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Why Elizabeth Warren's corporate crackdown might appeal to Trump's base

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Dan Alpert realizes that U.S. Sen. Elizabeth Warren's Accountable Capitalism Act contains the kinds of provisions that his Wall Street peers love to hate.

But the Westwood Capital managing partner doesn't share their distaste. And the voters who identified with President Trump's argument that the American economy had left them behind in the 2016 presidential election may not either.

The bill, which Warren introduced in mid-August, would require U.S. corporations with more than $1 billion a year in revenue to factor the interests of their workers and communities into decision-making, not just those of investors. The obligations would be included in a new federal corporate charter, a departure from the existing system in which charters are handled at the state level, conferring privileges and responsibilities that vary by location.

"Among very large companies, it will be incredibly unpopular for all the wrong reasons," Alpert, who joined a group of economic and legal scholars supporting the bill, told the *Washington Examiner*. "I do believe that Sen. Warren has her heart in the right place, and that this is something that would be good for the American people."

The legislation would mandate that at least 40 percent of corporate board members be chosen by workers, and restrict stock sales by high-ranking executives in a way that encourages a focus on long-term corporate health and viability rather than short-term profit targets. It would also require companies to obtain the approval of 75 percent of shareholders and directors before in engaging in political spending.

"This bill could go a long way toward restoring real economic democracy," Warren said in an Aug. 21 speech at the National Press Club. "It would ensure that when American businesses engage with the government, they are speaking on behalf of all their communities and not simply as megaphones for the rich and powerful."

The proposal, which has been referred to the Senate's Commerce, Science and Transportation Committee, has no co-sponsors and slim odds of passing a Republican-controlled Congress, much less winning the backing of the White House.

Still, it addresses issues "at the crux of why capitalism is not working for the average worker and the average American citizen," Alpert said. "We have a group of people in America who have suffered a deterioration in the quality of our job base," with low-paying positions taking more and more of the employment market.

Indeed, median wage growth in the past five years peaked at 4.2 percent in November 2016, far short of the 20-year high near 6 percent in the late years of the Clinton administration and the first year of President George W. Bush's tenure, according to data analyzed by the left-leaning Economic Policy Institute.

While pay growth tracked productivity gains in the 25 years through 1973, the two diverged sharply afterward, as corporations adopted the philosophy of University of Chicago economist Milton Friedman that a corporation's sole responsibility was to its shareholders, who generally demanded more money.

Business leaders of the era who espoused broad social responsibility only help "to strengthen the already too prevalent view that the pursuit of profits is wicked and immoral and must be curbed and controlled by external forces," he wrote for the *New York Times Magazine* in September 1970.

"Once this view is adopted, the external forces that curb the market will not be the social consciences, however highly developed, of the pontificating executives; it will be the iron fist of Government bureaucrats," Friedman argued.

As his doctrine took hold, workers' negotiating leverage decreased despite periods of economic growth and productivity gains. Trade deals like those Trump has sought to revise and business-friendly legislation made it easier for corporations to obtain less costly labor outside of the U.S.

Indeed, in the 44 years through 2017, productivity increased 77 percent while hourly compensation climbed only 12 percent, the institute found.

"For decades, American workers have helped create record corporate profits but have seen their wages hardly budge," Warren said when she introduced her proposal. "To fix this problem, we need to end the harmful corporate obsession with maximizing shareholder returns at all costs."

Corporate America's exclusive focus on investors, in tandem with the quarterly corporate-reporting requirements imposed under Depression-era law, has created an environment in which critics say executives are rewarded for delivering short-term sales and earnings growth, even if achieved at the expense of a business's long-term health.

Trump suggested addressing that by requiring corporations to disclose their financial performance every six months instead of once a quarter, asking the Securities and Exchange Commission to study the idea.

Corporate leaders including JPMorgan Chase Chief Executive Officer Jamie Dimon and Berkshire Hathaway CEO Warren Buffett, meanwhile, are urging their peers to stop setting quarterly earnings targets, which they say prompt managers to make short-sighted decisions.

Neither Dimon nor Buffett has suggested eliminating the reports themselves.

Sen. Warren's proposal to give workers a greater voice in decision-making uses a different tactic to address the same issue, Aaron Klein, director of the center on regulation and markets at the Washington, D.C.-based Brookings Institution, told the *Washington Examiner*.

While Trump may not yet have looked at all the barriers to long-term thinking, "if short-termism is agreed to be a problem, then putting perspectives like Sen. Warren's ideas of workers and communities can help counterbalance these problems," he said.

"There's one view that everything is hunky-dory, gross domestic product is growing and unemployment is low," Klein said. "There's another view that income inequality is soaring and 60 percent of Americans can't come up with $500 in an emergency."

Measures like the GOP tax bill that let corporations bring operations back to the U.S. with no penalty other than a one-time assessment and tariffs that prop up the U.S. steel and aluminum industries address poor salaries by supporting high-paying factory jobs, Trump has said repeatedly.

That counters an argument — with which Klein disagrees — that the U.S. can't compete with the cheaper labor force in countries that pay low wages and have laxer environmental rules.

"Sen. Warren's proposal incorporates some of the insights from the successes of Germany in achieving a robust manufacturing industry," he said. "Ironically, one of the things President Trump tapped into in his campaign was this believe that America can be a manufacturing country again."

His administration has achieved some success in that regard, too: Production jobs increased by 37,000 in July and climbed by 327,000 in the past 12 months, according to the Bureau of Labor Statistics.

"We’re creating manufacturing jobs at the fastest pace in memory," Trump said at an Aug. 16 cabinet meeting. "And if you remember, during the campaign, everybody said that it was impossible to create manufacturing jobs."

Larry Kudlow, who succeeded former Goldman Sachs executive Gary Cohn as director of Trump's National Economic Council, attributed the results in part to the president's push to trim federal regulation.

Warren's plan, of course, takes the opposite track. But while tightening regulation, it also attempts to remove some of the incentives for gaming the system.

Businesses, for instance, sometimes boost earnings per share to meet or exceed profit targets by repurchasing their own stock, rather than investing in new equipment and factories, Warren said.

That reduces the number of outstanding shares so that when net income is divided between them, it appears higher, potentially moving executives closer to earning bonuses based on such measures.

"Most of the companies showing great earnings are doing so through varying levels of financial engineering," agreed Westwood Capital's Alpert. "This is not a sustainable business model for the U.S. or for the American worker."

Business Roundtable — an organization representing 200 of the largest U.S. companies, which together account for about 30 percent of total stock market value — has supported high ethical standards for corporations and argued that improving livelihoods and conditions for broader stakeholders helps businesses increase value for their owners.

Still, it's a fallacy to to assert that "increasing shareholder value is mutually exclusive with serving the needs of American workers, consumers and communities," an organization spokeswoman says. "Corporate governance measures should not be based on the misconception that the objective of increasing long-term shareholder value conflicts with the well-being of workers and consumers."

Applying rules based on the presumption that they affect a corporation built under the assumptions of a different legal system "would in effect confiscate a large share of stockholder value, transferring it to some combination of worker and community interests," Walter Olsen, a senior fellow at the Cato Institute, a libertarian think tank funded by the Koch brothers, said in a blog post.

"This gigantic expropriation, of course, might be a Pyrrhic victory for many workers and retirees, whose 401(k) values would take a huge hit in exchange for new rights of uncertain value," he wrote.