THE SHAREHOLDER SERVICE

OPTIMIZER

HELPING PUBLIC COMPANIES – AND THEIR SUPPLIERS – DELIVER BETTER AND MORE COST-EFFECTIVE PROGRAMS

VOLUME 18, NUMBER 1 ★★★ NOW IN OUR 19th YEAR ★★★ FIRST QUARTER, 2012

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OUR NUMBER-ONE TIP FOR "ANNUAL MEETING SECURITY": HAVING SAFE, SANE, SENSIBLE AND SCRUPULOUSLY FAIR RULES OF CONDUCT IN PLACE... PLUS, THE VERY IMPORTANT TIP NUMBER-TWO

On March 1, the inimitable Broc Romanek, Editor of The Corporate Counsel, hosted his annual webcast on prepping for the upcoming Annual Meeting Season, wherein both he and your editor opined at the outset that smart companies ought to be doing a bit more thinking than usual about Meeting Security…given current hot topics like corporate political contributions, lobbying, pay disparity, attacks on collective bargaining arrangements, heated political elections…and the "Occupy Movement" – which, that very week, received significant new funding from Ben & Jerry, and which, as panelist Bob Lamm of Pfizer noted, was picketing outside his building that very week.

While noting that problems with security at shareholder meetings are few and far between, "Your own meeting is the only one that really counts" we reminded, so "Hope for the best, but prepare for the worst, to make sure that 'Annual Meeting Meltdown' does not become the flavor of the month" advised.

Your editor also opined – based on his attendance at literally hundreds of shareholder meetings, over 40+ years – where more than a few went dangerously off the track – that the very best "safety precaution" one can take is to have clear and well-thought-out Rules of Conduct for the Meeting (not 'rules of *procedure*' btw – which are very different things)…and to be sure that everyone has a set of the rules (we actually like to have them placed directly into the hands of each registrant)…and that the Chair of the Meeting briefly reviews them with the audience before the meeting open for business.

The most important Rule for a safe and sane shareholder meeting – by far – is that the Chairman must always be in charge: If he or she loses control, the meeting will, almost certainly, quickly dissolve into anarchy – and maybe end with an actual shareholder revolt. Thus; an equally important corollary; the Chairman must be prepared to enforce the Rules, after 'fair warning.'

We promised the 1,500 or so folks who've listened to the webcast to date that we would post a revised set of model rules, which you will find below…along with a bit of commentary:

cont'd on page 2

ANNUAL MEETING SECURITY...
cont'd from page 1

We wish we could claim authorship of the original version, whose origins are lost to history as best we can tell. But clearly, it has evolved over time – to take account of cell-phones and blackberries for example. But it will be even better, we think, with a bit of additional customizing for each company's specific situation in any given year.

The modifications that we have made are meant to provide a template for outlining sensible – and scrupulously fair rules – that are meant to keep the meeting within "reasonable time limits."

Equally important, we think, the Rules are designed to limit the *number of times* – and the *total time* – that any *single attendee* should be allowed to have…to a "reasonable amount." This is to ensure that all attendees will have a fair and "reasonable chance" to ask questions and it also helps to prevent gadflies or potential troublemakers from co-opting the Meeting – which, invariably, creates unrest – and often causes outright anger to erupt – which is not a good thing.

Please note that most years, most companies will not need to have strict time limits like those suggested in items 8 and 9. Especially worth noting in this regard is that every company is different, and every year is likely to be different too – depending on the number and nature of the proposals up for a vote, developments in your industry or in the general economy, or in the press. So what is "reasonable" in one year may not be as reasonable in other years.

Our template follows the longstanding Delaware precedent that the main business of the meeting is to accomplish the *official business* of the meeting; specifically the election of directors and the voting on any management or shareholder proposals that are "properly brought before the meeting." We realize that there are different views on this subject, and that some years, departing from this format may be appropriate. But in our long experience, holding general questions until after the "official business" has been accomplished is not just a major time-saver, it provides a much better and clearer focus on each issue of business – whether it is on the ballot or not.

