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**Organizations of  
Focus:**

American Diabetes  
Association (ADA)

Diabetes Research  
Institute Foundation  
(DRIF)

JDRF

Joslin Diabetes  
Center (Joslin)

# Juvenile Diabetes Cure Alliance

March 9, 2012

## Utilizing Corporate Governance to Align Agendas

### *Conclusions:*

- A lack of reporting requirements exists among not-for-profits (NFPs)
- Contributions to NFPs have reached levels commensurate with public companies (PCs) that seek and maintain capital influxes. SEC standards used by PCs should serve as a baseline for the foundations' annual updates with a preference for the addition of quarterly updates
- We believe these actions would 1) serve as a self-reflection mechanism for NFP leaders to better align stated goals with actual progress; 2) provide improved transparency which we believe would result in an increased donor base; and 3) better align the use of contributions with donor intentions.

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### **Our Mission:**

**To direct donor contributions to the charitable organizations that most effectively fund research with the goal of delivering a type I Practical Cure by 2025**

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### What is Corporate Governance?

Corporate governance helps to ensure that stakeholder interests are aligned with those of management through transparency and disclosure. Companies become public by raising large amounts of capital to fund strategic objectives through a variety of offerings (ex. stocks, bonds, etc.). This results in independent stakeholders who have a vested interest in the form of partial ownership of the company with the objective of generating a return in the form of monetary gains on their investment. The SEC established reporting guidelines for public companies (PCs) to provide stakeholders with oversight and transparency into the organization and to help remove the conflict that can arise when management strays from stakeholder agendas. Stakeholders turn to both the Annual (10K) and Quarterly (10Q) Reports filed with the SEC to properly assess the investment merits, focus, and outlook of the PC. PCs file the 10K with the SEC in addition to the tax filing with the IRS.

### Thesis

We believe that a lack of transparency exists at not-for-profit (NFP) foundations and that the 4 dominant diabetes NFPs would benefit from providing reports that follow SEC standards. Contributions serve as the main source of revenues at the NFPs and the scope of fundraising dollars has reached levels commensurate with public companies that seek and maintain capital influxes. Furthermore, NFPs require a recurring annual stream of donations to finance a large portion of the operations and research projects/grants of the foundations. Given the size of the NFPs operations and their reliance on contributions as the primary source of revenues, we believe the organizations need to provide frequent updates to document progress and explain the allocation of funds relative to the course of action needed to achieve stated goals. We view contributors to the NFPs as the stakeholders as they have a vested interest in how their dollars are utilized and look for a return on their donation (i.e., investment) in the form of progress. Therefore, we believe the NFPs should be held to an improved standard equivalent to a PC.

The JDCA feels that existing and potential NFP stakeholders would be better served by improved communication frequency, timeliness, and disclosure requirements that more closely mirror the SEC guidelines used by PCs. We believe these actions would 1) serve as a self-reflection mechanism for NFP leaders to better align stated goals with actual progress; 2) provide improved transparency, which we believe would result in an increased donor base; and 3) better align the use of contributions with donor intentions.

### Frequency, Timeliness, and Notification

NFP and PC filings differ in frequency, time allowed for publication, and notification processes. SEC rules require business updates for PCs in the form of annual (10K) and quarterly reports (10Q) and publication of an 8K when a press release is published or any other material event occurs that requires disclosure. Quarterly reports must

be issued within 40-45 days of the end of the quarter and annual reports must be filed within 60-90 days of the close of the fiscal year, with the exact timing dependent on the market capitalization of the public company. Additionally, notifications are sent by the company and/or the SEC upon publication of all of the aforementioned filings, allowing for immediate review by interested parties.

Currently, Form 990 filed with the IRS serves as the most comprehensive update provided by the NFPs. IRS rules require the filing of Form 990 within 4 1/2 months of the exempt organization's fiscal year end, but organizations may take up to 10 1/2 months if an extension is authorized by the IRS. Additionally, a short annual report is published with general information related to business objectives, and an additional report containing financial information is issued and intended for stakeholders. However, the annual-only information is compiled in two separate reports (the financial statements and the form 990) lacking timeliness and with no publication alert.

We believe stakeholders should be provided with more frequent, timely updates and receive notification for publications. We believe a 90-day maximum time frame for providing filings to the public, publication alerts in the form of press releases or emails to subscribed contributors, and ease of access to publications and documents on the organization's website should serve as the base line for improvements with a preference for the addition of quarterly updates.

