

Spring/Summer 2009



Yale SCHOOL OF MANAGEMENT

Millstein Center for Corporate Governance and Performance





About the Center

The Millstein Center for Corporate Governance and Performance at the Yale School of Management continues to serve as the leading global resource for testing, challenging, and advancing the premise that corporations should, and can, serve society. The Center focuses on the inter-relationships of management, the board of directors, shareholders, and stakeholders in creating long-term corporate and shareholder value in today's complex and competitive economy, while at the same time meeting the heightened expectations of society.

The Center's mission is even more relevant and crucial in light of the recent financial crisis and corporate governance failures. Its efforts are currently directly related to improving the corporation's capacity to deal with strategy and risk containment, as well as an exploration of better ways to assess and deal with systemic risk.

The Center pursues its mission through a uniquely interdisciplinary and global approach. Building on the international relationships of Center leaders coupled with Yale University's convening power, the Center brings together leaders and experienced practitioners in business, investment, and public policy with top academics from economics, law, politics, and other fields.

The Center's work complements the basic framework of the School of Management's curriculum by looking at the corporation from multiple perspectives.

The Center accomplishes its goals by:

- generating relevant policy briefing reports
- sponsoring and undertaking research in corporate governance
- teaching student courses
- developing market capacity and infrastructure
- convening events to facilitate and enhance all other activities

The Center focuses the majority of its efforts on the following subject areas and their current economic context:

- *firm governance (impact of firm structure; interactions among owners, board, and management)*
- *market institutions (role of institutions that are vital to transactions)*
- *the proper balance between regulation and private sector initiatives (role of regulation, industry best practices, and international standards)*
- *role of the corporation (rationale for the corporation, corporate obligation and responsibility, and expectations of stakeholders)*
- *shareholders (fund governance and the extent and exercise of ownership rights of retail and institutional investors, private pools of capital, and governments)*

The Center's dedicated staff, engaged board members, core group of faculty advisors, and affiliates help promote its mission and advance the aim of improving corporate governance practices and corporate performance around the world.

The Center has grown significantly, in terms of both research and output, since its inception in June 2006. Today, the Center conducts more than 20 projects annually, including conferences, workshops, roundtables, guest speaker programs, research projects, and policy briefings. Although the Center's activities are numerous, the Center's senior staff, including Senior Associate Dean Ira M. Millstein, carefully considers the linkages between each project and the Center's central mission and goals.

The Center's strategies for pursuing its mission and goals are listed in the following pages. The Center works with partners, when possible, in order to pursue its projects and long-term goals.



Programs

Private Sector Architecture for Future Capital Markets: The Center's Cornerstone Project for 2009

The current financial crisis is a clear indication of the massive failures of institutions that populate the world's capital markets. Banks, investors, ratings agencies, regulators, and numerous other players demonstrated that confidence in the underlying stability of the market was misplaced. The loss of faith in market institutions represents a significant hurdle to recovery as financial institutions are wary of once again misplacing their trust in each other, and the public is wary of all.

Restoring trust in the system requires two pillars of reform. Attention has been primarily focused on the first pillar, reform of the financial regulatory system, both nationally and globally. Many organizations, such as the G20, the OECD, the U.S. Treasury, professional bodies, universities, and free-standing think-tanks, are assessing proposed reforms of laws and regulations, the roles of regulatory agencies, the supervisory process, and the need for a unified international regulatory system.

The second pillar, reform initiatives and actions of the private sector for the private sector, has been largely ignored to date.

Trust in capital markets cannot be restored without the action of private sector institutions. To restore trust in financial institutions and the capital market itself, the corporate governance system must become a focal issue in the private sector. Flaws that have been exposed in that system, from the apparent inability of boards of directors to manage risk, to the poor stewardship of institutional investors, to compensation systems which may have exacerbated risk, must be taken seriously and addressed thoughtfully.

Of equal importance, studying flaws in the governance of financial institutions presents learning opportunities for improving corporate governance generally.

