Davis Polk

SEC Rule on Stock Buybacks Questioned

April 28, 2015 | Client Update

Senator Tammy Baldwin (D-WI) has sent a **letter** to SEC Chair White to express her concerns about the increase in stock buybacks and asks for information on Rule 10b-18, including analytic work done by the SEC on the long-term economic impact of the rule, an accounting of investigations by the SEC into possible violations of the rule and an assessment of whether the rule is adequate to foster capital formation and prevent fraud. Rule 10b-18 provides a company with a safe harbor when repurchasing its own stock, so long as it meets the rule’s manner, timing, price and volume conditions.

The letter focuses on **recent research** that claims, from 2003 to 2012, S&P 500 companies used 54% of their earnings on stock buybacks, while dividends accounted for an additional 37%. The senator is concerned that companies are failing to invest in worker training, research or innovation. Using the same research, the senator states that hourly real wages have stagnated as a result of the amount of stock buybacks, and also ties the increase in buybacks to more executives who are receiving equity compensation.

An **article** notes that activists may be driving the buybacks, as Senator Baldwin criticized hedge funds for targeting companies and pressuring them to “‘unlock value’ by consolidating facilities and firing workers to boost share prices in the short-term.”

If you have any questions regarding the matters covered in this publication, please reach out to any of the lawyers listed below or your usual Davis Polk contact.

Ning Chiu
+1 212 450 4908
ning.chiu@davispolk.com