLevey: Right. That's a good point.

Mickey Foster: We have directors that are on -- that are heads of other -- other CEOs of other companies. And I know executives at those other companies who said because of what you're doing at FedEx, we're implementing it in our company, also. So, there's a lot of cross fertilization going on at the director level, even if they're on the director's companies, so.

Judy McLevey: Good point. One of the things you and I talked about briefly was whether there are other kind of components, rules that the IR folks can help with in respect to the Corporate Secretary's office to help support and provide guidance to the Board and management. We had talked about director vacancies and that type of thing. So, I don't know if you want to expand upon that a little bit? Interesting.

Paul Washington: Sure. I think that, for example, I talked a little bit about -- and I mentioned earlier -- how the coordination between IR and the Corporate Secretary's area needs to run fairly deep in an organization. And it's not just providing information to the Board or to investors, it's also in helping to select your Board.

And I think so much of the attention has been on are these directors independent? And that, to my mind, is just like checking off that regulatory independence box. It's kind of the easiest and, in some ways, least important thing you should do. You should really look at those qualities of integrity, independence and so forth, which can be done through interviews and knowing people and reference checks.

But a place where IR plays a really important role is looking at the company -- let's say you're bringing on the CEO of another company or former CEO of another company onto your Board. Corporate secretaries don't necessarily have the capacity to say well, did that person do a good job as the CEO at that company? Or has that person been on Boards that did a good or bad job? IR is a great resource for us as corporate secretaries. So, if we're looking at a potential director candidate, we'll say, can you tell us about this person's business performance?

Now, in some cases, that's stuff that's derived from public documents. In other cases, it's stuff that's derived from the network of analysts out there who are familiar with those folks. And so, I think, when you're choosing people for your Board, you want to bring all your resources you can to bear. And I think IR can play an important role in that respect.

It can also, of course, if you want to canvas your major shareholders -- which we have done in the past, a couple of times, at least -- to say, we're looking for someone to be on our Board. What -- do you have -- major investors, do you have any particular qualities or experience sets, or whatever, that you think would be useful for us to add to our Board?

It's in a sort of not a pressurized proxy contest kind of environment, but it just part of the ongoing dialogue. And that's a dialogue that's IR and Corporate Secretary's office can have together with the big investors. It's also just sort of a matter of respect to your big investors. But it's also -- you can get some good information because they can say -- you can find out whether they do have particular things they're looking for. So anyway, those are a couple of areas where IR, I think, can help the Corporate Secretary's office in director selection.

Judy McLevey: Okay, great. Thank you. Somebody mentioned risk metrics; I'm not sure who did. But obviously, there was some speculation recently in the Wall Street Journal about risk metric having put itself up for sale. And I'm just curious -- maybe, Jeff, you would like to touch this -- as to what ramifications that might have. Paul, Mickey, you guys might have comments as well, but.

Jeff Morgan: Sure. Let me make a couple of quick points. One is I think the immediate thing that comes to everybody's mind when you hear risk metrics is up for sale -- is it better for them to be an

independent company that this is what they do or part of a bigger conglomerate? And I think that's a -- you get strong reaction there. Second is that the SEC is looking at the proxy advisory area and as part of a concept release that we expect to be released in March, is going to discuss some of the issues in there.

So, what the Society and NIRI have been working on over the past several months and will come out with in the next few weeks is a position paper, a joint-position paper from the Society and NIRI that looks at proxy advisory services and starts to put out some of the things on the table where we jointly see some challenges. And I think this is a positive discussion and I think the fact that they're up for sale just makes that discussion all the more relevant.

Judy McLevey: I don't know if either one of you want to -- ?

Paul Washington: The next one, yes, who buys them I guess. I mean, I would say this, though. There is a very important rollout there for proxy advisory firms. I think we all like to make sure that, in some ways, the -- that there was a greater variety of advice out there and maybe there would be a way, ultimately one day in this world of decoupling the mechanics of voting from the advice so that there'd be a nice pot from that. Everyone could vote through, whether investors or retail investors or institutional investors. And then, you could have a bunch of advice available to you and people would actually make their living or not based on the quality of their advice.

So, I think this is an area where we may see some regulation. I think there is a really valid role for different types of proxy advisory firms here. I guess I'm not pinning my hopes one way or the other on what happens to one institution. I think that the challenge is in proxy advisory firms' roles and in making sure that their constructive is broader than any single firm.

Mickey Foster: And I think most institutions I talk to subscribe to four or five major services anyway. So, if risk metrics, something happened to them, it wouldn't be a big deal because there are so many out there. I know a lot of people used to follow ISS or whatever. But really, I mean there's so many out there today for the people to get advice. But I think most of the institutions we deal with, they get all four or five advisory services but they ultimately make up their own mind on a lot of them, so.