The second pillar is the sole focus of the Private Sector Architecture for Future Capital Markets project. Our current initiative, in partnership with the CFA Institute Centre for Financial Market Integrity, is a first step in designing that architecture.

This project builds on the Center's ongoing Modern Capital Markets program as a foundation for its work. Since 2007, the Center has been exploring the link between corporate governance challenges and developments in the capital market. This long-term program has included a series of global roundtables, academic conferences, infrastructure-building projects, and sponsored research. The roundtables – held in New York, London, Berlin, São Paulo, Dubai, and Paris (a high-level OECD session) – revealed five overarching challenges: the emergence of new investors, the introduction of new investor demands, the use of new financial instruments, the assumption of new roles for familiar institutions, and the subsequent increase in uncertainty amongst managers and directors, all of which contributed to the implosion of, and loss of trust in, the market.

The Private Sector Architecture project is structured around two generic issues that underlie all the specific questions raised.

- What is the proper balance between public and private initiatives?
- What can be done to restore long-term performance goals to the corporate agenda?

On February 13, 2009, the Center and the CFA Institute Centre for Financial Market Integrity hosted simultaneous high-level working groups on three critical areas that have been widely identified as issues for reform: *shareholder stewardship, risk management, and pay for performance, in addition to a plenary session focusing on the ratings industry*. The working groups addressed key concerns within these broad areas to produce concrete, practical recommendations. The findings of the working groups have been incorporated into a Policy Briefing Report released at the 2009 Forum.

The working group members included knowledgeable and relevant executives, directors, and representatives of the many institutions which comprise the capital market and governance systems.

- **Corporate Governance in Challenging Times: Past, Present and Future**, co-hosted with The Deloitte Global Center for Corporate Governance and Deloitte Germany held in Dusseldorf Germany on May 18, 2009, consisted of a series of panel discussions on risk management and risk oversight by the board; the role of the supervisory board in turbulent times; and corporate governance developments.
- **Positive Governance in Tough Times**, co-hosted with the Deloitte Global Center for Corporate Governance and Deloitte UK held in London, UK on May 19, 2009, consisted of a series of panel discussions looking at: What should be the board agenda for winning in these challenging times and beyond; does risk management need to change and, if so, how?; and should the model for rewards be changed.
- **Systemic Risk Working Group Roundtable** held on June 4, 2009 in New York City. This event convened a small group of leaders to discuss the issue of systemic risk and who should be charged with overseeing potential future risks. This exchange is expected to help inform the policy debate.
- **Yale Governance Forum Annual Conference**, taking place on June 11–12, 2009, once again looks at leading issues in corporate governance. The 2009 Forum includes four plenary and eight focus sessions over two days. The Forum also hosts the 2nd annual **Rising Stars** reception on June 10, 2009, honoring Rising Star award recipients, while providing a venue for young and talented professionals to create new networks.
- **Systemic Risk Academic Conference**, scheduled on July 10, 2009, precedes the larger Yale SOM “The Financial Crisis” academic conference taking place on July 11–12, 2009.
- **Partner Event: ICGN Annual Conference** scheduled on July 13–15, 2009 in Sydney. The ICGN conference, of which the Millstein Center is an annual partner, brings together a variety of groups, including investors, directors, policy makers, and other stakeholders, to create dialogues focused on practical action.
- **400th Anniversary of Shareholder Rights**. January 24, 2009 marked the anniversary of history’s first recorded dissident shareowner petition—the first instance of anyone advocating shareowner rights. To commemorate the anniversary of the bill of complaints filed at the Dutch East India Company on January 24, 1609 by minority investor Isaac Le Maire, the Center issued a call for papers exploring “the Origins of Shareholder Advocacy”. The papers selected by a committee of Yale and other faculty, will be presented at a conference on November 6–7, 2009.





Policy Briefings

The Center pursues its mission through multidisciplinary reports in the form of policy briefings. These practical, results-oriented briefings are intended to assist policymaking in different markets and focus the issues on value-enhancing practices rather than on compliance in the form of box-ticking. They include original research and policy analysis on a wide range of emerging corporate governance policy issues.

