



HARVARD LAW SCHOOL
Program on Institutional Investors
Report of Activities, July 1, 2014 – June 30, 2015

The Program on Institutional Investors at Harvard Law School (PII), established in the summer of 2011, seeks to contribute to research, policy-making, discourse, and education with respect to institutional investors and issues of interest to institutional investors. During 2014-15, the PII's Director was Lucian Bebchuk, Stephen Davis and Scott Hirst served as Associate Directors, and Emily Lewis served as Administrative Director.

As the report documents, during the 2014-15 university year, the Program made the following contributions to research, education, and discourse in the field of corporate governance:

- **Harvard Law School Institutional Investor Forum:** The Program operates The Harvard Law School Institutional Investor Forum (HIIF), which aims at contributing to discourse, policy making and education with respect to institutional investors and issues of interest to them. It has over 20 institutional investor members and an advisory council of leading governance offers from the institutional investor community (See Section A);
- **Conferences:** The Program supported and facilitated three major conferences, the Harvard Roundtable on Executive Compensation in November 2014, the Harvard Roundtable on Corporate Governance in March 2015, and the Harvard Roundtable on Shareholder Engagement in June 2015, with an average of 70 prominent participants, including investors, issuers, advisors, regulators, and academics (See Section A);
- **Research:** The Program supported and fostered cutting-edge research on corporate governance, including 43 studies by faculty members and senior fellows associated with the Program (see Section B);
- **Shareholder Rights Project:** The Program operated the Shareholder Rights Project (SRP) from 2011-2014, a clinical program that provided services on a pro bono basis to public pension funds and nonprofit charitable organizations that sought to improve corporate governance, and provided students with the opportunity to obtain hands-on experience with shareholder rights work (see Section C); and
- **Online forum and Newsletter:** Along with the Program on Corporate Governance, the Program operated *The Harvard Law School Forum on Corporate Governance and Financial Regulation*, which has featured 598 posts in 2014-15, bringing the total number of posts to over 4,100 since its inception (see Section D).

In the upcoming year, except as noted below, the Program plans to continue activities similar in nature and scale to those summarized above and described in more detail in the body of the Report.

Additional information regarding the Program is available on the Program's website, <http://pii.law.harvard.edu/>.

A. Harvard Institutional Investor Forum

The Harvard Law School Institutional Investor Forum (HIIF), operated by the Harvard Law School Program on Institutional Investors and the Harvard Law School Program on Corporate Governance, aims at contributing to discourse, policy making and education with respect to institutional investors and issues of interest to them. The Forum is supported by its 22 institutional investor members, which include public pension funds, mutual funds and other investing institutions in the US and other jurisdictions. An advisory council consisting of leading governance officers from the institutional investor community provides the Forum with input on events and topics that could add value to the community of investors.

1. Members

During 2014-15, the HIIF's member institutions were as follows:

Blackrock	JPMorgan Asset Management
California Public Employees' Retirement System	MFS Investment Management
California State Teachers' Retirement System	Norges Bank Investment Management
Canada Pension Plan Investment Board	North Carolina Department of State
Charles Schwab Investment Management	Ontario Teachers' Pension Plan
Colorado Public Employees' Retirement Association	State Street
Dimensional Fund Advisors	TIAA-CREF
Fidelity	UAW Retirement Medical Benefits Trust
Florida State Board of Administration	Universities Superannuation Scheme
Generation Investment Management	Vanguard

2. Advisory Council

During 2014-15, the HIIF's advisory council was as follows:

Glenn Booraem	<i>Vanguard</i>
Jay Chaudhuri	<i>North Carolina Department of State</i>
Eileen Cohen	<i>JPMorgan Asset Management</i>
Michelle Edkins	<i>Blackrock</i>
Matthew Filosa	<i>MFS Investment Management</i>
Scott Goebel	<i>Fidelity</i>
Gavin Grant	<i>Norges Bank Investment Management</i>
Bess Joffe	<i>TIAA-CREF</i>
Peter S. Knight	<i>Generation Investment Management</i>
Rakhi Kumar	<i>State Street</i>
Stephanie Leaist	<i>Canada Pension Plan Investment Board</i>
Gwen Le Berre	<i>Charles Schwab Investment Management</i>
Michael McCauley	<i>Florida State Board of Administration</i>
Meredith Miller	<i>UAW Retirement Medical Benefits Trust</i>
Manish Mital	<i>Halcyon</i>
Daniel Ong	<i>Dimensional Fund Advisors</i>
Charles Penner	<i>JANA Partners</i>
Paul Schneider	<i>Ontario Teachers' Pension Plan</i>
Anne Sheehan	<i>California State Teachers' Retirement System</i>
Anne Simpson	<i>California Public Employees' Retirement System</i>
Greg Smith	<i>Colorado Public Employees' Retirement Association</i>
Daniel Summerfield	<i>Universities Superannuation Scheme</i>

3. Events

The HIIF holds events that bring together leading members of the institutional investor community and influential corporate executives, advisors, academics, and public officials. During 2014-15, the HIIF co-sponsored the Harvard Roundtable on Executive Compensation, the Harvard Roundtable on Corporate Governance and the Harvard Roundtable on Shareholder Engagement.

(a) Harvard Roundtable on Executive Compensation

Together with the Program on Corporate Governance, the HIIF co-sponsored the Harvard Roundtable on Executive Compensation, which took place on Thursday, November 6, 2014 at Harvard Law School.

