

## Report of Committee on Amendments of SFS By-laws

At the 1998 annual meeting of the Society for Financial Studies (SFS) members suggested that a review of the by-laws of the SFS might be timely and helpful in streamlining the operations and improving the governance of the Society. The Society has been operating for a full decade. The conditions under which it operates have changed in ways the founders could not have anticipated. The Executive Committee of the Society, therefore, decided such a review was appropriate and could be helpful.

To conduct this review the President of the SFS, Franklin Allen, appointed a committee chaired by Richard Green (Carnegie Mellon U. and VP of SFS). Committee members are Kent Daniel (Northwestern), Peter DeMarzo (U.C. Berkeley), Martin Gruber (NYU), Ananth Madhavan (USC), Anjan Thakor (U. of Michigan), Mark Weinstein (USC and Secretary of SFS), and Robert Whitelaw (NYU).

The committee solicited input on the by-laws from current and former editors *Review of Financial Studies* (RFS) and officers of the SFS. A list of issues was circulated among these individuals, and their responses and suggestions were collected and circulated to the committee members. In addition, notices of the committee's purpose and composition were posted on the SFS web site and published in the RFS. Suggestions from the membership at large were in this way solicited.

The remainder of this report summarizes deliberations of our committee. It enumerates a number of issues brought to our attention, and discussed by the committee, even in cases where our recommendation is that no changes to the by-laws be made. In other cases, the report makes recommendations to the Executive Committee regarding specific amendments and additions to the by-laws.

The by-laws state (see Section 11.1) that amendments to the by-laws must be approved by the Council, and by a vote of the membership attending the annual meeting. The Council consists of the Officers, Editors, and Associate Editors

### **Issue 1:** Nomination of the Executive Editor and Editors

**Background:** Past officers of the Society have argued that the procedures specified in the by-laws for appointing the Nominating Committee, were so unwieldy that they have in practice been ignored. The section that is viewed as problematic is Section 8.1.b.i. This section reads,

The Nominating Committee shall be appointed by the Executive Committee from the ranks of the Continuing Members and shall be comprised of at least five (5) of the Continuing Members. The Nominating Committee shall appoint its own Chairperson.

“Continuing Members” are members of the Council whose term is not expiring. Since the President, Vice President, and Executive Editor all have terms that expire

concurrently, this section appeared to preclude the participation of the President and Vice President from the search and nomination process for the new Executive Editor. Given the need for discretion, editorial experience, and knowledge of the issues facing the RFS and SFS, the leadership of the senior officers on the committee was viewed as very important.

In fact, however, another provision of the by-laws makes clear they do not preclude the participation of the senior officers. Section 6.6(2), which describes the duties of the President, state in part:

He shall also be a member, ex-officio with vote, of all standing committees (except that the President may designate a Vice President to be a member, ex-officio with vote, of any standing committee, in place of the President);...

Thus, the only way historical practice appears to have departed from the by-laws is that on occasion both senior officers have served on the Nominating Committee.

**Suggested Amendments:** None.

**Discussion:** The by-laws allow for one of the senior officers to serve on the Nominating Committee. While more experience and wisdom is helpful in any search process, the by-laws were also written with a clear intent to encourage self-renewal among the officers and editorial board. There appears no strong argument as to why both officers need to be involved in the nominating process, at the expense of allowing other members of the Council to participate. Thus, we recommend that in the future practice be brought into conformity with the by-laws by having either the President or Vice President, but not both, on the Nominating Committee.

## **Issue 2:** Terms of Editors and Associate Editors

**Background:** The by-laws specify the terms of the Executive Editor and the number and terms of the Editors. The Executive Editor serves terms of three years, with at most one renewal. The by-laws distinguish between Editors elected by the Council, and Editors appointed by the Executive Editor. Section 7.3(a) states:

In addition to the Executive Editor, the Council shall elect four (4) Editors. The Board of Editors shall have a minimum of four (4) Editors. The Executive Editor may appoint one (1) additional Editor to the Board of Editors. Thus, the maximum number of Editors allowed on the Board of Editors, in addition to the Executive Editor, shall be five (5).