We also believe that the Chairman of the Meeting, or maybe the CEO, ought to make some brief remarks about the past year, and the year ahead, so please do put this on the Agenda. Doing so right off the bat tends to set a good tone – and often answers questions that might otherwise come from the floor. The old-time tradition of making these remarks "while the votes are being tallied" doesn't make much sense these days – especially since we believe it is best to summarize the outcomes rather than rush to report the final numbers. ***But the main takeaway here, is that every company should have "reasonable" rules of the road for the Meeting – and should be sure to provide "reasonable time" to satisfy attendees – and should design the agenda with the current year's circumstances, and the "hot topics" if any, very much in mind.***

It is also worth noting that there is a built-in "self-governing factor" for Meeting conduct these days: A company is acting very much at its own peril if it tries to cut short questions, comments or debate on matters that are important to shareholders. And if the meeting is being broadcast live, on the web – and maybe being archived for every interested party to experience for themselves, the damage to corporate reputation can be severe, and long-lasting. So at every turn, the question should be, "Will the time limits be perceived as 'reasonable' ones under the circumstances – by proponents, by other shareholders and by the company's important stakeholders?"

Readers will be very well rewarded, we think, if they read the transcript of Broc's webcast – which featured a truly stellar cast of professionals from public companies; specifically, **Kathleen Gibson** of **Campbell Soup**, **Bob Lamm** of **Pfizer Inc.**, **Barbara Matthews** of **SCE Corp.** and **Carol Ward** of **Kraft Foods** – who provided a veritable feast of insider insights on things to consider as you plan, and some highly practical tips.

We have also posted a summary of the top-ten tips on dealing with activist investors, proponents and gadflies that emerged from the webcast – and from your editor's personal observations over many years at often contentious meetings – below.

And just as a reminder, we have two articles that treat Annual Meeting Security and Meeting Admission Criteria at much greater length on our website, **www.optimizeronline.com**.

THE SHAREHOLDER SERVICE
OPTIMIZER

is published quarterly by
CARL T. HAGBERG & ASSOCIATES
P.O. Box 531 • Jackson, New Jersey 08527-0531

SUBSCRIPTION PRICE: $300 per year

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RULES AND PROCEDURES FOR THE CONDUCT OF ANNUAL STOCKHOLDER MEETINGS

XYZ Corporation welcomes you to its 20th Annual Meeting of Stockholders. In fairness to all stockholders in attendance, and in order to provide stockholders an opportunity to be heard – and in the interest of conducting an orderly meeting, within a reasonable time period – we require you to honor the following rules of conduct:

1. **All stockholders and proxy holders must register at the reception desk and show valid identification as a stockholder or as a proxy holder before entering the meeting room.**

2. **The taking of photographs and the use of audio or video recording equipment is prohibited without the express consent of XYZ Co. Also, please be sure to silence all cell phones, i-phones, blackberrys and similar electronic devices.**

3. **Subject to the discretion of the Chairman of the Meeting, the meeting will follow the Agenda that was provided as you entered the meeting room.**

4. **Only stockholders of record on the record date for the Meeting, [enter date] or their proxy holders may address the meeting.**

5. **All questions and comments should be directed to the Chairman of the Meeting, who will either respond directly, or invite another officer [or director] of XYZ to respond.**

6. **If you wish to address the Meeting, please raise your hand. Upon being recognized by the Chairman, please wait for a microphone. Then, state your name, your status as a stockholder or proxy holder, and present your question. Please try to do so as concisely as you can.**

7. **In order to use the time of all attendees as effectively as possible, we will handle the official business of the meeting first, as outlined on the Agenda. We ask you to confine questions or comments strictly to the matter that is under consideration. There will be a separate question and answer period about other matters that may be of concern to attendees after the voting on proposals. We plan to conclude the Meeting by [ ].**

8. **There are [X] management proposals and [Y] shareholder proposals to be voted on. Each shareholder proponent will have [two] minutes to introduce their proposal or make a statement in support of it. The management position is already stated in the proxy materials you received.**

9. **Other shareholders who may wish to comment on a proposal will have up to [two] minutes each. Please permit each speaker the courtesy of concluding his or her remarks without interruption. We have allotted a maximum of [X] minutes for discussion of each matter to be voted on.**

10. **To allow as many shareholders to be heard from as possible, we ask attendees who have already asked a question to allow others who raise their hands [or queue up for the microphone] to speak first – and to limit their own questions and or comments [during the official business session?] to a maximum of three.**

