Shareholders question corporate political spending

Commentary: Candidates may not serve company's real interests

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Conventional wisdom has it in the wake of November's election that Citizens United was a paper tiger and that unrestricted corporate spending on campaigns did not determine the outcome — but investors may want to take a closer look at the real consequences of corporate political contributions.

Many companies in fact may have supported candidates who espouse policies that are detrimental to the long-term outlook for those companies, and shareholders have a right to know about it, according to Bruce Freed at the Center for Political Accountability in Washington.

The point is, says Freed, that companies cannot afford to take a narrow or superficial view of which policies are "pro-business." The true long-term interests of a company go beyond an agenda of lower taxes or fewer regulations, he says.

Pharmaceutical companies, for instance, gave carte blanche in 2010 to their trade association, PhRMA, to support "pro-business" candidates in congressional elections.

And yet, Freed points out, even though many of these drug companies manufacture contraceptives, 23 of the successful candidates supported by the group subsequently voted to limit access to birth control, cut federal funding for it and cut funding for medical research that benefits drug companies and their shareholders.

This is hardly the only example of companies making political contributions that could rebound against them. Exelon and several other large utilities left the U.S. Chamber of Commerce in 2009 because of the hyper-partisan business group's opposition to cap-and-trade or any other measure to combat climate change.

These companies felt that some form of government regulation was needed so utilities could make the right capital investment choices. Other firms that also supported some form of carbon control — such as Dow Chemical and Duke Energy — remained in the Chamber in the knowledge that their dues were being used to subvert legislation they publicly supported.

These issues can be debated, but the CPA's point is that companies owe it to their investors to be transparent about which political candidates they are backing. That very transparency compels company executives to think twice about policies they want to support.

"When it comes to political engagement," Freed and CPA counsel Karl Sandstrom wrote in the current issue of The Conference Board Review, "a company must adhere to its values, keep its broader interests in mind, and understand that giving money to candidates or entities whose

behavior is uncertain or at odds with those values and long-term business interests ultimately harms the company and its shareholders." Read the full article on Navigating Politics.

Because political contributions now often go directly not to candidates but to trade associations or super-PACs or 501(c)(4) groups, which do not disclose their donors, this corporate spending can remain hidden to investors unless the company itself discloses it.

At the same time, the companies have the feeling that the candidates who ultimately benefit from the contribution know who their friends are. "The public is kept in the dark, but the beneficiaries are not," Freed and Sandstrom write.

Companies are catching on. More than 100 large public companies, including half of the S&P 100, have adopted policies on political accountability, CPA reckons. These include industry leaders like Merck, Microsoft, Aflac, Exelon, Time Warner and Wells Fargo. "Our goal," Freed says, "is for it to be seen as a best practice in corporate governance."

The Securities and Exchange Commission may soon provide a further incentive. The agency said last month that it plans to announce a rule proposal in April requiring public companies to disclose their spending on politics.

"Because the interests of managers and investors often diverge when it comes to political spending," Harvard Law's Lucian Bebchuk and Columbia Law's Robert Jackson said in a blog post welcoming the SEC announcement, "disclosure is necessary to ensure that insiders are held accountable when they decide to spend investors' funds on politics."

The two experts on corporate governance co-chaired a committee of academics that petitioned the SEC in 2011 to adopt the disclosure rule. They said the petition received virtually unanimous support from investors in literally hundreds of thousands of comment letters sent to the SEC. Read the blog post by Bebchuk and Jackson.

Neither the CPA nor the SEC is talking about disclosure leading to a knee-jerk consumer boycott of companies that turn off customers with their political choices.

Rather, they are talking about enabling a hard-nosed assessment by investors of whether the funds going to these political contributions really do serve the interests of the shareholders or might be better spent on investments in personnel or equipment, or paid out as dividends.

The Supreme Court ruled in the *Citizens United* case that corporations are entitled to make political contributions under the free-speech protection of the First Amendment. But these corporations belong to the shareholders, not the managers, and these owners have the right to decide whether their money is being spent wisely.