Terms of the Editors are specified in 7.3(b):

Following the expiration of each term of the initial Editors, each Editor elected thereafter shall serve for a term of three (3) years. The term of those Editors appointed by the Executive Editor, other than an initial Editor appointed by the Executive Editor, shall terminate upon the expiration of the term of the Executive Editor who appointed them.

(In this passage the term “initial Editor” refers to those in place when the RFS was founded.)

There appears to be some dissatisfaction with the procedures for appointing and replacing Editors and Associate Editors. There is no question but that there has been considerable variance in performance, especially in terms of turnaround time. Even with the best of intentions, Editors, over the course of their three-year terms, may find that their professional circumstances change in ways that make it difficult to perform their duties in a timely manner. The Executive Editors may need freedom to deal with the bottlenecks that develop when one of the Editors, who brings special expertise in a particular area of research, cannot turn papers around. Giving the Executive Editor more control over the appointment and/or removal process would also help to encourage better performance.

**Suggested Amendments:** The committee considered two alternatives. One was to shorten the terms of the Editors to two years, with an expectation of renewal. The other was to increase the number of Editors the Executive Editor can appoint from one to two.

After considerable discussion the committee felt most comfortable with the second alternative. We recommend that Section 7.3(a), which reads:

In addition to the Executive Editor, the Council shall elect four (4) Editors. The Board of Editors shall have a minimum of four (4) Editors. The Executive Editor may appoint one (1) additional Editor to the Board of Editors. Thus, the maximum number of Editors allowed on the Board of Editors, in addition to the Executive Editor, shall be five (5). Each Editor shall be a Councillor. The Executive Editor shall determine the duties and responsibilities of the Editors.

be amended to read:

In addition to the Executive Editor, the Council shall elect four (4) Editors. The Board of Editors shall have a minimum of four (4) Editors. The Executive Editor may appoint two (2) additional Editors to the Board of Editors. Thus, the maximum number of Editors allowed on the Board of Editors, in addition to the Executive Editor, shall be six (6). Each Editor shall be a Councillor. The Executive Editor shall determine the duties and responsibilities of the Editors.

**Discussion:** The committee wishes to emphasize the importance it places on the problem of turnaround time. Several members stated they viewed this as the most important challenge facing the RFS. Younger scholars are the target audience of the RFS. They are particularly sensitive to turnaround times because of the hurdles of the academic

promotion process. Slower turnaround is certainly a disadvantage for the *Review* in competition with the JFE and the JF.

Further, the problem is to some extent structural, rather than just specific to any given set of editors. The decentralized editorial process is in many ways a strength of the RFS. It gives the *Review* an ability to devote more editorial resources, and more expert editorial resources, to any one paper than its close competitors. As responsibility and accountability are spread across more individuals, however, there are also more coordination problems, and less clear imperatives for any one editor to improve turnaround. In general, giving the Executive Editor more control is likely to improve turnaround. The two-year term with renewal would effectively give the Executive Editor more control, and would allow him or her to deal quickly with turnaround problems.

Against these considerations must be weighed the intent and purposes of the original by-laws, and the practical problems associated with shorter terms. The terms of the Editors were set to maintain continuity, while still providing for enough turn over that the editorial board of RFS would be representative of the profession and receptive to fresh research perspectives and paradigms. The Editors were clearly meant to be elected by the Council, a relatively broad group, rather than serving at the pleasure of the Executive Editor. Procedures specified for removal and replacement of the Editors (Section 7.3(c)) were manifestly intended as a check on the power of the Executive Editor. If renewal is not automatic, the shorter terms for Editors could be disruptive for authors and lead to unstable norms and practices. If renewal is automatic, then why have it?

