

because of compensation policy.

(Everyone getting pay - all upside + no downside)

Rests to taxpayers + not them -

High volume + low quality - exponentially applied - # person quality of securities

"It was just one, big vicious circle"

Ben Stearns ex - ~~old~~ metrics for incentive. The obvious aim -

end of list with discretion to award 100% based on any metric -

No clear signal to employees.

Cuts of pay - really subtlety.

\$800m - fund lost - he was left \$300m., \$200m of which was not disclosed

1) Really crucial that you look @ other parts of system - what went wrong -

Ben Stearns - Compens. Committee mbrs. Director

Continue to serve + no conseq. whatsoever -

Look @ shareholders -

Bd. - Who is it who votes in favor - ? It's the Cos. themselves

"One aspect of 'Too Big to Fail'
"Too big to succeed"

2 most recent reports - Shareholders vote what's in their obs.

Securities analysts + investors don't look @ this.

Role of shareholders - complete failure of shareholders -

@ Corporate Library - 11th yr. Research operation of investment

firm - Invest in underperformers LENS - investment mgmt. (22 cos. + outperformed market, sold off 2000)

Focus - governance value gap - Ratings system 3300 ^{US} cos merged in July w/ Co. w/ int'l cos.

Look where shareholders + executives might be in conflict
They're a high risk Bds.

Revenue comes from corpor. insurance -

Chairman, Founder

Law firms
head hunters

Editor

investors

Robert AG Monks - ^{or co-founder}

→ have compet.

@ No one ever got fined for suggesting make new \$

"Cos. have low Wakefore approach - all the children are above average"

Not much based on performance

aggregate \rightarrow $\frac{1}{2}$ the. in variable compen.
for aggregate figures + performance
goals - to rank risk

vs.
 \rightarrow Desk guy

SEC wanted it to be top 5 highest paid
Katie Couric problem - 20 yrs. ago.

1) Clawbacks - indispensable in pay plan -
Need -

2) Indexing - compensat. consultants - no way you should be paid on
Index what market does; market \uparrow - you should not get
of options \rightarrow tax implications

Q Some large firms - any do better?
Not marginally -

Q Clawbacks - only way
Buffer

\rightarrow widening moat betw. themselves +

Reporter: Read me a pay plan - co. list $\$$ + CEO she know -

Industry w/ 3 players. all had bad yr. - no much better.

Way ahead of 2 compet. - competition + focusing on long term

Q Bonus + leave - Bonus $\$$ - they top

Structural indicators - indep. directors - classes, etc.
over 200 academic studies -

hard to assess independence by disclosures in proxy
CEO's jazz ~~stand~~ made

Q Europe - outside chairmen

US - outside chairmen is former CEO -

Enron refers - the problem is actually acknowledging it

"There is no independence as long as mgmt determinis who
is on the bd, period."

Q Executives want the families -

not ask hard questions - difficult

Standards - not question their golf memberships

Mark Hurd - HP - serial offenders

Directors putting them into a structure -

Trump IQ's fly out the window -

#5 - if financial reports are smoothed out

Sect. 404 disclosures

can say there are problems, with time lags

Too many are boilerplate

Charters of audit committees, etc.

Look @ decisions the Bd makes & where they said no to CEO -

> Very few Bds. say NO to their CEO.

Founder - they really care abt long-term longevity.
New companies are better - more vigorous

Q Chief Risk Officer - should have chance to say -
turnover? No don't like.

Fin. Firms vs. Manuf. Firms -

Very, very different. Not a lot of similarity

Most pay - entrepr. cos. - huge turnover + more tied to performance
oil cos. - standing in the rain.
They're hideously overpaid

BP, Bear Stearns - similarities?

Yes Risk issue similar in fin. cos. + manuf. cos.

if ppl were knowledgeable they personally
be impacted by dec., they would take fewer risks

Q Fin. Sector - 2 kinds of risk -

Increase leverage - for shareholders

? made a lot before co. died ?

Investors who relied on info - they're STUCK. Shareholders who are
taking the hit are not the ones who were in on the risk.

Failure of institutional investors - make sure there is sustainable
growth.

Treasury, as CEA, - they never include Labor Dept. - they should
long-term trend - ERISA - ^{largest} capital markets program

Q Goose + Eggs - don't I want to put some of what I'm investing
in geese + eggs - ? Yes you want to have that.

You just want to make sure you're putting \$ into

Act on behalf of some
of interest -

Make sure all corp. activity is there to
serve shareholders

Bds tend to do a good job in a crisis

46:00 " It's trying to get them to avoid crises, where we fail. "
prevent

Bear Stearns

Tyco

Enron

49:09 Lehman - architect, admiral, theatrical producer

Fin. Institutions - Shuli Jackson
interconnectedness Ruth Simmons

Q Good CEO vs. one less good -

We rate Bds, not CEOs -

At LENS - studied failing CEOs -

Failing CEO - didn't want to hear
bad news + surrounded themselves
by 'yes' men. A lot of nodders.

Went to absurd lengths to insulate themselves
from criticism.

Q UK Europe - Walker Report - activism on part of investors

Comply or ~~explain~~ explain -

ex. SEC rule takeover era - at a min. cos. shld do
min steps for takeover - that became

a ~~minimum~~ maximum -

Delaware Court Rulings - became meaningless -

Saw to people - "lead directors" - 2/3 cos. love

SEC - don't do anything like that now. BUT market can
do that.

Q Del. Law - 2009 - Citigroup decision - Dir's. not liable
unless no risk mgmt system. Not high bar.

Del. Courts have their own ~~own~~ perverse incentives.

1970s TransUnion - biz threatened to take biz out of Del.

I'm not in favour of going after directors - but...

should be ~~disbarred~~ disbarred from ever serving
on Bd. again

only ones who paid
sold stock - had to
disgorge profits

settlements -
duty of loyalty

& Delaware role in corp. law - Law Review article -
MBA textbook - 5th edition chapter -

& CEOs - any part, good in crisis - Not expert in that.
Yale Univ.

& Master advisors - UK - good - ? Don't know.

& Funnies + Freddie - can have both - abuses of formulation
+ Congressmen -
a duck billed platypus

[Best pl

& Disparity of pay -

CEO + sub CEO officials - I think that is
compelling as a note

Timothy Noah State

& Compensation consultants - get paid for -

A huge problem - not going to reduce it
by being public -

educating + empowering

BA Sarah Lawrence
Law Univ of Chicago '77

8 yrs EPA OMB -
4 yrs 4 yrs

Justice Dept - Bob Morkus - ISS LENS -
Corporate Library