CDA State Finals

Joel Barlow High School

March 28, 2009

Resolved: The U.S. should significantly limit total compensation paid by corporations to individual employees.

Executive compensation

From Wikipedia, the free encyclopedia

Executive compensation is how top executives of business corporations are paid. This includes a basic salary, bonuses, shares, options and other company benefits. Over the past three decades, executive compensation has risen dramatically beyond the rising levels of an average worker's wage.[1]

Types of compensation

There are five basic tools to compensation or remuneration.

- a base salary
- short-term incentives, or bonuses
- long-term incentive plans (LTIP)
- employee benefits
- perquisites, or perks

In a typical modern US corporation, the CEO and other top executives are paid salary plus short-term incentives or bonuses. This combination is referred to as Total Cash Compensation (TCC). Short-term incentives usually are formula-driven and have some performance criteria attached depending on the role of the executive. For example, the Sales Director's performance related bonus may be based on incremental revenue growth turnover; a CEO's could be based on incremental profitability and revenue growth. Bonuses are after-the-fact (not formula driven) and often discretionary. Executives may also be compensated with a mixture of cash and shares of the company which are almost always subject to vesting restrictions (a long-term incentive). To be considered a long-term incentive the measurement period must be in excess of one year (3-5 years is common). The vesting term refers to the period of time before the recipient has the right to transfer shares and realize value. Vesting can be based on time, performance or both. For example a CEO might get 1 million in cash, and 1 million in company shares (and share buy options used). Other components of an executive compensation package may include such perks as generous retirement plans, health insurance, a chauffered limousine, an executive jet[2], interest free loans for the purchase of housing, etc.

Stock options

Supporters of stock options say they align the interests of CEOs to those of shareholders, since options are valuable only if the stock price remains above the option's strike price. Stock options are now counted as a corporate expense (non-cash), which impacts a company's income statement and makes the distribution of options more transparent to shareholders. Critics of stock options charge that they are granted excessively and that they invite management abuses such as the options backdating of such grants. Stock options also pose a conflict of interest in which a CEO can artificially raise the stock price to cash in stock options at the expense of the company's long-term health, although this is a problem for any type of incentive compensation that goes unmonitored by directors. Indeed, "reload" stock options allow executives to exercise options and then replace them in part (and sometimes in whole), essentially selling the company stock short (i.e., profiting from the stock's decline). For various reasons, including the accounting charge, concerns about dilution and negative publicity related to stock options, companies have reduced the size of grants to executives.

Restricted stock

Executives are also compensated with restricted stock, which is stock given to an executive that cannot be sold until certain conditions are met and has the same value as the market price of the stock at the time of grant. As the size of stock option grants have been reduced, the number of companies granting restricted stock either with stock options or instead of, has increased. Restricted stock has its detractors, too, as it has value even when the stock price falls. As alternative to straight time vested restricted stock, companies have been adding performance type features to their grants. These grants, which could be called performance shares, do not vest or are not granted until these conditions are met. These performance conditions could be earnings per share or internal financial targets.

Tax issues

Cash compensation is taxable to an individual at a high individual rate. If part of that income can be converted to long-term capital gain, for example by granting stock options instead of cash to an executive, a more advantageous tax treatment may be obtained by the executive.

Fortune 500 compensation

During 2003, about half of Fortune 500 CEO compensation was in cash pay and bonuses, and the other half in vested restricted stock, and gains from exercised stock options according to Forbes magazine.[2] Forbes magazine counted the 500 CEOs compensation to $3.3 billion during 2003 (which makes $6.6 million a piece). Notice that this figure includes gains from stock call options used; the options may have been rewarded many years before the option to buy is used.

Regulation

There are a number of strategies that could be employed as a response to the growth of executive compensation.