On balance, the committee felt it was very important to give the Executive Editor the freedom to work around problems when they arise. Both alternatives would help to achieve this goal. Some committee members argued that shorter terms with renewal would in addition have positive incentive effects for Editors. Others clearly felt that such incentive effects would have little practical consequence, and that the shorter terms might be disruptive and diminish the benefits of a decentralized structure. Given this lack of consensus on the benefits of the shorter terms, we have adopted the more conservative alternative of allowing the Executive Editor to appoint an additional Editor when he or she is in need of help in a particular area.

Some frustration has also been expressed regarding the procedures for appointment and removal of Associate Editors. There is clearly some tension between appointing Associate Editors as a reward for good reviewing, versus appointing persons whose reputation will increase the visibility of the RFS with the broadest possible audience. Here, however, the status quo does not seriously threaten the ability of the Editorial Board to function effectively. The Executive Editor always has the opportunity to make his or her opinions known to the Nominating Committee. Moreover, the current by-laws (Section 7.4(c)) provide procedures for removal of Associate Editors who are not doing their job, and these procedures are not at all cumbersome. All that is required is a two-thirds vote of the Executive Editor and Editors.

### **Issue 3: The Society's Financial Affairs**

**Background:** The authors of the by-laws could not have anticipated the speed and degree of success enjoyed by the RFS. The contract with the publishers that was originally negotiated by Joe Williams was structured so that the founding committee bore much of the down-side financial risk, and so that most the rewards flowed through to the Society. Thus, the Society is now quite wealthy. The procedures established in the by-laws for oversight and control of these funds are vague and rudimentary. Thus, there have been concerns expressed by Officers of the Society that we should have an investment committee, and periodic audits. In fact, the by-laws makes provision in Section 8.1(c) for a standing committee, which the Chief Financial Officer is to chair, called the "Administrative Affairs Committee." Though it appears never to have been appointed or to have met, it provides a natural vehicle to carry out the oversight functions called for. We recommend that such a committee be appointed, and the by-laws amended to make its functions more explicit.

**Suggested Amendments:** To Section 8.1(c) shall be added the following items.

- v. The Administrative Affairs Committee shall appoint each year a certified accounting firm to conduct an audit or review of the Corporations's financial accounts, and shall report to the Executive Committee regarding this appointment. The results of such an audit or review will be made available to the Executive Committee and, on request, to the membership of the Society.
- vi. The Administrative Affairs Committee will act as an oversight and advisory board to the Chief Financial Officer of the Corporation regarding investment policies for the Corporation's financial assets.

**Discussion:** To date the Society's financial affairs have been handled by the Secretary and Chief Financial Officer, Mark Weinstein, who has managed these duties admirably and cheerfully. The amount of money involved, however, now dictates that more formal controls should be put in place. Some type of periodic, outside audit or review seems necessary and appropriate. Other professional societies, with comparable flows, have outside reviews and audits. In addition, a periodic review of the Society's investment choices and policies by a committee should help to legally protect the Secretary and the Executive Committee should there be unforeseen losses.

The only reasons not to proceed with these changes are the expense, and the burden they impose of the Secretary. Since the Society's investment activities are extremely simple, and reports and information have been made periodically to the Executive Committee, preparation for reviews of the investment policies, and the reviews themselves should be fairly perfunctory. Preparing for an audit or review by an accounting firm will impose a burden, and will represent an expense, but it needs to be done. The legal and reputational consequences to the Officers of the Society of mistakes or errors, however innocent, are

potentially quite severe. The by-laws were structured to provide, wherever possible, accountability to the membership. As the financial resources of the Society are now considerable, accountability on this dimension is now called for as well. It is not our intent to prejudge the type of audit or review that is appropriate for the Society. This may well fall short of a full audit. It should be left to the Executive Committee to ascertain the expense and benefits of different types of outside audits or reviews.

