Spotlight Interview with Ann Yerger, Executive Director of the Council of Institutional Investors

The Council of Institutional Investors ("CII") is a nonprofit association of pension funds, other employee benefit funds, endowments and foundations with combined assets that exceed $3 trillion. Founded in 1985, CII is a leading voice for effective corporate governance and strong shareowner rights. Ann Yerger has served as executive director of CII since 2005. She is a member of the Investor Advisory Group of the Public Company Accounting Oversight Board, the Investor Advisory Committee of the Securities and Exchange Commission, Weinberg Center for Corporate Governance Advisory Board and the Nasdaq Listing and Hearing Review Council. Ms. Yerger earned an A.B. from Duke University and an M.B.A. from Tulane University, and is a Certified Financial Analyst ("CFA") charter holder. Suzanne M. Dugan, who leads Cohen Milstein's Ethics and Fiduciary Counseling practice, recently sat down to discuss CII's activities with Ms. Yerger.

Suzanne M. Dugan ("SMD"): *CII is a leading voice for strong shareowner rights and effective corporate governance. What are CII's current priorities?*

Ann Yerger ("AY"): CII's overarching priorities are to educate our members on corporate governance issues and rules and regulations impacting their rights and protections as investors and to advocate reforms on highest priority corporate governance issues.

On the educational front we host semi-annual meetings and regular webinars and teleconferences featuring top experts. Teleconferences focus on proposed or pending rulemaking affecting institutional investors under the Dodd-Frank Wall Street Reform and Consumer Protection Act and the Jumpstart Our Business Startups Act. Upcoming webinars will focus on the impact on investors of rulings from the U.S. Supreme Court and Delaware Chancery Court. We also publish a weekly e-newsletter highlighting the hottest issues and trends, along with a library of plain-English reference guides covering corporate governance basics such as proxy voting and securities litigation.

CII continues to focus its advocacy work on ensuring that shareholders can exercise their most basic rights to elect and remove directors. That is why our top-priority reform is majority voting for directors. We believe that if a director is not supported by a majority of the votes cast, he/she should not serve on the board. After several years of trying futilely to convince the Delaware Bar Association and the American Bar Association to set majority voting as the standard in Delaware General Corporation Law and the Model Business Corporation Act, CII is now pressing the U.S. stock exchanges to adopt listing standards mandating majority voting for directors.

Looking ahead, CII will be petitioning the U.S. Securities and Exchange Commission to amend rules to provide for a universal proxy ballot that would enable shareholders to split their votes as they see fit between company and challenger candidates.

SMD: *You serve on the Investor Advisory Committee of the Securities and Exchange Commission, which was established by section 911 of the Dodd-Frank Act. Can you tell us about this committee and its role to advise the SEC?*

AY: The SEC's Investor Advisory Committee was formally established by Section 911 of the Dodd-Frank Act. It consists of 21 members, including several CII members. It is mandated to advise and consult with the Commission on issues ranging from regulatory priorities to initiatives to protect investors and promote investor confidence and the integrity of the securities markets.

Since its first meeting in June 2012, the Investor Advisory Committee has approved unanimously several recommendations, including those affecting data tagging and Regulation D offerings. Its four subcommittees are continuously evaluating other issues.

SMD: *The recent proxy season shows some success in board governance reform, with approvals, for example, to declassify boards and change supermajority voting, while seeing less success with say on pay proposals, yet it is the latter that gets so much attention and has had some success in Europe. What do you see in the future for board governance reform, and how can CII help facilitate these reforms?*

AY: I believe the corporate governance world has changed tremendously—in a positive way—over the nearly 30 years since CII was founded. Structures advocated by CII more than 25 years ago, such as majority independent boards and annual election of directors, are now mainstream. CII policies are now widely practiced by companies and consistent with policies adopted by organizations such as the Business Roundtable. "Traditional" asset managers are now engaged and involved; they are speaking out and are dedicating staff and resources to corporate governance issues. The dialogue with companies is far less hostile. "Engagement" is the new catchphrase. Companies and directors are increasingly reaching out to their investors to discuss corporate governance issues, and companies—large and small—are more responsive to shareholder concerns.

I attribute this progress to a variety of factors, including shareholder proposals and say-on-pay votes. Over the years CII members have sponsored a significant number of the shareholder resolutions addressing a range corporate governance issues. These resolutions have been an extremely effective tool for changing boardroom performance and motivating important reforms to the U.S. corporate governance model. And I believe say on pay has been a game changer when it comes to corporate governance. Not only has say on pay served as a wake-up call to directors and a catalyst for engagement, these votes have forced companies to sharpen their focus on pay for performance. As a result, many

have improved their pay disclosures and eliminated benefits—such as golden coffins and gross-ups—that institutional investors have long opposed.

Despite this significant progress, plenty of work remains. Some companies resist adopting best practices. CII will continue to publicize their names and press them to change. The U.S. remains a global laggard when it comes to investor rights and protections. CII will continue to press for reforms such as majority voting for directors, proxy access and universal ballots that enhance the rights and protections of investors in the U.S. The courts are eroding investor remedies. CII will continue to monitor pending court cases for possible involvement and will keep members informed of the latest from the judiciary.

SMD: *The regulations mandated in Dodd-Frank are finally moving toward conclusion, and the challenges have begun with mixed results in the courts. How does CII track these developments and can you foresee any trends?*

AY: The regulators still have a long way to go before completing the many regulations mandated in Dodd-Frank and the JOBS Acts. As a result, CII will continue to host regular teleconferences and webinars featuring the top experts on pending and proposed rules, and it will continue to comment, as consistent with CII policies, on proposed changes. In 2014 CII will commission "plain English" briefs focusing on final or pending reforms—including derivatives and credit rating agencies—of greatest potential impact to CII members and summarizing their potential impact institutional investors. Our goal is to ensure that CII members are "in the know" on the regulatory reform activities impacting them as institutional investors.

SMD: *CII is uniquely positioned to focus attention on the issues that concern institutional investors, bringing together members from the public, private and other sectors. How do you manage to maintain coherence among these different groups?*

AY: Institutional investors are very diverse, and so is CII! It was founded to focus on the many "big tent" issues of interest to the bulk of the membership, and this remains CII's goal. Thanks to CII's strong board, engaged membership and a governance model requiring member input and approval of all CII policies, the organization has a history of successfully focusing on issues involving transparency, accountability and fairness.

SMD: *How do you see CII evolving over the next few years to ensure it maintains its important role as a leading voice for effective corporate governance and strong shareowner rights and in providing assistance to the institutional investor community?*

AY: CII's greatest strength is its members. Our members are increasingly engaged on governance and willing to speak up. That will strengthen CII's efforts to work for effective corporate governance. We hope to continue to grow and remain the leading voice for corporate governance in the U.S.