### Filing Differences for NFP Annual Reports/Form 990s versus PC 10Ks

The information provided in the NFPs' annual reports and Form 990 tax filings lacks pertinent details that could illuminate management's focus and increase transparency into business operations. In contrast, the SEC filings provide stakeholders in PCs with all of the information necessary to analyze a PC, so that stakeholders do not need to shuffle through cumbersome tax filings intended for the IRS. We believe supplying a more comprehensive annual report, as is the standard for PCs, would better serve stakeholders in NFPs.

The following sections detail the components of the SEC 10K. Within each section we assess whether corresponding information is available and/or unavailable in the NFP Annual Report, Financial Statements, or Form 990 (and the accompanying schedules for the IRS filing). We will discuss these topics as outlined in the following discussion in further detail in a series of follow-on reports that highlights the four dominant diabetes NFPs that we cover.

#### ***Business; Risk Factors; Unresolved Staff Comments (Part 1; Item 1 of 10K)***

SEC annual filings begin with a business overview along with risk factors and unresolved staff issues. The business overview section provides information such as what the company does, when it was founded, the industries and regions in which it operates, website and filing location, competitor landscape, customers served, sources of revenue, research and development (R&D) directives, and executive biographies. The risk factor

component addresses any potentially adverse issues that could affect the business, while the staff comment section is reserved to address conflicts existing with employees at the firm.

The bulk of the general business details made available by NFPs is available in Schedule O of Form 990 and the Financial Report includes a limited discussion of risk. Additionally, the annual report summarizes the high-level strategic plan and objectives of the foundation similar to a marketing material format. However, donors are missing access to pertinent, in-depth details that are needed to properly assess the organization. Additionally, given the lack of executive bios throughout the NFP publications, it is difficult to access the compensation levels of the executives. Providing a thorough look at the individuals directing the foundations has the potential to comfort donors with the competency and integrity of the leadership that their donations are helping to fund.

### ***Properties, Legal Issues, and Security Holder Votes (Part 1; Items 2, 3, & 4 of 10K)***

The 10K includes information related to properties, legal cases, and shareholder votes. The property segment supplies stakeholders with a list of property assets such as the office locations and operations. Legal issues are also addressed for outstanding or recent matters.

Form 990 includes information related to property in Schedule D and M with the information republished in the financial statements. Legal issues are not as common for a NFP as for a PC, but happen nonetheless and should be covered clearly as opposed to burying the details in the tax forms. The security holder votes section does not apply to NFPs as they do not have publicly traded shares.

### ***Market for registrants equity, related stockholder matters, and issuer purchases of equity securities (Part 2; Item 5 of 10K)***

This section is related to the stock prices and dividends and is therefore unrelated to NFPs.

### ***Selected Financial Data (Part 2; Item 6 of 10K)***

SEC reports have a section dedicated to a brief analysis and presentation of key financial data to allow for quick observation of revenues and expenses. The proper financial statements as required by accounting standards are provided in their entirety later in the report.

There is no discussion of financial observations available in the NFP filings. We believe this section could serve to address the specific financial figures related to the allocation of funds, important project updates with accompanying financial information specifically related to the grants that fund the projects, and a discussion of trends with contributions/revenues and expenses.

### ***Management's discussion and analysis of financial condition and results of operations (Part 2; Item 7 of 10K)***

The Management's Discussion and Analysis (MD&A) section of the 10K serves as a tool for the organization's leaders to provide an overview of operations and recent developments. The information generally includes commentary related to notable areas of acceleration/deceleration within the business, explanation of revenue

and expense categorization, business initiatives, and capital structure. Risks are generally discussed in further detail in this section.

The MD&A section is absent throughout the NFP filings. Information should be made available for the split between type 1 and type 2 projects and the specific breakdown of initiatives on a broad category basis (Cure; Treatment; Prevention; Education) as current disclosures do not allow for a thorough understanding of the utilization of contributions. This section would allow management to discuss their strategic agenda. It is also necessary for NFPs to discuss the market risks they face. Such risks might include: the implications of a reduced contributor pool to the projects currently under way and planned for the near term; the macroeconomic environment as it impacts the investment portfolios maintained at the foundations; and the competitive risks the foundations face as they vie for donations. Finally, we believe this section should also include any alliances for research projects/progress, such as the work done in collaborations with PCs.

### ***Financial statements and supplementary data (Part 2; Item 8 of 10K)***

The 10K includes financial schedules that comprise an income statement, balance sheet, shareholders equity, and cash flows as required by Generally Accepted Accounting Principals (GAAP), which are established by the Financial Accounting Standards Board (FASB). The supplementary data that follows is a list of additional information used to understand and access the statements and operations, and provide additional revenue/expense breakdowns. Additionally, the information clearly and concisely points out new accounting policy implementation, restatements, nonrecurring charges, and internal restructuring measures.