Paul Washington: Yes, the challenge is that tier of investors who only follow a firm and don't actually do independent analysis. I think that's not healthy for any company or for anyone. One opportunity I see out there for new competitors to come into the market is that there are some big investors who do such a good job analyzing companies in their portfolio. One wonders why they don't actually share that information -- turn that into a business for them, if you can. I don't know if the economics --

Mickey Foster: Well, I think there's a fiduciary duty for every institution to vote their own proxy. Really, that's part of it.

Paul Washington: Understood. But you've got people who do a really good job on analysis and I -- it would be fine by me if they went out there and said, you know what? We're not only analyzing for our shares, but we're going to offer X smart, thoughtful investors analysis to other folks out there.

Anyway, do you want to go into this one?

Judy McLevey: Interesting. Well, that's [above] discussion a little bit on the SEC's efforts and their review of the proxy plumbing process. Obviously, they've announced that they're looking at this and they've had some open meetings amongst their investor advisory group about it. And I guess, if we could maybe hear a little bit about what you think we can expect and what timing we might be hearing.

I'm not sure if Paul, Jeff, one or the other of you want to maybe offer your thoughts.

Paul Washington: I'm happy to defer to you because I'm not --?

Jeff Morgan: I think we're hearing over the next couple of months. I mean, March keeps popping up as a potential. And I think that in this whole realm of shareholder communications, there's several issues. OBONOVO is certainly an issue that's up for discussion. The reconciliation process is up for discussion. Do you want to pre-reconcile? Do you want to post-reconcile? How do you insure that the system is as solid as possible?

And then on top of it, I think the big discussion is the system was designed -- or the proxy process is some 25, 30 years old and it really was before technology existed. So, I think there's going to be a real, in-depth look at breaking apart the pieces and saying what makes sense and asking questions. And you have to understand that concept release, all it is is a lot of questions and I think the SEC is probing for information and that will lead to, probably in the fall timeframe, proposals for changes. So, this is a great time to look at stuff, rip it apart and have conversation.

Paul Washington: And although it's called proxy plumbing, which sort of makes people think ah, it's just the nuts and bolts, this is profoundly important stuff. And one of the bigger issues is how to insure that retail voters actually vote, and that has been a perennial problem. And actually, who knows how they will vote if they were to vote in larger numbers? They don't necessarily always vote with the company. But it ought to be easier for them to do so and they ought to have some of the same tools that institutional investors have at their disposal, it seems to me, to be able to vote.

And then finally, that of course relates back to disclosure, which is -- I think there are a lot of retail holders out there who open their proxy statements over the garbage can. And they just -- it's just too much to read and we've gotten to the point where something that should be a compelling, interesting -- if you're investing, you care about it -- document just doesn't actually even get read by the people who ought to.

Judy McLevey: Well said. So, we've been taking a few questions from the audience. So, why don't we see what Theresa has to share from the audience at this point?

## Question and Answer Session

Theresa Molloy: Sure. Okay, let's start with the question from Jeff. We are very interested in specifically the small- to mid-cap companies that are listening to this program today. So, can you talk a little bit about how 452 is going to impact small mid-cap companies, specifically in a lot of these -- especially the smaller companies? The IR and governance role kind of overlap a little bit. So, what are some of the challenges that you see on the horizon for these companies?

Jeff Morgan: Yes, I mean certainly if you have a high retail universe, you are very affected by 452. The first thing you need to do is make sure you have a routine item on your proxy because that will -- the broker votes still counts for the quorum. So, that's number one. But I think that you are really going to have to look at how you go out and bring that retail vote in. And I think there's been a lot of discussion around e-proxy. And if we use e-proxy, that even reduces the retail votes statistically even more. So, there's really going to have to be a thought process there.

And hopefully, it's not going to cost you more money, but unfortunately, it might by using proxy solicitors and others. And that is where you can't wait and just assume everything's going to happen. You need to be looking at the history of your retail vote. How does that change when you lose the broker vote on directors and make some strategic decisions.

Paul Washington: And talk about that with your Board because you don't want them to be surprised that, suddenly, they -- because you drew the e-proxy line at some level, their vote tallies went way down. I mean, make sure that there aren't surprises there along the way.

Theresa Molloy: I have a few questions as it relates to institutional investors and the Board. The first one, Mickey, I'll address to you. Do you have regular briefings with your Board regarding the demographics of your institutional membership base?

Mickey Foster: Oh definitely. Every month, I send a document to them that says here are the 50 largest investors, large to small. Here are the institutions over the last month that have bought FedEx stock and how many shares they've bought. These are the institutions that have sold. And usually, it's even got in the top 50, their cost basis of what they bought the stock at. And most of the time, the sellers are making a very good profit. So, you can see that.

