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Calpers to awaken zombie boards

By Dan McCrum in New York

Fresh from successes at Apple and Hewlett-Packard, the largest US public pension fund is preparing to take on "zombie" directors and rogue pay arrangements as the country's season of annual meetings gets under way.

The $255bn California Public Employees' Retirement System has identified 52 directors who have failed to win shareholder votes but either stayed in place or subsequently been reinstated. For instance, David Bonderman, founder of private equity group TPG, has failed to receive majority support as a director of property information group CoStar for three years, but remains on the board.

At companies without majority voting requirements, there are few mechanisms to force change, and the issue may add to pressure on the Securities and Exchange Commission to revisit so-called proxy access rules.

Such new rules, intended to make it easier for shareholders to eject board members, were thrown out by a federal appeals court in 2011. "These zombie directors are the living dead case for why we need the proxy access that the SEC could not deliver," said Anne Simpson, head of corporate governance for Calpers.

The pension fund also intends to escalate pressure on executive pay, identifying 52 companies – including Adobe, Abercrombie & Fitch, JC Penney, Sprint Nextel, and Yahoo – where it has rejected pay arrangements two years in a row. "The next stage is to hold the board accountable," said Ms Simpson.

The pension fund will meet this week to discuss its options. Opposing the re-election of the directors in charge of pay committees at the offending companies is one option, if improvements have not been made this year.

It comes after Calpers has secured notable successes this year, including helping Apple to secure support for the introduction of majority voting in boardroom elections. The fund was also involved in discussions to shake up the board of HP, which voluntarily introduced proxy access at its annual meeting last month.

The focus on repeat offenders on executive pay marks an evolution of the "say on pay" process that is now in its third year.

As part of changes made in the 2010 financial reforms, all listed companies are required to hold an advisory vote on shareholder compensation.

"It's been a real sleeper corporate governance reform coming off the Dodd-Frank act," said Anne Yerger, head of the Council of Institutional investors, who credits the say-on-pay initiative with improving disclosure.

But she added: "Clearly there are still issues – there are companies getting no votes."

A survey of more than 2,000 companies by the Semler Brossy Consulting Group found only 2.5 per cent failed to receive majority support last year.

However the vote has become a way for shareholders to express dissatisfaction at a company without mounting an expensive campaign to unseat directors: last year for instance a surprise no vote on pay at Citigroup preceded the departure of its chief executive, Vikram Pandit.

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