

Will Mandatory Shareholder Approval of Golden Parachutes Dull Their Luster?

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The new Dodd-Frank Wall Street Reform and Consumer Protection Act includes a provision, added in the midst of conference committee negotiations, requiring public companies to seek shareholder approval of golden parachutes for named executive officers at the same time that shareholders are asked to approve a deal. 2 Golden parachutes are typically thought of as any compensation or benefits that are paid or provided in connection with a change in control of a company, such as deal bonuses, retention bonuses, severance, accelerated vesting of equity, continued health benefits, etc. Under the Act, public companies must disclose golden parachute arrangements with named executive officers in any proxy statement in which shareholders are asked to approve an acquisition, merger, consolidation or proposed sale or other disposition of all or substantially all of the assets of a company. The total compensation that may be paid to the named executive officers in such a transaction, pursuant to golden parachute arrangements, must be included in this disclosure. These arrangements and compensation must be submitted for shareholder approval in a resolution separate from the vote to approve the underlying transaction. The golden parachute shareholder vote will be required of all public companies, but will not be binding on companies or their directors.

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