In addition to that, we tell the Board here are the number of buy recommendations we have on the stock. Here are the neutrals and here are the sales, if we have any of those. So they have a flavor of what that is. And they also give them the average target price by all of our sell-side analysts. So, they get this monthly report that's got a lot of things in it. In addition, to hedge fund ownership to even graphing the New York Stock Exchange short interest in there because they're very interested in what is the short interest. And so, there's lots of things in this document that gets sent to the Board on a monthly basis.

Theresa Molloy: Great. And a question for both Paul and Mickey. Do your Board members speak directly to shareholders today? And if they don't today, has there been any discussion about that topic?

Mickey Foster: Today, they don't although, they have access. Any investor can write a letter to our general counsel and that letter can be seen by everyone on the Board. So, that's the way that investors can do that. And to keep in mind, I mean, obviously, many of our big investors see our Chairman there. In addition to that, every couple of years, we have a big analyst day and we'll have 150, 200 people there. And it will be rating agencies, the debt holders and even the equity analysts, and the sell-side analysts, too, so and then big shareholders all come there, too.

So, we're actually probably going to have that this year after our annual shareholder's meeting. So, there are many, many times that the investors get an opportunity to talk to management. And then, of course, anything -- the Board gets a lot of reports on those conversations.

Paul Washington: Yes, so, there are, besides analyst reports, the Board listening in on our earnings calls with analysts, attending investor days if you hold them, those are great ways to make sure that your Board isn't insulated from your investors and you don't want to do that. You want to make sure that the Board knows what investors are talking about and thinking about.

In terms of taking the Board's time for meetings, we have done so. We've had -- on a couple of occasions, we've had the Chair of our Comp Committee or the Chair of our Governance Committee meet with shareholders. You have to do a cost-benefit analysis. Is it really worth the directors' time to do that? And in some cases it is.

So, let's say you've got a stockholder proposal that shareholders will agree to withdraw the proposal if, in exchange, they get to have a substantive discussion with one of your committee chairs. And there's something that comes out of it. It's not just oh, we got some face time. But there's something that actually emerges from it. Then, it may well be in everyone's interest to have the directors meet with them.

But there are times where it just would be a waste of everyone's effort if the Board, for example, has thoroughly considered an issue and it's something that has gotten 5% or 10% support from shareholders. And it's just going to go nowhere and it's a bad idea to drive one of your directors in to meet with a shareholder. If they're not going to withdraw the proposal, it just probably wouldn't be worth it. And even if they were, it might not be worth it. So, that's the kind of -- you go through that analysis.

I think that you don't want to find yourself in a position where directors are turned into Congressmen with their own constituent service staff. That's just not going to be good for the health of corporations. I'm afraid, though, that that's the model that some people come to view the Board with. And so, you want to keep away from that.

Theresa Molloy: There's one last question regarding the separation of CEO and Chairman. And Jeff, I'll address this to you. Is there any -- has NIRI done any work on that subject? And Paul, maybe the Society of Corporate Secretaries and General Counsels have done some work on it. So, anything out in the public that you are aware of?

Jeff Morgan: We have not and there's -- and I haven't -- to my knowledge, we haven't researched that issue. Paul, I'm not sure if the Society has?

Paul Washington: On the separation? No, but there is, for example, the Nellestein Center of Corporate Governance --

Jeff Morgan: That makes sense.

Paul Washington: -- that come out with a report -- I think it was last year -- where they cite a number of studies, which they say the information or evidence is at best inconclusive. I think this is still an area where a lot of people who advocate the separation of the positions as a uniform policy matter -- there are some false assumptions about how companies were built into the -- I always advocate the separation position.

I mean, some of it is as simple as they want to adopt the UK model. But the UK model of having an independent Chair doesn't really apply to the US because, in the UK, they also want a whole lot of inside directors. So, if you're going to take FedEx's Board and have almost all of them be inside directors, well, maybe you would separate the Chair and CEO in that situation.

So, I think there's a lot of sort of not great information serving as the basis for people who are ideologically in favor of separating the positions in all circumstances. And it would be nice to find a way, constructively, to address those misconceptions and really get to the heart of the matter which is sometimes, actually, if you have a combined Chair/CEO and the company is not doing well, the solution isn't to separate the positions, it's to get yourself a new CEO.

Judy McLevey: Okay, I don't know if there's anything that we missed that you think we should touch on?

Mickey Foster: It's been a good discussion. I think we could go on for hours having a conversation, but I know we're running out of time.

Jeff Morgan: And no more questions, right?

Mickey Foster: Great to be here.

Judy McLevey: Well, thank you very much. We really appreciate your time and thank you for the audience for your time and enjoyed it.

Mickey Foster: Thank you.

Paul Washington: Thank you.

Jeff Morgan: Thank you.