#### **Issue 4:** Resources to Support the Executive Editor

**Background:** The by-laws state that no Councillor shall be paid. The Editors and the Executive Editor are Councillors. Joe Williams' summary of the by-laws in the initial issue of the RFS state explicitly that "no Editor shall be paid." The Society has to this point also resisted providing other forms of support to the editors. Secretarial support, space, and any teaching release time are provided (if they are provided) by the editor's institution, and this is negotiated by the editor with his or her institution. As schools move away from reliance on secretarial staff, and move towards flexible resource allocation schemes and centralized work-processing centers instead of individual secretaries, this system has become more awkward for the editors. Because of technological changes, faculty are more self-sufficient in document production for teaching and research. The level of clerical support required by editors has thus gone from being above normal to being extraordinary. To attract good people to serve as editors, we need to provide some support.

The Executive Committee has recently agreed to provide some support to Cornell, to help with the costs of extra secretarial support for the new Executive Editor, Maureen O'Hara. The by-laws, as currently written, do not appear to preclude this. They state, in Section 5.9, that Councillors will serve without compensation, but may be reimbursed for expenses. An amendment to the by-laws such as that suggested below would eliminate any ambiguity about this.

**Suggested Amendments:** Sections 7.2, which deals with the position of Executive Editor, shall each be amended to include the following item:

- e. The Corporation may provide financial support to the institution employing the Executive Editor to assist in defraying the costs of clerical, secretarial, and computing support necessary to the duties of the Executive Editor.

Section 7.3, which deals with the position of Editor, shall each be amended to include the following item:

- e. The Corporation may provide financial support to the institution employing the Editor to assist in defraying the costs of clerical, secretarial, and computing support necessary to the duties of the Editor.

**Discussion:** The feedback the committee received concerning this issue was generally supportive of the notion that the Society should provide some support. Members of the

committee itself felt that it was time to do this. It would allow us to call upon faculty from a larger set of institutions for editorial responsibilities, as some institutions simply will not provide such support. The Society has the funds. This is a legitimate use of the funds that will further the mission and success of the RFS. Providing more clerical support may also help to alleviate the problems with turnaround times that have emerged as a disadvantage to the RFS in competition with the other journals in the field for submission flow.

#### **Issue 5: Web Page Editor or Officer**

**Background:** In the feedback and discussions we have received concerning amending the by-laws, one of the possibilities that has been raised repeatedly is to institutionalize an apparatus to support the Society's Web activities. This would involve making the person in charge of this activity an Officer of the Society, similar to the Secretary and Chief Financial Officer, or a "Web Page Editor," with recognition as such on the masthead.

**Suggested Amendment:** None.

**Comments:** There are probably better ways of managing this question than by amending the by-laws. First, the Executive Committee can devote resources to the Society's Web page without amending the by-laws. If the person running the Web page comes to make a contribution that is genuinely editorial, then this person can be recognized on the masthead, again without amending the by-laws. Alternatively, Section 6.6(3) of the by-laws allow for the creation of additional Vice Presidents "as the Council may determine in its discretion." These Vice Presidents "shall have such other powers and perform such other duties as from time to time may be prescribed for them respectively by the Council." This may provide a natural and appropriate way to recognize the contributions to the profession and the Society of the person or persons managing the Society's Web activities.

Creating a permanent office for this person in the by-laws, however, will commit the Society to continuing these activities, even if these activities cease to be a productive use of the Society's resources. That may happen, as the nature of electronic publishing is very much in flux. The big decision facing e-commerce entities today is whether to become a portal, providing access to information and services on the Web, or a supplier of information and services. Currently, the Society's Web activities involve both. We provide access to abstracts and members. We also supply articles that are posted to Web pages maintained by Oxford and made available through JSTOR. It may be that our comparative advantages as academics, and as a Society, may make one direction or the other a more natural one for the Society to pursue.

We originally undertook efforts to build and maintain a Web presence for several reasons. First, we were concerned that if we did not do this, the world would pass us by, and the means through which the journal's articles were being distributed would become

obsolete. Second, this Web presence would be a professional service we could supply to our members for which there were no close substitutes, except for FEN, and providing such a service was seen as a good use of the Society's funds. Third, we had an individual, Ivo Welch, who was interested in building a Web page for the Society, and who brought considerable initiative and energy to this task.