- Independent non-executive director setting of compensation is widely practised.[citation needed] Remuneration is the archetype of self dealing. An independent remuneration committee is an attempt to have pay packages set at arms' length from the directors who are getting paid.
- Disclosure of salaries is the first step, so that company stakeholders can know and decide whether or not they think remuneration is fair. In the UK, the Directors' Remuneration Report Regulations 2002[7] introduced a requirement into the old Companies Act 1985, the requirement to release all details of pay in the annual accounts. This is now codified in the Companies Act 2006. Similar requirements exist in most countries, including the U.S., Germany, and Canada.[citations needed]
- A say on pay - a non-binding vote of the general meeting to approve director pay packages, is practised in a growing number of countries. Some commentators have advocated a mandatory binding vote for large amounts (e.g. over $5 million).[8] The aim is that the vote will be a highly influential signal to a board to not raise salaries beyond reasonable levels. The general meeting means shareholders in most countries. In most European countries though, with two-tier board structures, a supervisory board will represent employees and shareholders alike. It is this supervisory board which votes on executive compensation.[citations needed]
- Progressive taxation is a more general strategy that affects executive compensation, as well as other highly paid people. There has been a recent trend to cutting the highest bracket tax payers, a notable example being the tax cuts in the U.S.[citation needed] Ex-Soviet Baltic States also have a flat tax system for incomes.[citation needed] Executive compensation could be checked by taxing more heavily the highest earners, for instance by taking a greater percentage of income over $200,000.

- Maximum wage is an idea which has not been implemented anywhere.[citation needed] The argument is to place a cap on the amount that any person may legally make, in the same way as there is a floor of a minimum wage so that people can not earn too little.

Criticism

Many newspaper stories[9] show people expressing concern that CEOs are paid too much for the services they provide. In *Searching for a Corporate Savior: The Irrational Quest for Charismatic CEOs*, Harvard Business School professor Rakesh Khurana documents the problem of excessive CEO compensation, showing that the return on investment from these pay packages is very poor compared to other outlays of corporate resources.

Defenders of high executive pay say that the global war for talent and the rise of private equity firms can explain much of the increase in executive pay. For example, while in conservative Japan a senior executive has few alternatives to his current employer, in the United States it is acceptable and even admirable for a senior executive to jump to a competitor, to a private equity firm, or to a private equity portfolio company. Portfolio company executives take a pay cut but are routinely granted stock options for ownership of ten percent of the portfolio company, contingent on a successful tenure. Rather than signaling a conspiracy, defenders argue, the increase in executive pay is a mere byproduct of supply and demand for executive talent. However, U.S. executives make substantially more than their European and Asian counterparts.[9]

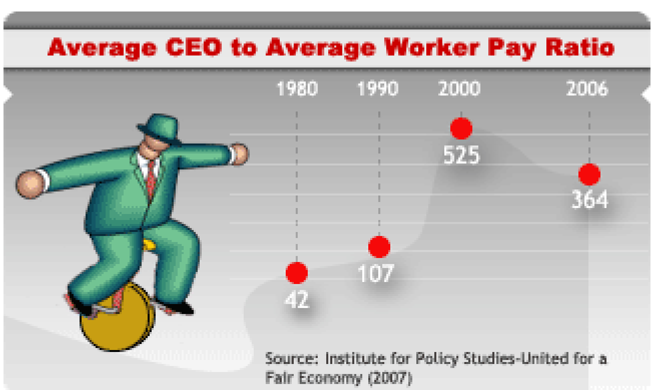
Shareholders, often members of the Council of Institutional Investors or the Interfaith Center on Corporate Responsibility have often filed shareholder resolutions in protest. 21 such resolutions were filed in 2003. [10] About a dozen were voted on in 2007, with two coming very close to passing (at Verizon, a recount is currently going on).[11] The U.S. Congress is currently debating mandating shareholder approval of executive pay packages at publicly traded U.S. companies. [12]

The U.S. stood first in the world in 2005 with a ratio of 39:1 CEO's compensation to pay of manufacturing production workers. Britain second with 31.8:1; Italy third with 25.9:1, New Zealand fourth with 24.9:1.[13]

2007 Trends in CEO Pay: AFL-CIO Web Site

In 2007, the CEO of a Standard & Poor’s 500 company received, on average, $14.2 million in total compensation, according to preliminary numbers from The Corporate Library, a corporate governance research firm. The median compensation package received was $8.8 million.[1]

A reasonable and fair compensation system for executives and workers is fundamental to the creation of long-term corporate value. However, compensation for top executives has grown at an unprecedented rate in the past two decades resulting in a dramatic increase in the ratio between the compensation of executives and rank-and-file employees.



The chief executive officers of large U.S. companies averaged $10.8 million in total compensation in 2006, more than 364 times the pay of the average U.S. worker, according to the latest survey by the United for a Fair Economy.[2]

Boards of directors are responsible for setting CEO pay. Frequently, however, directors award compensation packages that go well beyond what is required to attract and retain executives and reward even poorly performing

CEOs. These executive pay excesses come at the expense of shareholders, as well as the company and its employees.