The financial report supplied by NFPs has a similar scope as these statements, but lacks notification and timeliness in line with SEC requirements, and the filing is difficult to find on the organizations' websites. The information is also available in Form 990. Furthermore, restatements occur without clear explanation beyond a sentence acknowledging that a change has been made since the prior year. We believe the methodology underlying the changes should be clearly stated in the annual report.

### ***Changes in and disagreements with accountants on accounting and financial disclosure & Principal accounting fees and services (Part 2; Item 9 and Part 3; Item 14 of 10K)***

These sections include details related to accounting fees and whether the accounting firm used for independent audit has changed since the prior filing.

Accounting fees are disclosed in Form 990 and the financials, but we believe they need to be included in an improved annual report structure.

### ***Directors, executive officers, and corporate governance (Part 3, Item 10 of 10K)***

The Director, Executive Officers and Corporate Governance portion of the 10K provides details related to executive and board member elections, committee composition, and the location of the formal code of ethics adopted by the corporation. It allows the stakeholder to become more familiar with the members in charge of

deciding the direction for their investment.

The Form 990 lists details related to governance, officers, and the board in Part 6 and Part 7 with additional supporting information in Schedules J and O. However, the 990 does not provide clear details related to appointment structure, committee composition, and supporting information such as terms of election. Additionally, there is no formal recognition of a code of ethics or the existence thereof. We would like to see the details provided in Form 990 transitioned to an annual report along with the addition of those details required to properly access the board structure and the election of the board and executive team.

### ***Executive compensation (Part 3, Item 11 of 10K)***

The Executive Compensation details provided in the 10K tend to be general in nature with directions to the location of the full information (available in additional SEC filings), which we view as a shortfall in the 10K process. However, all SEC filings are very easily located on both the SEC and PC websites. It is important for stakeholders to be informed of executive levels of compensation in order to determine that compensation is commensurate with qualifications and experience.

Given that NFPs pay executives' salaries with donor contributions, we believe NFPs should be held to a higher standard than PCs, which generate revenue streams from product sales as opposed to asking for money from donors. Foundations are required to disclose compensation arrangements within Form 990 in Schedule J. While these forms must be made available to the public, providing the information within the annual report and financials would centralize the information and make it more accessible for the contributors. Additionally, there is insufficient information to assess the basis for the compensation. We believe it is also important to clearly state the pay of the executives to the stakeholders who fund their salaries. Providing the information through a tax form that can be delayed up to 10.5 months following the close of the fiscal year does not properly serve the current and prospective contributors.

### ***Security ownership of certain beneficial owners and management and related stockholder matters (Part 3, Item 12 of 10K)***

This section of the 10K states matters such as equity incentive payments and does not apply to NFPs.

### ***Certain relationship and related transactions, and director independence (Part 3, Item 13 of 10K)***

The disclosure of related-party transactions describes relationships between the foundation and outside parties. Recent accounting scandals by some PCs that presented meaningful related-party transactions conflicts have served as a source of consternation in the investment community.

Providing sufficiently detailed information would help assure contributors that management seeks to avoid conflicts of interests and that the arrangements between NFPs and outside parties support the missions of the NFPs. Form 990 notes the number of independent directors and provides details related to financial transactions with outside parties in Schedule R. However, the information does not contain sufficient explanation, and

placement in an annual report would better inform stakeholders.

### ***Exhibits, Financial Statements, and Signatures (Part 4, Item 15 of 10K)***

The 10K ends with executive signatures that serve as a guarantee of accountability for the statements made throughout the report. It allows investors to know that the executives have signed off on the accuracy of the statements and vouched for the absence of misleading statements. Their signatures show acceptance of responsibility on a personal level beyond placing the liability on the corporation. Additionally, any exhibits that were discussed in the report can be presented or reiterated in this section.

Form 990 contains an executive signature that we believe should be applied to the other filings and within the improved annual report. We believe a signature by the top members serves as an extra testament of commitment by those who lead decision-making at the foundation. We believe any increased assurance that leadership can provide about the operations of the foundation will lead to an incremental rise in donation levels and recurrence.