Since then several developments have arisen. Other means of providing electronic versions of the content of the RFS have emerged and seem to be low cost and effective. The RFS is now part of JSTOR. This covers all the older issues. Electronic versions of all our issues are being mounted by Oxford Press, the publisher, on their Web page. The unique nature of our contract with Oxford means they are willing to do this at reasonable rates, and their willingness is not complicated by concerns that it would erode sales of the print medium. In short, we are finding ways to distribute the RFS electronically that are low-cost and efficient without doing it ourselves. Similarly, the abstracts database and professional directory on the Web page, while useful, are not unique resources. Various other organizations, both public and private, are providing such services. Whether the SFS will continue to feel it has comparative strengths and advantages in supplying these services is an important strategic issue for the organization, but is not a question we should view as "constitutional."

#### **Issue 6:** Notice of Annual Meeting

**Background:** Section 4.4(d) requires that we give notice of the annual meeting to our members by first-class mail, or telegram. This is an expensive and time-consuming process, and is becoming ever more so as the membership expands. It is also obsolete. Notice could be delivered by email more efficiently, or by posting a notice on the Society's Web page.

**Suggested Amendment:** Section 4.4(d)(i) currently reads:

General Notice Contents. Except as provided in Section 8.1(b)(vi) hereof, all notices of meetings of Voting Members shall be sent or otherwise given in accordance with this subsection (d) not less than ten (10) nor more than ninety (90) days before the date of the meeting to each Voting Member who, as of the time said notice is given, is entitled to vote thereat.

This shall be amended to read:

General Notice Contents. Except as provided in Section 8.1(b)(vi) hereof, all notices of meetings of Voting Members shall be sent, or otherwise made electronically available on the a public Web site maintained by the Corporation, in accordance with this subsection (d) not less than ten (10) nor more than ninety (90) days before the date of the meeting to each Voting Member who, as of the time said notice is given, is entitled to vote thereat.

Section 4.4(d)(iii) currently reads:

Manner of Giving Notice. Notice of any meeting of Voting Members shall be given either personally, by first-class mail, telegraphic or other written communications, charges prepaid, addressed to each Voting Member either at the address of that Voting Member appearing on the books of the Corporation or the address given by the Voting Member for the purpose of notice.

This shall be amended to read:

Manner of Giving Notice. Notice of any meeting of Voting Members shall be given either personally, by first-class mail, telegraphic or other written communications, charges prepaid, addressed to each Voting Member either at the address of that Voting Member appearing on the books of the Corporation or the address given by the Voting Member for the purpose of notice, or by posting to a publicly accessible Web site maintained by the Corporation.

Section 8.1(b)(vi) deals with the candidates nominated by the Nominating Committee. It currently reads, in part:

The Secretary shall, in turn, forward to each Voting Member, at least twenty (20) days before the date of any election of officers, ...

This shall be amended to read:

The Secretary shall, in turn, forward to each Voting Member, or post on a publicly accessible Web site maintained by the Corporation, at least twenty (20) days before the date of any election of officers, ...

**Discussion:** The internet changes everything. The Society is incorporated in the State of California. There is some possibility that the state law would rule out such an amendment. (The Secretary, who was a member of our committee and is on the Executive Committee, agreed to look into this question.) Should that be the case, we recommend the Council not bring this change to the membership.

[Added by President: Secretary's response concerning this question: USC counsel advises that even without amending the by-laws website notice should be ok (for a non-profit court would look to substance, not formality). However, we should put notice in RFS that meeting will occur at WFA meetings and state date, inform people that material is on website in this notice, and inform people that if they don't have access to the web all information will be available at the meetings. That is, spirit is active rather than passive notification and California courts will not take universal web access for granted.

We can therefore proceed with this amendment.]