Independent Finance Experts: Bank Execs, Boards Should Be Fired

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By Jeff Muskus
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Officials from the Treasury, Federal Reserve and the Securities and Exchange Commission told the House Financial Services Committee Thursday that executive compensation can be better controlled by giving shareholders a nonbinding vote on pay levels. Having someone other than the CEO pay consultants, who report to their compensation committees would be helpful, too.

"Our goal is to help ensure that there is a much closer alignment between compensation, sound risk management and long-term value creation for firms and the economy as a whole," Treasury counselor Gene Sperling said.

Earlier in the week, Treasury Secretary Timothy Geithner had made a similar point, saying, "Our goal is not to have the government micromanage private sector compensation."

Maybe they don't want to micromanage, but Rep. Alan Grayson (D-Fla.) asked, what about setting an example?

"We are trying to make policy on the basis of recent memory," Grayson said, addressing the second panel at Thursday's hearing. "For the past few months we've seen banks that have brought themselves to the brink of ruin, brought the whole U.S. economy to the brink of ruin, and what people see is that nobody's been held accountable for that. Nobody's been punished for that. Maybe the gravy train has slowed down for them a little bit, but it's still rolling.

"I want to hear your best ideas about how we should hold accountable the people who've already screwed up, the people who've already caused the destruction of their own banks and caused the taxpayers to have to give out billions upon billions of dollars," he said. "And I want to know what we should do in the future about people like that."

The second panel, which consisted of financial experts who are not currently working in government, offered a simple solution: Kick them out.

"There is a limitation on ex post facto laws, there's not much you can do about what has already happened, but I would certainly strongly urge Congress to make sure that anyone involved can never serve on the board of a public company or as an officer of a public company ever again," said Nell Minow of The Corporate Library, an independent corporate-governance research firm. Story continues below

"It's unthinkable to me that these people continue to be involved," she said.

That punishment, according to Minow, typically applied by the SEC in cases of illegal trading, should include the executives and boards of directors of all the major financial institutions still participating in the Troubled Asset Relief Program.

Panel members offered a variety of disciplinary measures typically applied in cases of fraud, and Grayson stressed that the issue was punishment for "gross mismanagement," which is technically legal. Fortunately, former SEC chief accountant Lynn Turner said, the two dovetail somewhat, thanks to the Enron generation of financial scandals.

"When you passed the Sarbanes-Oxley Act, you gave the SEC the authority to find that when they look at directors or officers and find that they're substantially unfit to fill those roles, they can bar them forever from serving in those roles at a public company," Turner said. "And I think in some of the instances in these companies, we're going to find that some of these directors are in fact substantially unfit to fulfill that role, haven't demonstrated the fitness ability and the SEC should forever bar them from being an officer or director of a public company."

Though the other two panelists were more than comfortable suggesting a legal framework for further action against finance executives, Harvard Law professor Lucien Bebchuk seemed reluctant to prescribe new legislation to the committee. Grayson grew impatient.

"Mr. Bebchuk, I'm asking you what should the law be?" he said. "That's what we do around here, we determine that."