11. **The views and concerns of all shareholders are welcome; however, the business purpose of the meeting will be strictly observed, and the Chairman or Secretary may rule the following kinds of questions or comments as out of order: questions that are not related to the business at hand; questions that are irrelevant to the business of the company; questions relating to pending or threatened litigation; comments or questions that are derogatory in nature, or related to personal matters or personal grievances.**

OUR TOP-TEN TIPS ON DEALING WITH ACTIVIST INVESTORS, SHAREHOLDER PROPONENTS, GADFLIES – AND OTHER WOULD-BE SPEAKERS – AT SHAREHOLDER MEETINGS

1. **Be sure to greet and meet briefly with shareholder proponents or their proxy holders well before the Meeting begins – to set a good and courteous tone, to make sure they are aware of the Rules of Conduct – and any time limitations there may be, and the reasons for them – and to be sure they will be sitting near a microphone when it's time for them to introduce their proposals.**

2. **If you have regular "gadflies" – or repeat attendees who try to offer a comment on every item that comes up, you may want to bite the bullet, take them aside, remind them tactfully about the time and question limits – and advise them that they will be much more effective presenters by observing them. If shareholders have complained in prior years, which, often, they have, consider saying so.**

3. **Hand the Rules of Conduct to each attendee as they register, and ask them to be sure to review it before the Meeting begins.**

4. **Have some light refreshments available beforehand – and, ideally, have senior managers – and directors too, if at all possible – circulate among the attendees: It sets a welcoming and respectful "tone" – and very often, attendees will ask their questions then and there.**

5. **Have the Chairman of the Meeting briefly review the Rules of Conduct with the audience before the official business of the Meeting begins.**

6. **Be sure that the Rules are enforced uniformly – and that management observes them too. Please, we urge, do not show favoritism to gadflies. It ticks 'regular people' off big-time.**

7. **Above all, be prepared to enforce the Rules immediately if the first "gentle warning" and a second, firmer warning from the Chairman is ignored.**

8. **There is no need for the Chairman to discuss the management position – and there is certainly no need to argue with shareholder proponents during the Meeting: All the proposals have been distributed to shareholders well in advance – along with the company's own "best shot" as to why they are in favor, or against each one – and – except in the rarest of occasions – the voting will not change by a meaningful number during the Meeting. The easiest way to handle arguments – and comments – is to simply say "Thank you for your comments" and move on. (Please note, however, that formal proxy contests – where sometimes minds ARE made up at the Meeting – typically require a totally different approach.)**

9. **If you are the Chairman, remind yourself to never lose your cool: As the scriptures say, "A soft answer turneth away wrath."**

10. **Be prepared to conclude the Meeting summarily – if the fire alarm sounds or the power goes off – or if, heaven forbid, the Meeting threatens to get out of hand: Have an "emergency script" at the ready that allows the Chairman to declare that the Meeting is over, and that, based on the proxies in hand, the directors have been elected and that final results on all items on the ballot will be posted on the company website as soon as practicable.**

QUOTE OF THE QUARTER...RE: THE "JOBS BILL"

"In three years, or maybe five years, they'll be back to fix the loopholes, because there will be huge amounts of fraud." The bill should really be named the "Jump-start Our Bilking of Suckers Act"

Former PriceWaterhouse Coopers/China auditor Paul Gillis, as quoted in the March 16, 2012 *New York Times*

FLUB OF THE QUARTER – AND MAYBE THE YEAR:

"**Octavian Advisors LP** said a clerical error prevented the $1 billion New York based hedge fund from backing its own move last month to oust the supervisory board of German medical and electronics product maker **Balda AG**": This from **Reuters.com** on March 12th…and proof that end-to-end confirmations may be worth the time and money after all.

INDUSTRY THOUGHT-LEADERS ARE WORKING HARD TO DEVELOP BEST-PRACTICES FOR "VIRTUAL SHAREHOLDER MEETINGS"

Way back in the year 2000, the state of Delaware, where over 50% of all US companies are incorporated – looking to stay in the forefront on shareholder meeting matters – amended its General Corporation Law to allow shareholder meetings to take place in "cyberspace."