### **Summary and Conclusion**

We believe the information available in current publications lacks transparency and is supplied on an untimely basis without proper notification. We feel NFPs should present this information in a report similar to that supplied by PCs given the size of dollars raised from contributors in order to support the organization's mission. The comprehensive report should focus on improved transparency by properly addressing several topics related to the handling of donations, including: the organization's financial landscape, progress on grants/projects funded by donations, changes in allocations among the grants/projects, and the executives and board in charge of utilizing the contributions. We believe these actions would 1) serve as a self-reflection mechanism for NFP leaders to better align stated goals with actual progress; 2) provide improved transparency which we believe would result in an increased donor base; and 3) better align the use of contributions with donor intentions.

We will address these topics in greater detail inclusive of the procedures followed on an individual basis for the ADA, DRIF, JDRE, and Joslin in a series of follow-on reports.

Please see the following exhibits for the components of annual and quarterly updates per the SEC and Form 990 per the IRS.

## Utilizing Corporate Governance to Align Agendas

### Exhibit 1: Form 10K SEC Requirements (Annual Filing)

Part 1	
Item 1	Business
Item 1A	Risk Factors
Item 1B	Unresolved Staff Comments
Item 2	Properties
Item 3	Legal Proceedings
Item 4	Mine Safety Disclosures
Part 2	
Item 5	Market for Registrant's Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities
Item 6	Selected Financial Data
Item 7	Management's Discussion and Analysis of Financial Condition and Results of Operations
Item 7A	Quantitative and Qualitative Disclosures About Market Risk
Item 8	Financial Statements and Supplementary Data
Item 9	Changes in and Disagreements With Accountants on Accounting and Financial Disclosure
Item 9A	Controls and Procedures
Item 9A (T)	Controls and Procedures
Item 9B	Other Information
Part 3	
Item 10	Directors, Executive Officers and Corporate Governance
Item 11	Executive Compensation
Item 12	Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters
Item 13	Certain Relationships and Related Transactions, and Director Independence
Item 14	Principal Accounting Fees and Services
Part 4	
Item 15	Exhibits, Financial Statement Schedules
Signatures	

Source: sec.gov

### Exhibit 2: Form 10Q SEC Requirements (Quarterly Filing)

Part 1 - Financial Information	
Item 1	Financial Statements
Item 2	Management's Discussion and Analysis of Financial Condition and Results of Operations
Item 3	Quantitative and Qualitative Disclosures About Market Risk
Item 4	Controls and Procedures
Item 4T	Controls and Procedures
Part 2 - Other Information	
Item 1	Legal Proceedings
Item 1A	Risk Factors
Item 2	Unregistered Sales of Equity Securities and Use of Proceeds
Item 3	Defaults Upon Senior Securities
Item 4	Mine Safety Disclosures
Item 5	Other Information
Item 6	Exhibits
Signatures	

Source: sec.gov

### Exhibit 3: Form 990 and List of Accompanying Schedules

Form 990	Return of Organization Exempt From Income Tax
Part 1	Summary including mission statement/number of voting members of the governing body/total employees/total volunteers/revenue/expenses/net assets and liabilities
Part 2	Signature block
Part 3	Statement of program service accomplishments
Part 4	Describe three largest program services by expenses
Part 5	Checklist of required schedules
Part 6	Governance, Management and Disclosures
Part 7	Compensation of Officers, Directors, Trustees, Key Employees, Highest Compensated Employees, and Independent Contractors
Part 8	Statement of Revenue
Part 9	Statement of Functional Expenses
Part 10	Balance Sheet
Part 11	Reconciliation of Net Assets
Part 12	Financial Statements and Reporting
Schedules	
A	Public Charity Status and Public Support
B	Schedule of Contributors
C	Political Campaign and Lobbying Activities
D	Supplemental Financial Statements
E	Schools
F	Statement of Activities Outside the United States
G	Supplemental Information Regarding Fundraising or Gaming Activities
H	Hospitals
I	Grants and Other Assistance to Organizations, Governments, and Individuals in the United States
J	Compensation Information
K	Supplemental Information on Tax Exempt Bonds
L	Transactions with Interested Persons
M	Noncash Contributions
N	Liquidation, Termination, Dissolution, or Significant Disposition of Assets
O	Supplemental Information to Form 990 (all the items that require further explanation)
R	Related Organizations and Unrelated Partnerships

Source: [IRS.gov](http://IRS.gov)

# Juvenile Diabetes Cure Alliance

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The JDCA analyst responsible for the content of this report certifies that with respect to each organization covered in this report: 1) the views expressed accurately reflect his own personal views about the organizations; and 2) no part of his compensation was, is, or will be, directly or indirectly, related to the specific views expressed in this research report.

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