

PUBLICATION

Dodd-Frank Wall Street Reform And Consumer Protection Act, Part 3

July 29, 2010

On July 21, 2010, President Obama signed into law the Dodd-Frank Wall Street Reform and Consumer Protection Act (the Act). Several provisions in the Act relate to corporate governance practices of public companies. A summary of the key provisions of the Act relating to non-compensation related governance measures is below. A summary of the key compensation related governance measures will be distributed next week.

- *Proxy Access.* Through an amendment to Section 14(a) of the Securities Exchange Act of 1934 (Exchange Act), the Act authorizes the SEC to issue rules that would require public companies to include shareholder nominees for directors in their proxy statements. Under the Act, the SEC now has explicit authority to promulgate such rules. It is expected that the SEC will move forward in promulgating proxy access quickly.
- *Discretionary voting.* The Act amends Section 6(b) of the Exchange Act to make permanent the recent changes in the discretionary voting policy of the NYSE. As a result of the Act, national securities exchanges are required to adopt rules that prohibit discretionary voting by brokers for the election of directors, on compensation matters, and on other significant matters determined by the SEC without instructions from the beneficial owner of the security.
- *Credit Ratings and Regulation FD.* The Act requires the SEC to revise Regulation FD within 90 days after enactment to remove from Rule 100 of Regulation FD the exemption for entities whose primary business is the issuance of credit ratings. Currently, disclosures by issuers and other covered persons to nationally recognized statistical rating organizations and to credit rating agencies that make their credit ratings publicly available are exempt from Regulation FD where the disclosures are made solely for the purpose of determining or monitoring a credit rating. It is currently unclear how the SEC will implement this provision as Regulation FD currently covers disclosures only to certain designated market participants and to security holders. It is also unclear whether the SEC's amendment to Regulation FD would preclude reliance on the exemption from Regulation FD for disclosures to credit rating organizations that agree to maintain the information in confidence.

If you have questions about this or any other securities-related issues, please contact one of the attorneys listed below or your Baker Donelson attorney.

Baker Donelson is pleased to present a series of Alerts related to the Dodd-Frank Wall Street Reform and Consumer Protection Act. To read the complete series, [click here](#).