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Barack Obama, Activist Investor

His Administration has acted more forcefully than some expected or hoped in setting deadlines and overseeing U.S. loans to banks and automakers

By Theo Francis

With more than $200 billion invested in U.S. banks, another $70 billion earmarked for American International Group (AIG), and $30 billion in credit for automakers and lenders, President Barack Obama may well qualify as the nation's Investor-in-Chief. And he's proving himself about as activist as an investor can get.

Obama as good as fired Rick Wagoner, the now former General Motors (GM) chief executive, and gave the automaker 60 days to shape up or face bankruptcy. He gave Chrysler just 30 days to find a buyer—in all likelihood Fiat (FIA.MI)—or confront the same fate. (It looks like Chrysler CEO Robert Nardelli also will be gone once a deal is in place or Chrysler files for bankruptcy.) With more than a little help from Congress, Obama and Timothy Geithner, the Treasury Secretary, have clamped down on executive pay and other corporate expenses, demanded detailed reports from lenders, and are putting banks through stress tests to ensure they can survive a worse-than-expected economic downturn.

In the process, the Administration has come out more strongly, and more clearly, than many expected: The automakers received grim deadlines rather than the indefinite life support many expected would flow to keep workers employed. And how banks succeed at or fail the Administration's stress tests will, it turns out, be made at least partially public, rather than cloaked in secrecy to protect the weakest institutions.

JUST LIKE ANY MAJOR INVESTOR WOULD

At the same time, government officials are, by and large, avoiding the aggressive fiat many feared (and some on the left hoped for), sticking instead to the established levers of influence available to major investors: conditions tied to financing and board or management changes, among others. Whether this active but relatively moderate tack is a hallmark of the President's governing philosophy—or more a reaction to the financial crisis and unprecedented economic conditions he confronts—remains to be seen.

"They are responding to these companies the same way that anybody who is putting in capital would respond," says Nell Minow, editor and co-founder of The Corporate Library, an independent corporate-governance research and analysis firm.

"Whether you go to the U.S. government or to a private equity firm, or to your Uncle Max, the first thing they're going to do is say,

'O.K., but we want some changes,'" says Minow, who previously spent a decade as a partner in a shareholder-activist investment fund. "Given the sensitivity of their involvement, and given all the complications of working with companies and the Congress, I think they're doing pretty well."

Others see the Obama Administration's efforts as far from benign—and far from what even big private-sector shareholders would be able to do. Charles Elson, a finance professor and head of the University of Delaware's Weinberg Center for Corporate Governance, calls the Administration's efforts "a government takeover of shareholder prerogative."

BYPASSING THE BOARD

Elson says his concerns are less with the changes Obama has imposed than with how he has imposed them. With influence far out of proportion to the money the government has lent or the share stakes it owns, Obama has, in the case of the automakers, effectively bypassed corporate boards to shake up management and impose corporate strategy. In the process, he has supplanted the primacy of maximizing shareholder value with political goals: limiting pay at banks and directing automaker production toward low-emission vehicles.

"The President of the United States firing the head of GM? That's the job of the board," Elson says. "When you bypass traditional structures to accomplish what you consider to be legitimate ends, but using questionable means, ultimately society suffers."

Nonsense, counters Daniel Alpert, founding managing director of Westwood Capital, a boutique investment bank. Lenders, for example, are completely within their rights to make demands to safeguard their capital, including changes in strategy—particularly when a shaky borrower asks for additional funds.

The automakers are a debtor "that came to the government and said, 'Thank you very much for all the money you lent me, it's not enough—I need more,'" Alpert says. "The government said, 'O.K., under those circumstances, here's what you need to do.'"

ACTIVISM WORTHY OF ICAHN?

And as a major shareholder in many of the biggest banks—with a 36% stake in Citigroup (C), "there's never been as big a shareholder [in a major bank] since probably J. Pierpont Morgan himself," Alpert says—the government has every reason to demand that they rein in spending and compensation, or pursue other ends.

He likens some of the government's nonfinancial demands to investor campaigns in the 1980s to force companies to divest holdings in South Africa under apartheid.

Indeed, in an odd way, the Administration is filling a role that activist shareholders like Carl Icahn have been demanding for years: insisting that management heed the demands of company owners. It's just that now the biggest shareholder in some cases is the government.

To Alpert, the real failing has been on the part of institutional investors who have done little to police the companies that they lend to or invest in.

"This notion that a 30% shareholder shouldn't be clear in making its opinions known is absurd," Alpert says. "In fact, as a taxpayer, I want the government to be all over the companies they've invested in."