The event brought together for a roundtable discussion prominent representatives of the investor, issuer, advisor, and academic communities.

The Roundtable sessions focused on both the process for determining executive compensation, and on substantive pay arrangements. The Roundtable discussion on issues relating to the process of determining executive compensation included discussion of the work of proxy advisors and their interaction with investors and issuers, engagement between issuers and investors themselves and compensation disclosure issues.

The Roundtable then moved to a discussion of the substantive terms of compensation arrangements, including compensation levels, composition, and structures. Issues that were considered included the choice of peer groups, the composition of long-term and short-term incentive pay and contractual provisions such as claw-backs and golden parachutes.

(b) Harvard Roundtable on Corporate Governance

Together with the Program on Corporate Governance, the HIIF co-sponsored the Harvard Roundtable on Long-Term Value Creation, which took place on Wednesday, March 18, 2015 at Harvard Law School.

The event brought together for a roundtable discussion 75 prominent experts with a wide range of perspectives on this subject, including those of investors, issuers, advisors, and academics. Participants in the event, and the topics of discussion, are set out below.

The Roundtable sessions focused on board composition, and other current issues in corporate governance. The Roundtable began with discussion of board composition issues. The participants discussed a variety of issues on the topic, including director experience and skills, director tenure and age, board refreshment, board diversity and board evaluations.

The Roundtable then moved to a discussion of proxy access and other current issues in corporate governance, and engagement between issuers and investors on such issues.

(c) Harvard Roundtable on Shareholder Engagement

Together with the Program on Corporate Governance, the HIIF co-sponsored the Harvard Roundtable on Shareholder Engagement, which took place on Wednesday, June 17, 2015 at Harvard Law School.

The event brought together for a roundtable discussion 81 prominent experts with a wide range of perspectives on the subject, including senior officers from institutional investors (both mutual funds and public pension funds) with aggregate assets under management exceeding \$16 trillion, senior officers from companies with aggregate market capitalization exceeding \$1.4 trillion, and representatives from many leading activist hedge funds, investment banks and corporate law firms.

The Roundtable sessions focused on shareholder engagement with issuers. The Roundtable began with a general discussion of current debates on shareholder activism. The participants discussed a variety of topics, including the debate on whether activism is beneficial for the long-term and the debate on buybacks and distributions to shareholders.

The Roundtable then moved to a discussion of engagements with respect to activist interventions, including engagement between issuers and investors (both activists and non-activist), and among investors.

B. Research

The Program seeks to foster research on institutional investors and issues related to them. Articles and working papers on such issues published or released during 2014-15 by faculty and fellows associated with the Program include the following:

Bebchuk, Lucian, Alon Brav and Wei Jiang, “The Long-Term Effects of Hedge Fund Activism,” 115 *Columbia Law Review* 1085-1156 (2015).

Coates, IV, John C., “Securities Litigation in the Roberts Courts: An Early Assessment,” *Arizona Law Review* (forthcoming, 2015).

Coates, IV., John C., “Thirty Years of Evolution in the Roles of Institutional Investors in Corporate Governance,” *Research Handbook on Shareholder Power* (Edward Elgar Publishing) (forthcoming, 2015).

Fried, Jesse M., “The Uneasy Case for Favoring Long-term Shareholders,” 124 *Yale Law Journal* 1554 (2015).

Kastiel, Kobi, “Against All Odds: Shareholder Activism in Controlled Companies,” *Columbia Business Law Review* (forthcoming).

Sitkoff, Robert H., Andrew Gold and Paul Miller, “An Economic Theory of Fiduciary Law,” *Philosophical Foundations of Fiduciary Law* (Oxford University Press, 2014).

Sitkoff, Robert H. and Max Schanzenbach, “The Prudent Investor Rule and Market Risk: An Empirical Analysis,” see *The Prudent Investor Rule and Market Risk: An Empirical Analysis*.

C. The Shareholder Rights Project

The Shareholder Rights Project (SRP) was established by the Harvard Law School Program on Institutional Investors to contribute to education, discourse, and research related to efforts by institutional investors to improve corporate governance arrangements at publicly traded firms. During the previous three academic years (2011-2012 through 2013-2014), the SRP operated a clinic that assisted institutional investors (several public pension funds and a foundation) in moving S&P 500 and Fortune 500 companies towards annual elections. This work contributed to board declassification at about 100 S&P 500 and Fortune 500 companies. With work on the declassification project completed last summer, the clinic did not operate during the 2014-15 year. Further information about the work of the SRP clinic during its three years of operation is available on the SRP’s website, <http://srp.law.harvard.edu>; a detailed final report on this work will be issued in 2015. Any communications with respect to the SRP clinic should be attributed solely to the SRP and not to Harvard Law School or Harvard University.

D. The Harvard Law School Forum on Corporate Governance and Financial Regulation

Together with the Program on Corporate Governance, the Program co-sponsors the widely-followed blog website entitled *The Harvard Law School Forum on Corporate Governance and Financial Regulation*. The Forum can be accessed at: <http://corpgov.law.harvard.edu/>.

From its inception to June 30, 2015, the Forum has featured a total of 4,105 articles, trending upwards, currently running at an average rate of 50 articles per month. The Forum features communications about corporate governance research and practice both by individuals associated with the Program – faculty, fellows, and members of the Program’s advisory board – as well as posts by guest contributors. The Forum provides updates on working papers, seminars, speakers, and other activities sponsored by the Program. Further information about the Forum is available in the annual report of the Program on Corporate Governance.