

Market News

May 2010

A monthly review of IR developments for our clients and friends. . .

SEC wants to keep its fees and fines

Mary Schapiro and five of her predecessors pleaded with Congress on tax-day, April 15, to grant self-funding powers to the Securities & Exchange Commission as part of the financial regulation bill proposed by the Senate Finance Committee Chairman Chris Dodd. Their argument—it's one of the few financial regulation agencies still subject to annual appropriations, and is woefully underfunded. The \$65 billion Bernie Madoff Ponzi scheme made that obvious, along with the fact the agency was under-resourced. Senator Charles Schumer points out that the SEC brought in \$1.5 billion in fees in 2007, while it was allocated only \$881.6 million by Congress. Some in Congress are worried self-funding would motivate the agency to increase its fees and fine collections, while eroding Congress's budget-setting powers. Interesting!

What did they tell and when did they tell it?

It's becoming clear that SEC case against Goldman Sachs is simply a Reg FD case on steroids: Should Goldman have disclosed to one client that second client influenced the development of a security that the first client was buying? The case ultimately will rest on whether, in the Big Boy World of sophisticated institutional investors, disclosure rules apply, or whether the rule of Caveat Emptor prevails. What's unique about the case so far is that it didn't come in a neatly packaged settlement: Goldman is calculating that its reputation can stand a protracted trial in the Court of Public Opinion, which will produce a verdict long before preliminary motions arrive in any real courtroom. So far, with its stock down about 20%, Goldman Sachs would seem to be losing that bet. Whether the price recovers when the issue fades from the headlines will probably influence future settlement talks

Google this!

Last week Google announced it is streamlining its investor relations program. For starters, it will no longer distribute financial news through newswire services; instead it will post releases on its own web site, saving what can be hefty newswire fees. Several companies have interpreted the SEC's August 2008 guidance on corporate websites as an endorsement of their use as FD-approved disclosure vehicles, so long as they are a "recognized channel of distribution" by investors. Tests include consistent postings of company news on the site, the site is kept current, and company news is easily accessible to a broad audience. In addition, Google CFO Patrick Pichette announced on the first-quarter conference call the elimination of its additional Q&A session with analysts because questions often duplicated those asked in the primary call. Pichette also announced that CEO Eric Schmidt would no longer participate on the investor call to focus it on financials. Pichette isn't the only CFO leading the quarterly conference call. Apple, AT&T and Costco have started to do that as well.

Do Safe Harbors have to be dull? Not if you're in the kid business

It's the most-skipped paragraph in the earnings release, the most-ignored slide in the presentation deck, and often the poor IRO's delegated duty on the conference call: reading the Safe Harbor disclaimer. Kudos to Mattel, then, for turning what is usually tedium into a forward-thinking Tickle-me delight with its Safe Harbor intro to CEO Bob Eckert's video in its 2009 interactive annual report. Check it out at <http://corporate.mattel.com> (hit the Start button).

Internal auditors are unsure of technical competence

A survey of 700 internal auditors by Protiviti, a risk management and internal-audit consulting firm, revealed a majority were not confident in their ability to monitor the soundness of their clients' internal technical processes. The study asked the auditors to rate their competency in 28 areas of general technical knowledge; a majority said they needed to learn more about technical processes. Their biggest problem, understanding *The Guide to the Assessment of IT Risk*, a standards manual published by the Institute of Internal Auditors (IIA) in 2009 to measure whether IT structures and processes enable the company to sustain and extend its strategies and objectives. Their second major technical shortfall was grasping the technical aspects of Financial Reporting Standards, and Extensible Business Reporting Language (XBRL). Most companies required to use XBRL outsource the tagging work, meaning auditors have little if any direct exposure to it.

A Thousand times faster than a blink of an eye

"High-frequency" trades have garnered a lot of press lately, with some arguing that the fast trades make for an un-level playing field for those not privy to them. But that hasn't stopped Algo Technologies from introducing a trading system that trades in 16 microseconds. That's a thousand times faster than a blink of an eye. Currently, Nasdaq OMX, BATS Global Market and the London Stock Exchange have the fastest trading systems available, able to make a trade in 250 microseconds. Algo expects to sign up its first client—an unnamed European exchange—in June.

Apparently CFOs aren't that good at planning ahead

Succession planning doesn't seem to be a strong suit for chief financial officers, according to a recent survey by recruiter Robert Half Management Resources. Of 1,400 CFOs participating in the study, 83 percent had no succession plan, claiming they had no plans to leave their current employer in the near term. Particularly troubling is that seven percent said they don't have a successor because there are no qualified candidates currently working within their organization. Given the importance of the CFO, this lack of planning should be a concern for companies.

A simple strategy, clearly stated

We devote a lot of time to helping clients develop a strategy message that is clear, concise, and distinctive. We think that's important, because investors who can't figure out what you do are unlikely to give you more capital to keep doing it. We like to highlight both good and bad examples of strategy messages when we find them, so it's appropriate that we send our appreciation to Scott Adams, creator of Dilbert. This being a family newsletter, we're not going to repeat the strategy in full here, but recommend you visit www.dilbert.com and check out Scott's April 23, 2010 strip. Suffice to say that while it's a strategy that only very long-term investors might love, it is *very* distinctive, and probably one that the Dilbert gang is particularly well suited to execute.



*For investor relations or market questions, or to discuss our consulting services,
please contact us at (937) 434-2700.*