According to a recent study by ERI Economic Research Institute and *The Wall Street Journal*, executive compensation grew substantially faster than corporate earnings in the past year. The study of 45 randomly selected public companies found that executive compensation increased 20.5 percent from a year ago, while revenues grew just 2.8 percent.[3] …As of February 2008, the average top executive received overall total compensation of $18,813,697, according to the study. In comparison, the median pay for workers rose only 3.5 percent to $36,140 in 2007, from $34,892 the previous year, according to the U.S. Bureau of Labor Statistics.[4]

Moreover, while performance-based bonuses for chief executives of large public companies dropped in 2007, companies more than made up for that decline by giving out bigger discretionary bonuses and other payments not tied to a specific financial target, according to a recent study by Equilar, the executive compensation research firm.[5]

Equilar found that the median value of bonuses tied to performance fell 18.6 percent in 2007, from $949,249 to $772,717. Thanks, however, to sizable increases in discretionary awards and multi-year performance awards, overall CEO bonuses for 2007 inched up 1.4 percent to a median value of $1.41 million from $1.39 million in 2006.

Excessive CEO pay takes dollars out of the pockets of shareholders—including the retirement savings of America's working families. Moreover, a poorly designed executive compensation package can reward decisions that are not in the long-term interests of a company, its shareholders and employees.

Some CEOs may have far greater control over their pay than anybody previously suspected. Angelo Mozilo, chairman and chief executive officer of Countrywide Financial Corp., brought in a second compensation consultant to renegotiate his package in 2006 when the first one said his pay package was inflated.

In an e-mail message, Mozilo complained to John England of Towers Perrin, who helped redo his pay package: "Boards have been placed under enormous pressure by the left-wing anti-business press and the envious leaders of unions and other so-called 'C.E.O. Comp Watchers.'"[6] Mozilo's renegotiated contract with Countrywide included an annual salary of $1.9 million, an incentive bonus of between $4 million and $10 million, perks and fringe benefits, as well as $37.5 million in severance benefits. Under public pressure, Mozilo subsequently agreed to give up the severance package.[7]

Excessive CEO pay is fundamentally a corporate governance problem. The board of directors is supposed to protect shareholder interests and ensure that CEO pay reflects performance. However, at approximately two-thirds of companies, the chief executive officer also chairs the board. When the same person serves as both chairman and CEO, it is impossible to objectively monitor and evaluate his or her own performance.

CEOs also dominate the election of directors. The vast majority of directors are hand picked by incumbent management. Because of the proxy rules, it is prohibitively expensive for long-term shareholders to run their own director candidates. Moreover, even if a majority of shareholders withhold support from directors, they still are elected to the board at many companies.

Ultimately, shareholders have to be able to trust their boards of directors to set responsible CEO pay packages. For this reason, CEO pay will be reformed only when corporate boards become more accountable. Until then, CEOs will continue to influence the size and form of their own compensation, and CEO pay will continue to rise.

The New York Times, from "Executive Compensation: A New View from a Long-Term Perspective 1936-2005," by Carola Frydman (MIT Sloan School of Management) and Raven E. Saks (Federal Reserve) Ratio of CEO compensation to that of the average workier

Year	1940	1950	1960	1970	1980	1990	2000	2004
Average	56	34	27	25	33	55	119	104
Top 10%		74				122		350

"CEO" is defined as the top three executives at each firm included in the study. Compensation includes salaries, bonuses, stock and proceeds from exercising options. For example, the figures for 1990 mean that the average of all CEOs received 55 times the compensation of the average worker, and the top 10% of the CEOs received 122 times the average compensation.

Slate Explainer: The Bonus Explainer

How did the AIG executive "bonuses" become a legal obligation?

By Brian Palmer
Posted Monday, March 16, 2009, at 7:14 PM ET

President Obama expressed outrage on Monday at the use of federal bailout money to pay $165 million in bonuses to AIG employees and ordered the Treasury Secretary to use all legal means to prevent the payments. Yet some administration officials have cautioned that the company has a legal obligation to make the payments. Why would AIG have to pay out its "bonuses"?

