Bebchuk Defends Shareholder Proposals

Lawdragon

April 23, 2012

Harvard Law professor Lucian Bebchuk, a prior member of our Lawdragon 500 guides, defended the work of the school’s Shareholder Rights Project, for which he serves as director, in an op-ed on the Times DealB%k page. Specifically, the esteemed professor is defending how the clinical program has assisted pension funds and other investors in submitting proposals to large public companies that they move away from staggered boards, and instead have members face election each year – which “is viewed by investors as a best practice of corporate governance.” According to Bebchuk, more than one-third of S&P 500 companies that had staggered boards have agreed to do so.

The article is a response to criticism levied by Wachtell Lipton Rosen & Katz, which in a memo said that “the absence of a staggered board makes it significantly harder for a public company to fend off an inadequate, opportunistic takeover bid, and is harmful to companies that focus on long-term value creation.” The memo, covered earlier by DealB%k, which was signed by Martin Lipton, Theodore N. Mirvis, Daniel Neff and David Katz, all Lawdragon 500 veterans, also took issue with Harvard having a clinic to advance such an agenda.

Bebchuk (picture above from Harvard Law) contends that the weight of empirical evidence is on his side, that “staggered boards are associated with lower firm value.” He adds: "Rather than seeking to discourage our program from representing institutional investors submitting shareholder proposals, Wachtell should focus on engaging in a substantive debate about the merits of staggered boards."