The revised Code allows shareholders to be considered "present in person" – as long as four conditions are met: (1) that the company can validate the identity of "attendees" (2) that the issuer takes "reasonable measures" to provide shareholders with the opportunity to "participate" in the meeting by being able to read or hear the proceedings, basically as they happen, and (3) to cast their votes from cyberspace if they wish to – essentially as if they were physically present and (4) maintains records of votes and other actions taken at the meeting. With Missouri signing on in February of this year, 22 states now permit "virtual-only meetings" although one or two have some conditions that tend to make them impractical. Another 11 states require a physical meeting location, but *permit* "virtual participation" and "virtual voting." Our bet is that ultimately, every state Code will provide for virtual meetings – if only to allow for virtual participation. Why would one not?

It took about seven years for the idea to gain traction, but this season, Broadridge expects to facilitate their 100th VSM. About 60% of them will be "virtual-only" meetings, because of the big cost savings that can be generated – especially by smaller companies that experience little or no in-person attendance.

Initially, many shareholder activists, including many prominent institutional investors, resisted the VSM concept – despite the potential for *them* to reach an infinitely wider audience for their views than they could possibly reach at an in-person meeting. But this fact – plus the inevitability of the technological march of progress – not to mention the undesirability of being perceived as Luddites, or worse, *saboteurs*, looking to toss their *sabots* into the works – has since drawn a large group of very savvy investors and investor advocates into joining a VSM Working Group – with the goal of developing a set of "Best Practices" for VSMs.

We don't want to jinx the effort by speaking prematurely, but it seems to *us* that very good progress is being made – and that a very large number of the participants agree that yes, virtual meetings are inevitable…and that yes, they can and will help to increase the numbers of people who can and will "attend" – by addressing the time, cost and other considerations that make "physical attendance" impossible for so many shareholders – and that YES… the most important consideration is to be sure that all shareholders will be able to have *at least the same* – and ideally *better* opportunities for their views to be heard at VSMs – vs. in-person-only meetings.

We have been particularly impressed by the support for "reasonable time guidelines" that many of the most savvy and statesmanlike participants have voiced – but this is a very businesslike group – and many of them share the same concerns that we have long expressed here, about the way gadflies, special interest groups and out and out nut-jobs are often able to take the focus off the really important meeting issues. We predict that a robust set of "Best Practices for VSMs" will be issued for comment…very shortly.

WATCHING THE WEB:

How secure is your boardroom from snoopers if you use Internet video conferencing? Better conduct a very thorough review, we'd advise, following a Jan. 23 *NY Times* report, where a professional security expert took the reporter on a "virtual" audio/video tour of "a dozen conference rooms around the globe, including those of "several top venture capital and law firms, pharmaceutical and oil companies"…and found a "path" into the **Goldman Sachs** boardroom by browsing a law firm's directory…but did not go there – perhaps the only good news Goldie got this quarter.

Potentially great news for those of us with more passwords than we can possibly remember – even if we never change them periodically as we know we should: Research done by the Dept. of Defense's Advanced Research Project Agency indicates that every password user has a unique, and impossible to imitate way of key-stroking, and of moving the mouse. Potentially, this can free us from passwords altogether, but better yet, assure that the person who is stroking away is the person who is authorized to do so: This from a *Digital Domain* article by Randall Stross, in the March 18th *WSJ.*

"VIRTUAL INSPECTION OF ELECTIONS" – AN INTRIGUING MONEYSAVING OPTION: BUT IS THIS A GOOD OPTION FOR YOUR COMPANY? WE OFFER SOME IMPORTANT CONSIDERATIONS

In late February, your editor served as the Inspector of Election in what he believes to have been the first-ever "Virtual Inspection" – for a U.S. listed company that decided to have its 2012 annual meeting in Taiwan, where much of their manufacturing is based.

While the meeting took place on a Monday morning at 10:00 a.m. local time in *Taiwan*, it was 9:00 p.m. eastern time in the USA – on Super Bowl Sunday evening – and during the fourth quarter to boot – with your editor as the Inspector, and a representative of the company's US counsel attending the meeting via an open telephone line.

The meeting – like the vast majority of shareholder meetings at small and mid-cap companies – took just over 15 minutes to conclude. No outside shareholders were in attendance and no proxies or ballots were presented at the meeting – other than the totals for those that had been processed on the previous Friday, when phone and internet voting shut down, as disclosed in the proxy statement.