Because that's what it agreed to do. Many top executives have employment contracts that specify a formula for computing their annual bonuses. These formulas usually incorporate some measure of overall company performance (stock price, free cash flow, or net income, for example) or the performance of the unit for which the executive is responsible. At some firms, the bonus formulas are freely determined by the board of directors and left out of any employment contracts—but the board may limit its own right to change the formula. It might, say, promise not to change the formula after a specific date. If the company then failed to pay under the original formula, a disgruntled executive could sue the firm for failing to follow its own rules. Under pressure from shareholders, many corporations are becoming more proactive about reserving the right to change their bonus structures. Some boards even reserve the right to recover bonuses already paid if there is evidence of bad behavior by the recipients.

Employee bonuses have their roots in Christmas. Through the end of the 19th century, many employers offered a year-end bonus in the form of a gift. (Montgomery Ward once distributed 7,500 turkey dinners.) In the early 20th century, most large employers converted the bonuses to cash, often a percentage of an employee's annual salary. The practice had become widespread by 1952, when the National Labor Relations Board ruled that a Christmas bonus qualified as wages, rather than a gift, as long as it was paid at the same time and in a predictable amount every year. Today, only about 40 percent of employers hand out across-the-board holiday bonuses, and many of those have switched back to noncash gifts. (Some jurisdictions are stubbornly hanging onto the tradition. Puerto Rico enacted a mandatory Christmas bonus law in 1969 and strengthened it in 2005.)

Performance-based bonuses have increasingly replaced Christmas bonuses. While the Wall Street bonus pool sank by 44 percent last year, it was still the sixth-highest ever. In addition to bonuses for top executives, most companies grant "bonus pools" to managers for distribution to their subordinates. Some companies pay lower-tier employee bonuses on a purely discretionary basis, meaning that the company can decide not to pay a bonus with no consequences (aside from the risk of losing employees)…

Explainer thanks Peter Marathas of Proskauer Rose LLP, Broc Romanek of CompensationStandards.com, Bruce Tolgan of RainmakerThinking Inc., and Viviana Zelizer of Princeton University.

Pay Cap Debate: They Don't Go Far Enough

The government has every right to look after its interest as an investor.

The Wall Street Journal, FEBRUARY 6, 2009

By LUCIAN BEBCHUK

Critics of the administration's proposed guidelines on executive compensation say they are a dangerous intrusion into corporate boards' authority and would make it difficult for financial firms to fill executive positions. These criticisms are unwarranted. If anything, the guidelines are too modest and should be tightened.

Concern that the guidelines would undermine firms' ability to attract or retain executives has been fueled by media coverage stressing the $500,000 cap on salaries. But salaries commonly represent a small fraction of total executive pay, and firms will be free to increase performance-based compensation to make up for any salary reduction.

Companies falling under the guidelines retain the ability to provide large compensation when necessary. The guidelines don't impose any cap on the total pay; they only influence its form.

Indeed, firms which get taxpayer funds under "generally available government programs" -- which likely will constitute the lion's share of firms receiving government capital -- will be permitted to provide unlimited compensation in *any* form they choose provided they disclose it and allow shareholders to have advisory "say on pay" votes on the firm's pay policy. Even firms that receive "exceptional assistance" (such as provided to AIG or Citibank in the past) will be permitted to compensate executives with unlimited amounts in restricted shares that can be cashed out after the government is paid back.

This is not excessive government meddling. As a major provider of capital to firms receiving exceptional assistance, the government has a legitimate investment interest in executives' being properly incentivized. The proposed guidelines are a rather modest intervention relative to the control rights that private investors providing so much capital would likely seek.

Furthermore, this modest intervention can significantly improve incentives and performance. In a 2004 book and prior articles, Jesse Fried and I warned that common executive pay practices produce perverse incentives to focus on short-term results. To the extent that such incentives have contributed to the current crisis -- as has now come to be widely suspected -- the adverse consequences have been dire indeed.

Executives' ability to profit from early dumping of their equity-based compensation onto the market can impose large costs on investors. To protect its investments in firms receiving exceptional assistance, the government is warranted in restricting their freedom to unload their restricted shares quickly, before the government is repaid.

For executives to view any number of restricted shares that cannot be quickly unloaded as inadequate compensation, they must believe the firm will likely fail to repay the government, and that the restricted shares will lose their value if not cashed out beforehand. In such circumstances, the firm should be immediately taken over by the government or otherwise reorganized. It should not continue operating with a structure under which executives may be retained only if allowed to cash out before things fall apart.

