

*GraefCrystal.com*

*The Crystal Report on Executive Compensation*



## **\$1 Million Pay Cap Portends Trouble for “Say on Pay”**

**by Graef Crystal**

**September 7, 2009**

“Say on Pay” looks to be a worthless idea, considering how companies have handled Bill Clinton’s \$1 million pay cap.

That cap on the corporate deductibility of pay had some economic teeth to it, at least when it came to base salary. But now the majority of large-company CEOs have chosen to ignore it and stiff their shareholders with higher costs. So if that’s the result, how can we expect boards will now suddenly be responsive to shareholders under “Say on Pay” legislation, when there are no economic teeth to that legislation?

### **The Clinton Legislation**

Capping pay deductibility began in the early days of the Clinton Administration. At first, any pay above \$1 million was to be non-deductible on a company’s income tax return.

Where before, paying an executive an extra \$1 cost the shareholders \$0.65, assuming a Federal corporate tax rate of 35 percent, now an extra \$1 would cost the shareholders \$1, for an increase in cost of 54 percent.

But before the legislation was finalized, it was substantially watered down, and in numerous ways:

- Privately-owned companies were exempted.
- The legislation was to be applied only to the five executive officers shown on a public company’s proxy statement.
- Performance-related pay, which included bonuses and options, was excluded, provided certain minimal criteria were met.

So all that was left, essentially, was base salary. Even there, a loophole was available by deferring the salary above \$1 million until the day after the executive left the proxy statement. (Some companies took advantage of this loophole, but as time passed, I sensed that the number, never large to begin with, had begun to dwindle.)

### **Impact of Clinton Legislation**

So, where are we today?

I looked at the base salary levels of 355 CEOs running companies with current market caps of \$5 billion or more. Base salary ranged from just \$1 a year (or even zero a year) in six companies (Capital One Financial, Duke Energy, Apple, Google, Kinder Morgan Energy Partners and Yahoo!) all the way to the \$8.1 million earned by Rupert Murdoch of News Corp. The median and average base salaries were, respectively, \$1.06 million and \$1.1 million.

(The newest entry to the dollar-a-year club is Oracle's Lawrence Ellison, who announced his membership just a few weeks ago. Membership is widely available and easily obtained, but for obvious reasons, the applicant pool is quite small.)

As it turned out, 196 CEOs of the 355 in the study, or 55 percent, now receive a base salary of more than \$1 million.

To me, that speaks volumes for the effect "Say on Pay" is going to have, other than its warming effects on the hearts of some of the priests and priestesses of corporate governance.

### **Accounting for the Variation in Base Salaries**

What explains why one CEO makes a huge base salary, while another labors for peanuts?

One factor, the sales of the company, accounted for 38 percent of the variation in base salaries. Other factors, such as the company's total return and the degree of pay risk in the overall pay package (i.e., the ratio of option present value to total pay) proved not to be significant in predicting base salary.

Herewith follow two tables. The first shows the 50 CEOs whose base salary levels most exceed what my pay model suggests they ought to earn based on the size of their companies. The table shows the CEO's actual salary and the percent by which that salary is higher (or lower) than the level predicted by my regression analysis.

The second table shows the 50 CEOs whose base salary levels are most under what my pay model suggests.

