CENTER FOR POLITICAL ACCOUNTABILITY

PRIMER ON CORPORATE POLITICAL SPENDING FOR INCOMING DIRECTORS

PREPARED BY The Center for Political Accountability
with the input of corporate directors and executives

WHY THIS PRIMER? HOW IT HELPS DIRECTORS

The purpose of this primer is to help incoming directors understand the ins and outs of corporate political spending and protect their companies from risks posed by this spending. Its focus is on election-related spending. It does not cover lobbying. As corporate political disclosure and accountability have become the norm, directors have assumed greater responsibility for overseeing the political spending their company undertakes. This responsibility has come at a time that the legal, financial and reputational risks associated with political spending are increasingly clear.

The risks are real and serious, and can impact a company on multiple levels:

- **Legal**: A prime example is the Ohio public utility FirstEnergy, which became embroiled in an immense bribery scandal. This case involved the corporation funneling more than $60 million to a "dark money" group to facilitate the passage of bailout legislation. See the Ohio Capital Journal's article, "Ohio indictments provide a better picture of squalid relationships that spurred massive scandal."

- **Internal:** Disney experienced blowback from its LGBTQ employees following disclosure of the company's contributions to Gov. Ron DeSantis and Republican state legislators who proposed and voted for the controversial "Don't Say Gay" legislation. See Politico article, "Florida Republicans won't let go of Disney's campaign cash."

- **Reputational:** Target, which has a strong human resources policy on LGBTQ, came under sharp criticism for a $150,000 contribution to a Minnesota political group supporting a gubernatorial candidate opposed to gay marriage. See The Conference Board Handbook on Corporate Political Activity.

- **Financial:** Disclosure of the corruption probe involving FirstEnergy in July 2020 led to a sharp drop in the company's stock price. See WKYC's report, "Stock prices of FirstEnergy, Energy Harbor fall sharply following reports of investigation involving nuclear bailout." Separately, concern over the impact of political spending led a major food company to adopt strong political disclosure and accountability policies. As its corporate secretary privately told CPA, "We're concerned that a controversial contribution can lead consumers to shift from buying [the company's products] to [a competitor's products]."

Carrying out this responsibility knowledgeably and effectively requires that directors have a broad understanding of the various avenues that political spending takes; what causes and candidates the spending advances; and how it impacts their company and the environment it needs in which to operate, grow and compete. It is critical that directors have the tools and capacity to evaluate a company's political spending to conduct robust risk management and to perform the required due diligence that will protect the company and its shareholders.

Executives at several companies asked the Center for Political Accountability to create this primer. Since 2003, it has led the effort that has brought transparency and accountability to corporate political spending. It has a long history of working collaboratively and cooperatively with companies. It has done this through the engagement of companies to adopt political disclosure and accountability and through its annual benchmarking of the political disclosure and accountability policies of the Russell 1000 in the CPA-Zicklin Index.

Today, CPA is recognized as the driving force that has made political disclosure and accountability the norm. It has done this through "private ordering," when a critical mass acts voluntarily to turn a practice into a standard.

This primer draws on CPA's work regarding the facets of political spending that directors need to know and understand to fulfill their oversight role and fiduciary responsibilities.

Part A provides an overview of corporate political spending. Part B has CPA's guides to corporate political spending that provide management and directors guidance on approaching political spending. Part C is for readers who seek greater detail on political spending, its impact, and the risks it poses.

A. THE BASICS OF CORPORATE POLITICAL SPENDING

The following resources provide basic information on company political spending and board oversight and due diligence:

- **Why Corporate Treasury Spending Matters: The Hidden Iceberg**
  This one-pager explains political spending with corporate PAC funds and corporate treasury funds. It is fundamental for understanding the source of funding that is used, the legal and fiduciary restraints on the spending and how it relates to the company and to director oversight.

- **Under the Radar: The Unrecognized Importance of 527 Committees**
  This backgrounder focuses on one type of spending – by committees commonly known as “527s” (for the Section of the Internal Revenue Code under which they are organized). It examines the impact of 527 committees and the risks companies face when giving to these committees. These committees typically receive contributions from many donors. The money is used for direct spending or is passed along to other committees or organizations.

- **Looking Behind the Curtain: Corporate due diligence of political spending essential to protect companies from growing risks**
  Harvard Law School Forum on Corporate Governance (April 23, 2023): This post explains the oversight that directors need to exercise when reviewing and approving company political spending. It pays special attention to indirect spending and the unique risks it poses to companies.

B. GUIDES TO HANDLING POLITICAL SPENDING

This section draws on guides that CPA has written for directors and management on decision-making, policies for, and board oversight of political spending.

- **A Board Member's Guide to Corporate Political Spending**
  Harvard Business Review, Oct. 30, 2015

- **Guide to Corporate Political Spending: Practical actions for decision-making and safeguarding the company in a dynamic risk environment**
  The Guide was published in 2023 at the request of company executives to provide a checklist for making and assessing political spending decisions.

- **CPA-Zicklin Model Code of Conduct for Corporate Political Spending**
  The Model Code is a framework for companies to approach, govern and assess their political spending. Read the Preamble that places company political spending and the purpose of the Model Code in a broader context.

- **Guide to Becoming a Model Code Company: Understanding the Model Code and how it helps companies manage political spending in a high-risk environment**
  The guide was written in 2024 at the request of corporate executives to explain what the Model Code entails and how to follow or adopt it.

B. FURTHER READING

CPA has produced foundational reports on the risks posed by spending. The reports examine the distinct types and levels of risk companies face internally and externally. These include spending that:

- conflicts with company core values, policies, and positions;
- is made through third-party groups;
- undermines a company's public values and undermines the environment a company needs in which to operate, grow and compete; and
- poses a threat to democracy and the rule of law.

2023 CPA-Zicklin Index of Corporate Political Disclosure and Accountability

The Index benchmarks the political disclosure and accountability policies and practices of the Russell 1000 with particular attention to the S&P 500 companies. Its twenty-four indicators are used by companies as the template for the political disclosure and accountability policies that they are adopting.

Collision Course: The Risks Companies Face When Their Political Spending and Core Values Conflict and How To Address Them (2018):

This was the first report to lay out conflicted spending, what it entails, and the risks it poses to a company.

Conflicted Consequences (2021)

The report further examines political spending with consequences that conflict with company core values and positions. It uses flow charts to trace contributions from companies to 527 committees, ultimate recipients, and outcomes. The report includes the first breakdown of the sources of money to 527 committees that have reshaped state and national politics and policy since the 2010 elections.

Practical Stake: Corporations, Political Spending and Democracy (2022)

The report takes a hard look at what democracy means to companies from a business and operational standpoint and how companies unwittingly enabled the attack on democracy through their political spending. It provides directors with a broader lens with which to view and understand the impact of company political spending and the practical stake that companies have in a healthy democracy.

Corporate Underwriters and the Democracy Gap (2023)

The report analyzes how company political spending has reshaped state politics and created serious risks for companies, shareholders, and democracy. It uses a case study of a 527 committee to show this. This is part one of a forthcoming series on the scope and impact of corporate political spending and its broad impact and accompanying risks.

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