After a period of public comment, the Obama administration will finalize the guidelines for firms receiving capital under general programs. I believe the final version should impose tighter restrictions, at least for firms receiving a substantial capital infusion from the government.

While the proposed guidelines seek to encourage companies participating in general programs to use restricted stock, they do not limit how quickly such restricted shares may be unloaded. This should be changed. To provide incentives to focus on long-term results, executives should be precluded from unloading restricted shares for a specified period, say three years, after they vest.

The proposed guidelines also make it too easy for firms participating in general programs to opt out of the restricted stock requirement and compensate executives in whatever form they choose. Companies that opt out only need to adopt "say on pay" votes.

While such votes may be a good governance arrangement for public firms in general, they are merely advisory and, moreover, take place in the year after compensation is awarded. Furthermore, and importantly, because the government can be expected to hold investment rights (such as preferred shares) that are senior to those of common stockholders, these stockholders may prefer executive pay arrangements that would induce more risk-taking and short-termism than would be in the interest of the government as an investor.

In short, the guidelines are a useful step in the right direction. To ensure that executives of firms receiving government capital are well incentivized, however, the administration should use the comment period to significantly tighten them.

Mr. Bebchuk, director of the Harvard Law School program on corporate governance, is co-author of "Pay without Performance: The Unfulfilled Promise of Executive Compensation" (Harvard University Press, 2004).

. . . They Violate Good Sense and the Constitution

The government cannot condition benefits on the nonassertion of rights.

The Wall Street Journal, FEBRUARY 6, 2009

BY ANDREW P. NAPOLITANO

The executive compensation caps that President Barack Obama and Treasury Secretary Tim Geithner summarily announced this week violate both the Constitution and Economics 101…

Now the federal government wants to interfere with private employment contracts already entered into -- and regulate those not yet signed -- in order to satisfy the perceived populist instincts of the electorate. To do so, it demands salary caps as a condition to the receipt of public assistance.

Salary caps are unconstitutional because they violate the well-grounded doctrine against unconstitutional conditions. Simply stated, the government may not condition the acceptance of a governmental benefit on the non-assertion of a constitutional liberty. The government cannot say to individual welfare recipients that they may not criticize the Congress or their welfare checks will be cut off, because the right to criticize the government is a constitutionally protected liberty. It similarly may not condition corporate welfare on the prohibition of contracts with employees above an arbitrary salary amount, because freedom of contract is protected by the Constitution as well.

The salary caps also constitute a taking. High ranking executives are corporate assets with experience and knowledge unique to their employers' businesses. By arbitrarily reducing their salaries to serve the government's political needs, deflating their worth to their employers, incentivizing them to work less, or chasing them away, the government has stripped these individuals of their personal value and of their value to employers without just compensation. Such a taking is prohibited by the Fifth Amendment.

Moreover, government-mandated salary caps will impede economic progress. We can presume that the senior executives of the banks that have received TARP funds who are paid more than $500,000 annually are worth at least that much to their employers. Otherwise the employers would be violating their fiduciary duties to their shareholders by paying those salaries. These employers are banks which the government has "rewarded for failure," to use the president's phrase, by investing money from taxpayers who would not voluntarily invest their own money there.

So, not only are these banks in distress, not only do they seek federal dollars in order to stay afloat, but under these salary caps they cannot go out and get the best talent to run them. The government that is trying to save them, the government that has forced taxpayer dollars into them, has denied them the freedom of contract necessary to assure their salvation. Why would underpaid executives stay with a bailed out bank when their true worth will be compensated elsewhere?

The government can't run a business. Just look at the Post Office, which loses $6 billion a year and has salary caps. Is this what's coming to the banks? If the government can evade the Constitution and violate the basic laws of economics what will it do to free enterprise next?

Mr. Napolitano, who was on the bench of the Superior Court of New Jersey between 1987 and 1995, is the senior judicial analyst at the Fox News Channel. His latest book is "A Nation of Sheep" (Nelson, 2007).

The Case for Paying Out Bonuses at A.I.G.

Deal Book Column, The New York Times, March 17, 2009

By ANDREW ROSS SORKIN

Do we really have to foot the bill for those bonuses at the American International Group?

It sure does sting. A staggering $165 million — for employees of a company that nearly took down the financial system. And heck, we, the taxpayers, own nearly 80 percent of A.I.G.