**THE 50 CEOs WITH THE HIGHEST RELATIVE BASE SALARIES:**

<b>COMPANY</b>	<b>CEO</b>	<b>SALARY (000)</b>	<b>DEVIATION</b>
NEWS CORP	MURDOCH, K. RUPERT	\$8,100	520%
ANNALY CAPITAL MGMT	FARRELL, MICHAEL A.J.	\$2,430	185%
FREEMPORT MCMORAN C&G	ADKERSON, RICHARD C.	\$2,500	109%
COMCAST	ROBERTS, BRIAN L.	\$2,769	108%
NOVARTIS	VASELLA, M.D., DANIEL	\$2,770	101%
SCHLUMBERGER	GOULD, ANDREW	\$2,500	95%
DIRECTV GROUP	CAREY, CHASE	\$2,292	89%
GENERAL ELECTRIC	IMMELT, JEFFREY R.	\$3,300	87%
HARRAHS ENTERTAINMENT	LOVEMAN, GARY W.	\$2,000	84%
OMNICARE	GEMUNDER, JOEL	\$1,817	81%
GENZYME	TERMEER, HENRI A.	\$1,579	66%
HUDSON CITY BANCORP	HERMANCE, JR., RONALD E.	\$1,390	60%
WALT DISNEY	IGER, ROBERT A.	\$2,000	48%
AON	CASE, GREGORY C.	\$1,500	45%
BARRICK GOLD	WILKINS, GREGORY C.	\$1,492	43%
SCHERING PLOUGH	HASSAN, FRED	\$1,720	43%
BED BATH & BEYOND	TEMARES, STEVEN H.	\$1,468	43%
ALLERGAN	PYOTT, DAVID E. I.	\$1,350	43%
MERCK & CO	CLARK, RICHARD T.	\$1,783	42%
WEATHERFORD INTL.	DUROC-DANNER, BERNARD	\$1,498	39%
ABBOTT LABS	WHITE, MILES D.	\$1,795	38%
3M CO	BUCKLEY, GEORGE W.	\$1,720	36%
HONEYWELL INTL.	COTE, DAVID M.	\$1,826	36%
AMGEN	SHARER, KEVIN W.	\$1,562	35%
MCGRAW-HILL COMPANIES	MCGRAW, III, HAROLD W.	\$1,350	34%
THOMSON REUTERS CORP	HARRINGTON, RICHARD J.	\$1,529	34%
TYCO INTERNATIONAL LTD	BREEN, EDWARD D.	\$1,625	33%
APACHE	FARRIS, G. STEVEN	\$1,494	33%
VERIZON COMMUNICATIONS	SEIDENBERG, IVAN G.	\$2,100	32%
THOMSON REUTERS CORP	GLOCER, THOMAS H.	\$1,499	32%
ANADARKO PETROLEUM	HACKETT, JAMES T.	\$1,510	31%
BOEING	MCNERNEY, JR., W. JAMES	\$1,915	31%
GAP	MURPHY, GLENN	\$1,500	30%
COACH	FRANKFORT, LEW	\$1,160	29%
VERTEX PHARM,	BOGER, JOSHUA S.	\$709	29%
LOCKHEED MARTIN	STEVENS, ROBERT J.	\$1,774	28%
BIOGEN IDEC	MULLEN, JAMES C.	\$1,192	28%
YUM BRANDS	NOVAK, DAVID C.	\$1,394	26%
MATTEL	ECKERT, ROBERT A.	\$1,250	26%

AVON PRODUCTS	JUNG, ANDREA	\$1,375	26%
COCA COLA	ISDELL, E. NEVILLE	\$1,650	25%
J C PENNEY CO	ULLMAN, III, MYRON E.	\$1,500	25%
TJX COMPANIES	MEYROWITZ, CAROL	\$1,503	25%
TIME WARNER	BEWKES, JEFFREY L.	\$1,750	25%
AMPHENOL CORP	LOEFFLER, MARTIN H.	\$1,115	24%
SMITH INTERNATIONAL	ROCK, DOUGLAS L.	\$1,347	23%
LIFE TECHNOLOGIES	LUCIER, GREGORY T.	\$978	23%
ACCENTURE	GREEN, WILLIAM D.	\$1,552	23%
EXELON	ROWE, JOHN W.	\$1,474	22%
BRISTOL MYERS SQUIBB	CORNELIUS, JAMES M.	\$1,488	22%

