Harvard Law School Forum on Corporate Governance

Primer on Corporate Political Activity: The Risks Companies Face from Political Spending, and How to Manage Them

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Editor's Note: Bruce F. Freed is president of the Center for Political Accountability; and William S. Laufer is the Julian Aresty Endowed Professor and Director of the Carol at The Wharton School at the University of Pennsylvania. This post is based on their recent memorandum.

The primer was jointly produced by the Center for Political Accountability, an NGO leading the effort to bring transparency and accountability to corporate political spending, and The Impact, Value, and Sustainable Business Initiative at the Wharton School of the University of Pennsylvania (Wharton Impact).

The primer couldn't be more timely as K Street and corporate America brace for possible post-midterm congressional investigations. Business leaders and general counsels know that their companies' political donations will be in the crosshairs.

For companies, the primer comes out as corruption has become a major political issue. A recent Gallup survey found a record-high 89 percent in the U.S. responded that government corruption, of which political spending is a part, is widespread. (Record-High 89% in U.S. Say Government Corruption Widespread)

The following is a summary of the primer, which can be read in detail by clicking here.

Corporate political spending has surged since the Supreme Court's 2010 *Citizens United* decision allowed companies to make unlimited independent political expenditures. Much of that money flows through Super PACS and other hard-to-track third-party groups such as 527 committees (the governors associations, state legislative campaign committees and attorneys general associations), 501(c)(4) dark money non-profits and trade associations.

Companies can damage their reputation if their money goes to a misaligned cause or is not aligned with a company's core values, policies and positions. They also risk exposure to corruption when they benefit from government actions that follow their contribution. There are increasing cases of that today reported by the media.

To manage the risks, companies must adopt and commit to ethical and transparent political engagement practices. These include active board oversight and clear internal policies to ensure accountability and alignment with core values.

The Wharton Impact-CPA Corporate Political Activity Research Primer can serve as a guide. “By approaching the issue through the lens of risk and value, companies can protect themselves while also promoting their core values,” the primer states.

The primer endorses transparency and accountability in corporate political spending. It advises companies to ask themselves six questions before spending, ranging from “Can a strong case be made that the spending advances the corporation’s key business objectives?” to “Are corporations that spend generously for political access engaged in a legal form of corruption?”

To illustrate the scale of the spending, the primer reveals that since 2010 more than $1 billion has flowed from corporations and trade associations to six major political organizations known as 527 committees, including the governors associations, state attorneys general associations, and state legislative campaign committees. Of the $2.5 billion raised by the Republican and Democratic 527 committees over the past 25 years, over 40 percent has come from public companies and their trade associations. They are by far the largest source of money.

The primer cites the Framework for Corporate Political Spending, developed by CPA and the Zicklin Center for Governance and Business Ethics, part of Wharton Impact, as the next step for companies to take to address the ethical challenges posed by political spending. The result of a Wharton Zicklin Center, CPA, corporate, investor and corporate governance expert collaboration, the Framework builds on the foundation of political disclosure and accountability. It gives management and directors the compass for considering:

- the impact of their company’s political spending,
- the broad range of risks it may pose, and
- their company’s responsibilities as a member of society.

The Framework makes ethical considerations a key part of due diligence and decisions about whether a company should spend politically or not engage in political spending.

The primer seeks to inform senior corporate management, general counsels and boards about a risk factor that may not be getting their full attention. “Is it possible that one of the most critical, timely, and impactful risk factors facing your company has been overlooked?” the introduction asks.