It doesn’t seem fair.

So here is a sobering thought: Maybe we have to swallow hard and pay up, partly for our own good. I can hear the howls already, so let me explain.

Everyone from President Obama down seems outraged by this. The president suggested on Monday that we just tear up those bonus contracts. He told the Treasury secretary, Timothy F. Geithner, to use every legal means to recoup taxpayers’ money. Hard to argue there.

“This isn’t just a matter of dollars and cents,” he said. “It’s about our fundamental values.”

On that last issue, lawyers, Wall Street types and compensation consultants agree with the president. But from their point of view, the “fundamental value” in question here is the sanctity of contracts.

That may strike many people as a bit of convenient legalese, but maybe there is something to it. If you think this economy is a mess now, imagine what it would look like if the business community started to worry that the government would start abrogating contracts left and right.

As much as we might want to void those A.I.G. pay contracts, Pearl Meyer, a compensation consultant at Steven Hall & Partners, says it would put American business on a worse slippery slope than it already is. Business agreements of other companies that have taken taxpayer money might fall into question. Even companies that have not turned to Washington might seize the opportunity to break inconvenient contracts.

If government officials were to break the contracts, they would be “breaking a bond,” Ms. Meyer says. “They are raising a whole new question about the trust and commitment organizations have to their employees.” (The auto industry unions are facing a similar issue — but the big difference is that there is a negotiation; no one is unilaterally tearing up contracts.)

But what about the commitment to taxpayers? Here is the second, perhaps more sobering thought: A.I.G. built this bomb, and it may be the only outfit that really knows how to defuse it.

A.I.G. employees concocted complex derivatives that then wormed their way through the global financial system. If they leave — the buzz on Wall Street is that some have, and more are ready to — they might simply turn around and trade against A.I.G.'s book. Why not? They know how bad it is. They built it.

So as unpalatable as it seems, taxpayers need to keep some of these brainiacs in their seats, if only to prevent them from turning against the company. In the end, we may actually be better off if they can figure out how to unwind these tricky investments.

Not that any of this takes the bite out of paying these bonuses. For better or worse — in this case, worse — someone at A.I.G. decided this company needed to sign bonus agreements last year to keep people before the full extent of its problems became clear.

Now we can debate why A.I.G. felt it necessary to guarantee seven executives at least $3 million apiece when the economy was clearly on shaky ground. Perhaps we will find out these contracts were a bit of sleight of hand to enrich executives who knew this financial Titanic had hit the iceberg. But another possible explanation is that A.I.G. knew it needed to keep its people.

That is the explanation offered by Edward M. Liddy, who was installed as A.I.G.'s chief executive when the government effectively nationalized the company last fall. (He is being paid $1 a year.)

"We cannot attract and retain the best and brightest talent to lead and staff" the company "if employees believe that their compensation is subject to continued and arbitrary adjustment by the U.S. Treasury," he said.

There's some truth to what Mr. Liddy is saying. Would you want to work at A.I.G.? Sure, maybe for $3 million. But not if you could go somewhere else for even more — or even much less.

"The jobs are terrible," said Robert M. Sedgwick, an executive compensation lawyer at Morrison Cohen who represents a number of employees of banks that have taken government money. "You have to read about yourself in the paper every day. These people are leaving as soon as they can."

Let them leave, you say. Where would they go, given the troubles in the financial industry? But the fact is, the real moneymakers in finance always have a place to go. You can bet that someone would scoop up the talent from A.I.G. and, quite possibly, put it to work — against taxpayers' interests.

"The word on the street is that A.I.G. employees are being heavily recruited," Ms. Meyer says.

Of course, if taxpayers had not bailed out A.I.G., these contracts would not be worth anything. Andrew M. Cuomo, the attorney general of New York, made the point on Monday, when he subpoenaed A.I.G. for the names of the people who received the bonuses. If A.I.G. had spiraled into bankruptcy, its employees would have had to get in line with other unsecured creditors.

Mr. Cuomo wants to know who A.I.G.'s lucky employees are, and how they have been doing at their jobs. So here is a suggestion for him. Get the list, and give those big earners at A.I.G. a not-so-subtle nudge: Perhaps they will "volunteer" to give some of their bonuses back or watch their names hit the newspapers. But in the meantime, despite how offensive and painful it might be, let's honor the contracts.