**THE 50 CEOs WITH THE RELATIVELY-LOWEST BASE SALARIES:**

COMPANY	CEO	SALARY (000)	DEVIATION
M&T BANK	WILMERS, ROBERT G.	\$650	-31%
PRINCIPAL FINANCIAL GRP.	ZIMPLEMAN, LARRY D.	\$737	-32%
EBAY	WHITMAN, MARGARET	\$714	-32%
UNITED PARCEL SERVICE	DAVIS, D. SCOTT	\$960	-33%
APOLLO GROUP	EDELSTEIN, CHARLES B.	\$600	-33%
HOME DEPOT	BLAKE, FRANCIS S.	\$1,013	-33%
EDISON INTL.	BRYSON, JOHN E.	\$768	-33%
FIRST SOLAR	AHEARN, MICHAEL J.	\$508	-34%
NUCOR	DIMICCO, DANIEL R.	\$800	-36%
SEARS HOLDINGS	JOHNSON, W. BRUCE	\$897	-36%
INGRAM MICRO	SPIERKEL, GREGORY	\$850	-36%
MOLSON COORS BREWING	KIELY III, W. LEO	\$608	-36%
J P MORGAN CHASE	DIMON, JAMES	\$1,000	-37%
WELLS FARGO	STUMPF, JOHN G.	\$879	-38%
CITIGROUP	PANDIT, VIKRAM S.	\$958	-40%
COGNIZANT TECH. SOL.	D'SOUZA, FRANCISCO	\$518	-41%
INTUIT	BENNETT, STEPHEN M.	\$495	-44%
MORGAN STANLEY	MACK, JOHN J.	\$800	-46%
CROWN CASTLE INTL.	MORELAND, BENJAMIN	\$418	-47%
BLACKROCK	FINK, LAURENCE D.	\$500	-48%
SOUTHERN COPPER	GONZALEZ ROCHA, OSCAR	\$494	-48%
APOLLO GROUP	MUELLER, BRIAN E.	\$455	-49%
ENTERPRISE PROD. PARTNERS	CREEL, MICHAEL A.	\$563	-54%
CANADIAN NATL. RESOURCES	LAUT, STEVE W.	\$516	-55%
NVIDIA	HUANG, JEN-HSUN	\$401	-56%
MICROSOFT	BALLMER, STEVEN A.	\$641	-56%

PRICE T ROWE GROUP	KENNEDY, JAMES A.C.	\$350	-58%
GOLDMAN SACHS GROUP	BLANKFEIN, LLOYD C.	\$600	-58%
ALTRIA GROUP	CAMILLERI, LOUIS C.	\$471	-60%
ENERGY TRANSFER EQUITY	MCREYNOLDS, JOHN	\$407	-62%
C H ROBINSON WORLDWIDE	WIEHOFF, JOHN P.	\$400	-62%
BROOKFIELD ASSET MGMT.	FLATT, J. BRUCE	\$399	-65%
PLAINS ALL AMER. PIPELINE	ARMSTRONG, GREG	\$375	-71%
STARBUCKS	DONALD, JAMES L.	\$312	-71%
CISCO SYSTEMS	CHAMBERS, JOHN T.	\$375	-72%
JOHNSON CONTROLS	BARTH, JOHN M.	\$375	-72%
COSTCO WHOLESALE	SINEGAL, JAMES D.	\$350	-77%
DIAMOND OFFSHORE DRILL	TISCH, JAMES S.	\$125	-86%
EXPEDITORS INTL. OF WASH.	ROSE, PETER J.	\$110	-89%
PEOPLE'S UNITED FINANCIAL	KLEIN, JOHN A.	\$66	-91%
MARSH & MCLENNAN	CHERKASKY, MICHAEL	\$83	-92%
AMAZON COM	BEZOS, JEFFREY P.	\$82	-93%
NOBLE	SEARS, WILLIAM A.	\$11	-99%
ENERGY TRANS. PARTNERS	WARREN, KELCY L.	\$2	-100%
YAHOO	YANG, JERRY	\$0	-100%
KINDER MORGAN ENERGY	KINDER, RICHARD D.	\$0	-100%
GOOGLE	SCHMIDT, ERIC E.	\$0	-100%
APPLE	JOBS, STEVEN P.	\$0	-100%
DUKE ENERGY	ROGERS, JAMES E.	\$0	-100%
CAPITAL ONE FINL.	FAIRBANK, RICHARD D.	\$0	-100%

The compensation data used in this article were obtained from Equilar Inc., a leading provider of executive compensation information. Please click here to go to Equilar:

<http://www.equilar.com>

2009 marks Graef Crystal's 50<sup>th</sup> anniversary in the executive compensation field. He has been a director of compensation for General Dynamics and Pfizer, worked as a consultant for Booz, Allen & Hamilton, served as worldwide practice director at Towers Perrin for 18 years, was a professor at the University of California at Berkeley's Haas School of Business for 10 years and a syndicated columnist for Bloomberg News for almost nine years. He has written six books and more than 1,600 articles on executive pay.