Current areas of work include:

Independent Chairs of Corporate Boards, chaired by Harry Pearce, Chair of Nortel Networks, and sponsored by Spencer Stuart, was created to become an early thought leader of the governance culture of separate board leadership. The ongoing project consists of multiple roundtables of selected independent corporate board chairs and a paper, “Chairing the Board: The Case for Independent Leadership in Corporate North America,” issued in March 2009, discussing best practices. The long-term intention was to launch a permanent forum of peer independent chairs to foster ideas moving forward.

Rating Corporate Governance, a three-part series of one-day conferences held in 2007–08 with Standard & Poor’s, examined, through personal accounts, how different firms, from D&O insurers to auditing firms, use corporate governance ratings and whether standards should be set. The Center’s prior findings were used to generate discussion at a follow-up “post-crisis” session at the Private Sector Architecture for Future Capital Markets event.

Talking Governance: Opening Channels to Board-Shareowner Communication, sponsored by Deloitte, focuses on the current practices of public companies and the identification of those practices, that investors, regulators, and creditors consider exceptional. The project was created in response to increased dialogue between corporate boards and shareholders due to “say on pay” and concern regarding who should undertake dialogue, at what frequency, level, and volume, and against which legal limits. Visiting Research Fellow Steve Alogna of Deloitte and Stephen Davis have co-authored a policy briefing based on interviews and focus groups. The final draft was released in December 2008.

Voting Integrity: Practices for Investors and the Global Proxy Advisory Industry explores how various market institutions around the world set their standards for proxy voting given new developments such as the spread of majority voting in North America and the ICGN Montagnon Committee's establishing global best practices for investors facing voting responsibilities. How institutions go about making choices can have profound consequences for the way corporate boards are composed and how they operate. This paper reviews how participants guard against conflicts of interest and what resources they make available in the standard setting process. Based on roundtable discussions and additional research, a policy briefing, authored by Visiting Research Fellow Meagan Thompson-Mann, profiles the different models of standard setting and suggests best practice procedures for proxy standard setting for the global investment community and governance industry. The final policy briefing was issued March 2009.





Research Support

The Center supports corporate governance research by sponsoring and commissioning empirical and analytical research on corporate governance and performance from scholars at Yale and other institutions. The Center awards stipends for research in corporate governance, issues calls for papers, takes on Visiting Research Fellows, and engages in research projects pertinent to its mission and which reflect the basic framework of the Yale SOM curriculum.

Current research developments:

The Center's "**Origins of Shareholder Advocacy**" was posted on SSRN on January 24, 2009. Selected papers will be awarded research stipends and will be presented at an academic conference on November 6-7, 2009 with support from the IRRC Institute and All Pensions Group (APG).

New research fellows and researchers:

Deloitte Visiting Research Fellow in Corporate Governance: Deloitte will provide, for the next three years, a visiting fellow one day a week to assist with, and conduct research on, various projects undertaken by the Center. The current Visiting Fellow is Steve Alogna. Philip Soulanille will join the Center in Summer 2009.

Kozminski-Sendzimir Postdoctoral Research In-Residence Program: The Center will host three Kozminski University scholars at Yale over a three-year period starting Fall 2009. The first scholar, Mr. Karol Klimczak, will be pursuing his research project "Governance at Risk," for which he will conduct a survey of methods available for the alignment of corporate risk profiles with shareholders' interests, control of risk profiles, and of risk management systems.

Ms. Mariana Pargendler joined the Center as a Visiting Research Fellow in Corporate Governance in February 2009. She will be involved in research related to the capital market and the financial crisis. Ms. Pargendler is the author of several U.S. and international publications in the fields of contract and corporate law and is admitted to practice in New York and Brazil.

Mr. Christian Weiss, Research Assistant/Doctoral Candidate, Chair of Strategy and Organization, European Business School (EBS), International University Schloss Reichartshausen, will join the Center as a **Yale Visiting Assistant in Research** in the fall 2009. His research focuses on the determinants and performance effects of the ownership structures of firms, in particular, the relative importance of firm-level, industry-level, and country-specific factors as antecedents of ownership allocation and respective performance effects.