Bonus Babies: The Bid TARP Recipients and Their Booty

by Christopher Bateman, Vanity Fair, February 2, 2009, 10:00 AM

A quick rundown of what bonuses look like at seven big TARP recipients this year.

	2007 SENIOR-OFFICER BONUSES*/ TOTAL BONUS POOLS**	BAILOUT MONEY	2008 BONUS POOLS
Merrill Lynch	**$85M/$9.5B**	**$10B**	Reportedly, in December, just before Bank of America took over, John Thain quietly awarded $3 to $4 billion in bonuses, a month earlier than was customary.
Bank of America	**$36M/$11.3B**	**$15B**	The company granted 2008 retention bonuses to 6,200 Merrill brokers, and C.E.O. Ken Lewis declined to answer a question about this year's bonuses at a shareholder meeting in December.
Goldman Sachs	**$313M/$12.1B**	**$10B**	Average compensation is reportedly down 45 percent in 2008 but will actually be a greater share of revenues than in 2007.
Morgan Stanley	**$64M/$9.9B**	**$10B**	The firm's 2008 bonus pool is down 50 percent but is still estimated at $5 billion.
Citigroup	**$54M/$20.7B**	**$45B**	The ratio of compensation to revenues is reportedly not remarkably different for 2008.
Wells Fargo	**$40M/$8B**	**$25B**	C.E.O. John Stumpf and top executives have not said they will forgo their 2008 bonuses as of mid-January.
J. P. Morgan Chase	**$91M/$13.6B**	**$25B**	While net income was down 64 percent in 2008, bonuses are reported to be down only 30 to 50 percent.
Total	**$683M/$85.1B**	**$140B**	

**Total of top five bonus packages (including stocks) received by highest-ranking officers.*
***Estimated as 60 percent of compensation where exact figures are not available.*

Bonus Tax Heads to Senate After House Passes 90% Levy (Update1)

By Ryan J. Donmoyer

March 20 (Bloomberg) -- The Senate plans to vote next week on steep levies on employee bonuses after the House overwhelmingly approved a 90 percent tax on bonuses at American International Group Inc. and other companies receiving bailout funds.

The Senate's proposal on companies that got the federal money would place a 70 percent tax on the bonuses. Half that amount would be paid by employees, half by the companies.

The 328-93 House vote came amid a national outcry over $165 million AIG paid in bonuses last week after receiving $173 billion in bailout funds as part of the government's efforts to stabilize credit markets. President Barack Obama said he was "stunned" by the bonuses and vowed to recoup the money. Nineteen state governments have begun probes of the AIG bonuses.

"Paying excessive bonuses to the same group of folks that helped get us into this crisis is simply unacceptable," Senate Finance Committee Chairman Max Baucus said in a statement. "Millions of Americans continue to struggle to get by, counting their dollars, and Congress needs to do the same…"

Court Fight Predicted

Senator Judd Gregg, a New Hampshire Republican, predicted Congress's efforts to rescind the bonuses through higher taxes would be thrown out in court. He said the legislation violates the constitutional ban on bills of attainder, which restricts lawmakers' ability to punish individual Americans.

"It's basically targeted on a small group of people," Gregg said. He also said the bill may exceed lawmakers' power to rewrite existing contracts. He said "of course" the government ought to try to rescind the bonuses "but we've got to do it legally."

Some academics said the legislation may survive a court challenge. "From what I've seen, it would pass constitutional muster," said Alexander Tsesis, an assistant professor of law at Loyola University in Chicago.

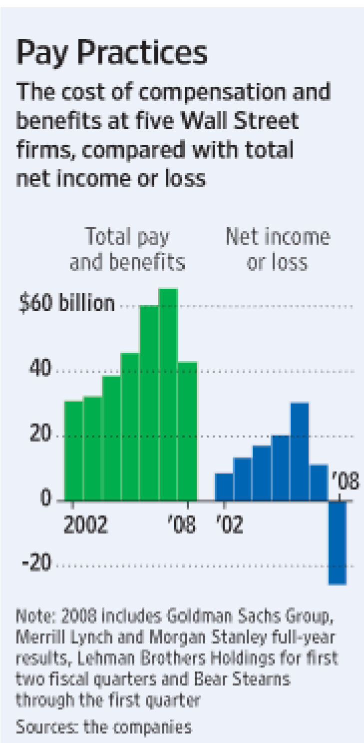
Tsesis said the legislation targets several companies that received government funds. For the measure to be unconstitutional, courts would have to find that the motive of the legislation was to target one company, he said.

