

[Securities Regulation Daily Wrap Up, CORPORATE GOVERNANCE— Sen. Warren chides Business Roundtable for ‘public relations stunt’ on stakeholders, \(Sept. 18, 2020\)](#)

Securities Regulation Daily Wrap Up

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By [Mark S. Nelson, J.D.](#)

Sen. Warren asks signers of BRT's Statement of Principles on stakeholders to re-commit to those principles.

Sen. Elizabeth Warren (D-Mass) sent a letter to the Business Roundtable (BRT) accusing the organization and the 181 signatories to its Statement of Principles on stakeholders of backtracking on their promise to place greater emphasis on a diverse set of corporate stakeholders and less emphasis on the narrower goal of shareholder value. According to Sen. Warren, a cross-section of the BRT's signatories did not adequately respond to her further questions about how they had "operationalized" the BRT's Statement of Principles. Senator Warren also reiterated in the [letter](#) her belief that the Accountable Capitalism Act, legislation she sponsors, could serve as a model for implementing the BRT's Statement of Principles.

"If you truly share my commitment to a stronger economy for workers, communities, and shareholders, I hope you will reconsider your inaction on your commitments and your hostility to the common-sense reforms proposed in the Accountable Capitalism Act," said Sen. Warren. "Instead, you should fully commit to the principles you claim to hold, operationalize them, and publicly report on your progress with measured demonstration of progress in the coming year."

Need to commit to principles. Senator Warren briefly noted how revolutionary the BRT Statement of Principles could be if, in her view, the organization's members made the statement's principles on stakeholders operational. Historically, the BRT had adhered to varied concepts of corporate purpose, including an early emphasis on quality products and fair prices, then embracing Milton Friedman's theory of shareholder primacy, but the BRT's latest Statement of Principles sought to introduce stakeholders into the corporate sphere, proclaiming that stakeholders are "essential."

As examples of how signatories to the BRT's Statement of Principles have allegedly not lived up to the promise of that document, Sen. Warren asked a cross-section of the 181 signatories how they planned to implement the stakeholder principles. Of the ten companies Sen. Warren asked to reply, only two companies (Amazon and BP) replied and the senator said they did not provide adequate information of how they could operationalize the Statement of Principles. The remaining eight companies either did not reply (Walmart), spoke to Sen. Warren's staff but without replying directly to the senator's questions (JPMorgan Chase), or they asked the BRT to reply for them (United Airlines, General Motors Company, AT&T, Comcast, Cigna, and Union Pacific). These responses, according to Sen. Warren, were vague and did not suggest any change in approach.

Moreover, Sen. Warren said the BRT asserted a "false dichotomy" between free markets and principles contained in Sen. Warren's Accountable Capitalism Act ([S. 3215](#)), a bill she said could help to implement the BRT's Statement of Principles. The bill would require a national corporate charter for companies of a certain size and that such charter would be based on the public benefit corporation model by requiring each chartered company to create a "general public benefit."

The Accountable Capitalism Act also would, among other things: (1) require 40 percent of a company's board seats to be elected by employees; (2) subject executives to a five year holding period for company stock (subject to some exceptions); (3) subject executives to a three year holding period for company stock following a stock buyback; and (4) prohibit a company from making a political expenditure unless 75 percent of its shareholders and 75 percent of its directors approve the expenditure. The overall purpose of the bill, thus, is

to give employees a greater say in how a company is operated and to push executives to take a longer-term approach to the conduct of business.

COVID-19. Senator Warren also wrote about rollbacks by companies of measures they had taken at the start of the COVID-19 pandemic that could broadly fall into the category of a step toward fairness toward their workers and the communities they serve, including hazard pay, customer benefits, and paused foreclosures.

However, Sen. Warren said reductions in executive pay were coming to an end and that reductions in benefits for essential workers could disproportionately impact communities of color. The result, said Sen. Warren, was a two-speed economy that divides between white collar workers and lower-income workers. Moreover, Sen. Warren said the BRT's lobbying efforts were of concern because they were directed at preventing passage of the Health and Economic Recovery Omnibus Emergency Solutions (HEROES) Act ([H.R. 6800](#)) and other COVID-19 relief. The House passed the HEROES Act in mid-May 2020 by a vote of 208-199.

Re-committing to stakeholders. Senator Warren closed her letter to the BRT by posing a series of additional questions and requests to the signatories of the Statement of Principles to:

- Produce public annual or quarterly reports on operationalizing stakeholder principles, including the topic of racial justice.
- Describe steps taken to implement the Statement of Principles with respect to delivering value to customers.
- Describe steps taken to invest in employees.
- Describe steps taken to address issues with suppliers.
- Describe steps taken to address communities served, the environment, and sustainability.
- Describe steps taken to promote long-term value and transparent engagement with shareholders.

Companies: Amazon; Walmart; United Airlines; General Motors Company; JPMorgan Chase; BP; AT&T; Comcast; Cigna; Union Pacific

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