Market Capacity and Infrastructure

The Center devotes resources to construct a global infrastructure of corporate governance information and expertise – a “One-Stop Shop” to provide easily accessible information and resources on corporate governance.

This currently consists of the following initiatives:

- global calendar of corporate governance events
- online discussion board
- database of Ira M. Millstein’s speeches on corporate governance
- archive of the Center’s newsletter
- job board for corporate governance
- supporting new talent through awards and stipends

Additional efforts include:

- **global directory of corporate governance:** The directory is a long-term project to assemble the world’s first continuously updated and authoritative directory of global corporate governance contacts, with support from the Global Corporate Governance Forum (based at the IFC/World Bank).
- **incubating networks and associations:** Center events such as roundtables, dialogues, and other projects are all conducted with the goal of incubating long-term networks and permanent institutions of corporate governance (please see below). By drawing together leaders in the field of corporate governance, the Center hopes to become a nucleus for ongoing dialogue on governance.

New Networks and Affiliations:

The Conference of Fund Leaders (CFL): A permanent new body composed of independent board chairs and lead independent directors of mutual funds in the U.S. evolved from the Independent Chairs of Mutual Funds project, chaired by John Hill, Chair of Putnam Funds, in partnership with the Mutual Fund Directors Forum (MFDF), with support from by the CFA Institute Centre for Financial Integrity.

The Chairmen's Forum: The Chairmen's Forum is an organization comprised of non-executive chairmen of corporate boards whose large-cap companies are incorporated in the United States and Canada. The body evolved from the Independent Chairs of Corporate Boards project, chaired by Harry Pearce, Chair of Nortel Networks, and sponsored by Spencer Stuart.

Rising Stars of Corporate Governance: The Rising Stars award recognizes people who, while young and possibly new to the field of corporate governance, are making their mark as outstanding analysts, experts, activists, or managers. Nominees are submitted by their peers and reviewed by a selection committee comprised of leaders from the International Corporate Governance Network, Millstein Center for Corporate Governance and Performance, Open Compliance and Ethics Group, and Weil Gotshal & Manges. Recipients are acknowledged at a pre-forum reception and award ceremony, which is part of the Yale Governance Forum. This year, it takes place on June 10, 2009.





Teaching

The Center's inherent mission, as part of Yale University, includes excellence in teaching. The Center engages students not only through classes, but also through lectures and guest speakers.

The Center's signature course at the School of Management is **"Governing the Corporation,"** taught by Ira M. Millstein and Anne Simpson. The class studies the relationship between management, the board of directors, and shareholders. It explores the origins of business ethics, law, and finance; the parameters of ownership rights; laws and regulation; best practices; media and public attention; and the interests of other stakeholders – within which corporate leaders' discretion and integrity are tested. The students gain detailed knowledge of contemporary corporate governance through first-hand accounts from guest-lecturer practitioners and case studies commissioned by the Center on companies such as General Motors, Cadbury's, and Lenovo. Students are challenged to exercise leadership on matters such as compensation, perks, aspects of litigation, balancing long-term value creation with stakeholders and societal expectations, shareholder activism and potential changes of control, and human rights in emerging markets. The class, first taught in fall 2007, will be taught again in fall 2009 and is an example of the Center's multidisciplinary approach.

Other courses include:

"Independent Research Project: Capital Markets: Evolution or Chaos?" This independent research project, first offered in fall 2008, explores the changes in capital markets that are driving the new agenda for boards, managers, shareholders, and policy-makers. Students are invited to join the enquiry through choosing one of three subjects: (i) the change in ownership patterns and the implications for managers and corporate directors; (ii) the impact of new forms of financial engineering, and the need (if any) for regulatory action; and (iii) the forms of shareholder activism which may have been occasioned by new ownership patterns and financial engineering. Students present the results of their research to the professors in writing.