Wall Street Pursues Pay Loopholes

Compensation Caps Drive Some Firms to Weigh Options; Higher Salaries?

The Wall Street Journal, March 17, 2009

By KATE KELLY and DAVID ENRICH



Some Wall Street firms are looking for ways to sidestep tough new federal caps on compensation.

In response to expected bonus restrictions, officials at Citigroup Inc., Morgan Stanley and other financial institutions that got government aid are discussing increasing base salaries for some executives and other top-producing employees, people familiar with the situation said.

The crackdown, part of the economic-stimulus package passed by Congress and signed into law by President Obama last month, limits bonus pay for the top five executives of any recipient of taxpayer capital through the Troubled Asset Relief Program, plus the 20 next-highest-compensated employees.

The discussions are at an early stage, partly because the government hasn't yet issued specific rules on the bonus payments that will be allowed at companies that received TARP aid. The talks also are proceeding cautiously because of the political volatility of pay, bonuses and perks on Wall Street, including outrage over American International Group Inc.'s promise to pay $450 million in bonuses to employees in the insurer's financial-products unit.

Most traders and bankers on Wall Street get a base salary of anywhere from $200,000 for managing directors to $1.5 million for a chief executive. But the lion's share of their pay comes in the form of a bonus, a tradition that began when most firms were private partnerships and partners shared directly in the annual income of the firm.

As banks and securities firms wrestle with growing regulation of compensation practices, substantially increasing the base salaries of top employees could become a popular response, some industry officials say. A larger salary would reduce the relative importance of bonuses but also help financial companies increase those payments, since they usually are calculated as a percentage of total annual compensation.

"The trend is to increase the base pay in light of the reduced bonuses," said Scott Talbott, senior vice president of government affairs at the Financial Services Roundtable. "Without the revenue" that top performers provide, he adds, "these companies can't survive."

Under the forthcoming rules, bonuses could come to no more than one-third of the total annual compensation paid to employees covered by the restrictions. Some compensation experts view the bonus limits as a mistake that turns the notion of pay for performance on its head, despite Wall Street's culpability for the recession and credit crisis.

"These are not bureaucratic positions where you're paying individuals high salaries," said Michael Karp, chief executive of Options Group. "How can you pay a banker a really high salary without knowing what kind of revenue that person generates?"

Still, critics are ready to pounce on any potential maneuver around the federal limits. Raising base salaries would play into "a long and dishonorable tradition of responding to any attempt to curb pay excess by just putting it in a different pocket and calling it something else," said Nell Minow, editor of the Corporate Library, a research firm focusing on corporate-governance issues. Any attempt to get around bonus curbs "can expect pushback from shareholders," she predicted.

At Morgan Stanley, discussions about raising base pay levels are preliminary, and the New York company hasn't fleshed out a formal strategy, according to people familiar with the matter.

Citigroup officials have considered designating which 25 executives will be subject to bonus limits, people familiar with the discussions said. In that scenario, the new rules might not apply to lower-ranking yet still highly lucrative traders and investment bankers, these people said. "We will comply with the restrictions, in addition to the substantial changes we have already made to our compensation structure," said a Citigroup spokeswoman.

Citigroup has received $45 billion in taxpayer-funded capital do far, while Morgan Stanley has received $10 billion. The latest U.S. rescue of Citigroup will leave the federal government holding as much as 36% of the company's common stock.

Inside banks and Wall Street firms, some executives are hopeful that the Treasury Department will water down the curbs on bonuses, inserted into the stimulus bill by Sen. Christopher Dodd (D., Conn.), during the department's rule-making process.

One possibility that banks would applaud is that the pay restrictions apply to top executives and other managers, instead of less-senior but crucial rainmakers. Treasury officials are expected by the end of March to issue guidance on how to interpret the new law. A Treasury spokesman declined to discuss the agency's opinion of raising base salaries.

The Dodd provision sent shockwaves across Wall Street. Some bankers and compensation experts contend that top revenue-producers could bolt to non-U.S. banks or hedge funds that aren't subject to TARP-related restrictions. "It's possible we will lose some people," J.P. Morgan Chase & Co. Chairman and Chief Executive James Dimon said in a recent speech. "I'll be very sorry if that happens."…

—Robin Sidel contributed to this article.

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