



## Corporate Board Elections and Internal Controls



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A free all-day conference co-sponsored by the American Law Institute and the European Corporate Governance Institute

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### Introduction by Antonio Borges, Chairman, European Corporate Governance Institute and Vice-Chairman, Goldman Sachs International

Let me begin by thanking the Federal Reserve Bank of New York for hosting this conference. There could be no better location for our first TCGD meeting in the United States. I would also like to thank the European Commission, for their support for this project. It was their idea to begin with, and they've always been with us. I am grateful to the ALI, our partners, who have organised this year's conference, but above all, I want to thank all of you here today whose presence justifies our efforts. We are very pleased to see so many distinguished people in the audience today.

The Transatlantic Corporate Governance Dialogue has become, has become a focal point of the European Corporate Governance Institute's work. We strongly believe in American and European cooperation across a number of areas, and this one is one of them. There is a great deal to be learned from each other and many benefits will arise if we can coordinate policymaking across the Atlantic. It is our mission, as well as our desire, to contribute to that process of coordination, so that each side will think of the other one as they put in place their corporate governance recommendations or rules. Our hope is to provide the basis for decisions that will necessarily be taken. Every year, when we choose a topic to be debated in this dialogue, we have to look at relevance and substance. We want to debate issues that will be topical and that will be directed to decision-making. We also want to choose topics that have some substantial basis in research so that we can communicate the results of our scientific analysis.

This led us to choose this year's topics: board elections, and internal controls. Both these issues are extremely important on either side of the Atlantic. Our researchers have already looked into these matters and have something to contribute to the debate.

In Europe, we look at the US 'corporate governance model' as more a market based model, one in which the ultimate say is with the shareholders. Clearly we can see, even from a distance, that American boards are playing a bigger and bigger role every year. Not only are they exercising closer scrutiny of management, they are also becoming far more vigilant than before on the standards of corporate governance. Naturally, they're very concerned with the integrity of information that companies disclose to the market. As the role of the board members becomes more and more important, we must ask ourselves 'who are these people?', 'how are they chosen?', 'through what methods?' and 'what guarantees their legitimacy?'.

As we debate on internal controls, and so much effort in corporate governance goes into this area, who are those financial gatekeepers that help board members to reach their conclusions and make their decisions?

In Europe, as everybody knows, we have very different control systems. We rely a lot less on the market, which unfortunately is not as powerful. We have to have a more institutional approach. European corporations are, to a very large extent, controlled by large holders of stock, block holders who exercise real power. Companies are therefore very much dependant on the idiosyncrasies of those people, in particular, their nationality.

Things, however, are changing quite rapidly in Europe. We now see some raging battles for control, especially in the wave of cross boarder acquisitions and mergers. We also see an increasing role for other types of investors, including private equity investors, and even some hedge funds. This creates a good deal of controversy particularly in Germany as you may have

noticed if you read the European Press. It sometimes reminds us of the US debate in the 80's about corporate raiders. Many of these battles are decided by a small number of key players who are representatives of those block holders. Again, we must go back to the issue, who chooses them and through what methods? On what basis are these people selected? How can they exercise their control? Is it legitimate? Is it acceptable and does this lead to efficiency?

We also thought in Europe, that internal controls were not such a big issue because its companies are controlled by block holders who would exercise active ownership. We thought they themselves should be very interested in putting good control systems in place. The Parmalat case has proved the opposite of this. We found in the case of Parmalat that people can even steal from themselves, which is extraordinary, but it does happen! So internal controls have again become quite relevant and more important, which is why they are on our agenda today. I believe these are some of the most relevant issues that we have to deal with, in the immediate future, in the corporate governance world.

Let's see what our researchers have to say about them, I hope we'll have a very lively and interesting debate. And again, I thank you very much for your interest.