“Corporate Governance: Board Leadership in Turbulent Times.” This course involves lectures by Professors Millstein and Simpson and other experienced practitioners in the field of corporate governance, as well as case study presentations and class discussion. It will teach the basic elements of corporate governance: corporate structure and the respective roles of management, the board of directors, and investors in today’s complex and competitive global capital markets. Emphasis will be placed on the recent changes in the capital markets by the introduction of “new” owners (hedge funds, private equity, and sovereign wealth funds) and complex financial instruments, which impact the behavior of investors, boards, and managers. While the corporate form is dictated by law, how management, the board, and investors fulfill their roles is largely a discretionary matter. Is there a “superior” set of practices which would help ensure that the corporation is operating in furtherance of its mission to enhance shareholder value while serving the interests of society as a whole? The course was taught in spring 2009 as a companion and supplement to “Corporate Governance and Finance,” taught by Martijn Cremers, which focused on the financial perspective of the investor.

Seminars and Lectures:

Beyond teaching formal courses, the Center organizes guest lectures and hosts the **Lunch Forum Speaker Series on Corporate Governance**, which focuses on current issues in corporate governance and brings distinguished managers, regulators, lawyers, and other practitioners to share their insights with the SOM and Yale community. Spring speakers included:

- **Michael Reid** (Feb. 23), Chair of Care Visions Group;
- **Ann Byrne** (April 8), Chief Executive Officer of Australian Council of Superannuation Investors; and
- **Michael Lubrano**, Managing Director for Corporate Governance of Cartica Capital (April 29).

For past speakers, please see *Past Events* or visit the Center’s website at <http://millstein.som.yale.edu/pastevents.shtml>.

Past Events

Lunch Forum Speaker Series on Corporate Governance

- Alan Murray, Deputy Managing Editor and Executive Editor, Online, of the *Wall Street Journal*, "How Governance Fits Into The Current Crisis. Risk Should Be Higher on the Agenda of Every Board" (December 3, 2009)
- Russell L. Carson, General Partner of Welsh, Carson, Anderson & Stowe, "A Private Equity View of Corporate Governance" (Nov. 20, 2008)
- Sir Mark Moody-Stuart, Chairman of Anglo American plc, "Doing Business in Countries with Weak Governance" (October 8, 2008)
- Evelyn Y. Davis, Shareholder Activist and Founder of the Evelyn Y. Davis Foundation, "Views on the Current Subprime Crisis and Related Financial Issues" (April 29, 2008)
- Jeff Kindler, Chair & CEO, Pfizer, "Leadership in Uncertain Times" (April 2, 2008)
- Norman Pearlstine, Chief Content Officer, Bloomberg, "Media and Business: Perils and Possibilities" (March 27, 2008)
- Roel Campos, Partner, Cooley, Godward, and Kronish, "Shareholder Suffrage: The Battle to Reform Director Elections at Corporate Boards" (November 28, 2007)
- Nancy Boswell (November 6, 2007) (co-partnered with PONPO)
- Namhla Thina Siwendu, Founding Partner, Siwendu & Partners, "Giving Corporate Governance a Human Face: Challenges and Opportunities for Directors in South Africa" (Sept 17, 2007)
- Laurence Hazell, Director of Corporate Governance, Standard & Poors, "The Evolving Role of Corporate Governance in Credit Rating Agencies" (May 3, 2007)
- Stephen Davis, Senior Fellow, Millstein Center, "The Nardelli Effect-Can CEO Pay be Accountable" (April 4, 2007)
- Ira M. Millstein, Senior Associate Dean for Corporate Governance, Yale SOM, "The Grand Bargain: Regulation, Shareholder Accountability, and US Public Markets" (February 28, 2007)

Conferences

- Modern Capital Markets Academic Conference (November 7-8, 2008)
- Yale Governance Forum (June 9-10, 2008)
- Partner Event: ICGN Mid-Year Meeting on Sovereign Wealth Funds and Nordic Corporate Governance (Gothenburg, Sweden) (Mar 5, 2008)
- Partner Event: International Conference on Corporate Governance in Emerging Markets in Istanbul, Turkey (November 15-17, 2007)
- Partner Event: International Corporate Governance Network, "US Market Competitiveness - What do investors want?" (October 29, 2007)
- Conference of Fund Leaders (October 27, 2008)

- Shareholders and Corporate Governance Conference (October 19-20, 2007)
- Yale Governance Forum (June 18-19, 2007)
- Partner Event: ICGN Annual Conference in Washington D.C. (July 5-7, 2006)
- The Role of the Corporation in Society (Dec. 8, 2006)
- Yale Governance Forum (June 12 & 13, 2006)

Roundtables

- Private Sector Architecture for Future Capital Markets (February 13, 2009)
- Chairmen's Forum Roundtable (Oct. 7, 2008)
- Modern Capital Markets Paris Roundtable (September 23, 2008)
- Modern Capital Markets Dubai Roundtable (June 22, 2008)
- Proxy Access Roundtable with the Rock Center at Stanford Law School (May 22, 2008)
- Partner Event: Deloitte, Diversifying the American Board: Creating the Risk Intelligent Board (May 14, 2008)
- Modern Capital Markets São Paulo Roundtable (May 12, 2008)
- Roundtable on the Advisory Vote on Executive Compensation (April 8, 2008)
- Modern Capital Markets Berlin Roundtable (March 7, 2008)
- Rating Corporate Governance and Performance Roundtable (Part Three) (February 29, 2008)
- Independent Chairs of Corporate Boards Roundtable (February 26, 2008)
- Governance for the Governance Industry Roundtable and Policy Briefing (Jan. 29, 2008)
- Independent Chairs of Mutual Funds Conference (January 22, 2008)
- Modern Capital Markets London Roundtable (January 11, 2008)
- Modern Capital Markets New York Roundtable (November 2, 2007)
- Partner Event: Director Education Roundtable Series Executive Roundtable Deloitte, Diversifying the American Board (Oct. 9, 2007)
- Creating Value for the Long Term with the Aspen Institute (May 30, 2007)
- Rating Corporate Governance and Performance Roundtable (Part Two) (May 11, 2007)
- Rating Corporate Governance and Performance (November 2, 2006)

Workshops

- Emerging Markets Workshop, New Haven (September 19-20, 2008)
- Corporate Social Responsibility Workshop (January 12-14, 2007)

Lectures

- Shareholder Rights and Wrongs in Governing US Corporations (Feb. 25 & 28, 2008) with Lucian Bebchuk, Ira Millstein, and Anne Simpson.

The Center has partnered with many organizations in pursuing its projects, building strong relationships with partners and sponsors, of whom many choose to engage in multiple projects with the Center.

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IRRC Institute

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Meagan Thompson-Mann

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Program

VISITING RESEARCH FELLOWS

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Visiting Research Fellow for
Corporate Governance, "Talking
Governance" and "Chairing the
Board"

Mariana Pargendler

Visiting Research Fellow for
Corporate Governance, "Private
Sector Architecture for Future
Capital Markets"

Philip Soulanille

Visiting Research Fellow
for Corporate Governance
(Starting Summer 2009)

PROJECT ASSISTANTS AND STUDENT AIDES

Michael Barton-Sweeney

Jia Huang

AFFILIATED FACULTY

Rick Antle

William S. Beinecke Professor of
Accounting, Yale SOM

Zhiwu Chen

Professor of Finance, Yale SOM

Martijn Cremers

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Vice President and University
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Corporate Governance, Yale School
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Facebook

James Shinn

Former Assistant Secretary of
Defense for Asian and Pacific
Security Affairs; Lecturer,
Department of Engineering,
Princeton University

Anne Simpson

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Corporate Governance, CalPERS;
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Ernesto Zedillo

Former President, Mexico; Director,
Yale Center for the Study of
Globalization

Edward Zore

President and CEO, Northwestern
Mutual Life Insurance Company



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