Clearly one could not cost-justify a trip to Taiwan and back on the off-chance that the Inspector might have to "inspect" one or two last-minute proxies or ballots. But, of course, ballots were on hand and we were all prepared to deal with anything that *might* get presented at the physical meeting site – with a carefully written game-plan and a short addition to the script that would describe just how the company – and the Inspector – would deal with such items in order to "inspect" them, get all the valid votes into the count and render a Final Report on the Voting.

We have been thinking about the many cost-benefits of "Virtual Inspections of Election" for ten+ years now – since "virtual shareholder meetings" first became possible under the laws of technology-aware states. Here are a few considerations that we think are important:

- As with shareholder meetings in general, the "virtual only" Inspection option is almost certainly NOT a good idea if you normally have a large turnout of potential proxy-bearers and voters in person – or think you *might* have a large number this year. The "optics" are bad, an embarrassing scramble to collect and deal with the votes may well arise and, after all, someone does need to physically "inspect" what is presented and get the valid votes into the final numbers.
- Very important to note, we think, is that a seasoned Inspector is often the most experienced person in the room when it comes to running a smoothly-run shareholder meeting – and in anticipating and dealing with the unexpected events that often arise. So very often – even at very small companies – and especially if you are having your first shareholder meeting – or a "special meeting" to decide something very important – engaging such a person turns out to be one of the best investments in the meeting one could make…and the cheapest "meeting-insurance" imaginable.
- We've said this before…but Inspectors MUST do something to Inspect. They've taken an oath to "carry out the duties of Inspector to the best of [their] ability and with strict impartiality." So clearly, they had better know exactly what these duties ARE…and, ideally, have a written *summary* of what they are, and how they will carry them out…and what they will say if challenged…And then, of course, they must DO their duty.
- But with all this said, if a company has a "virtual only" meeting – or if few-to-no shareholders typically attend your meetings – "virtual inspection" can make very compelling economic sense…and can free the smallish pool of truly "seasoned Inspectors" to go where they are most needed.
- One last but very important tip: *If "virtual voting" is to be permitted at the meeting, additional due diligence on the part of the Inspector is warranted in order to carry out "the duties of Inspector" and to properly vouch for the results.*

AN ADDITIONAL TIP TO "GROW ON":

The "virtual inspection" procedures and script we use were essentially derived from the "emergency script" we keep in our meeting kit – on the off-chance that the designated Inspector gets detained in transit…like in air-traffic delays, flash floods, ice storms, tornadoes, etc. – which seem to be increasingly prevalent these days. Add this to your Meeting kit-bag, we'd urge. (If you would like a copy of the template we use, just call or email the editor)

A NEW RAT – OR TWO – OR MAYBE THREE – IN PROXY-LAND: WHISTLEBLOWER RATS OUT LEAKS OF CONFIDENTIAL VOTING INFO FROM ISS TO A PERK-LOADED PROXY SOLICITOR

What a sad and sorry year it's been in the world of proxy solicitation firms – where a slow business environment and intensive competition at many firms – in a field that seems seriously over-crowded these days – have driven more than a few staffers to do some mighty dumb things – including some things that are highly unethical and probably illegal to boot.

In the latest development, a "whistleblower" from the proxy solicitation industry filed a complaint with the SEC in February, alleging that a competitor at another firm was obtaining confidential information on institutional investor votes from a mid-level employee of ISS – in exchange for meals, tickets to sporting events and other perks: "Shades of the bad old days" as we wrote re other alleged acts of bad acting in this industry in our 2nd Q 2011 issue…And to long-term observers, this has a sadly familiar ring to it...

Immediately thereafter, after asking for anonymity, the whistleblower leaked the complaint to the *New York Post*, which trumpeted, "There's a new rat on Wall Street feeding valuable information to boardrooms…" And indeed, one can easily see how a "rat" could pass on very valuable info to a proxy solicitor – and how *another solicitor* – who was, no doubt, losing business to the guy with the "secret formula" – would want to rat that person out.

ISS launched its own investigation immediately, of course, and on March 27th, its parent company, **MSCI Inc**. filed an 8-K to say that *"The employee in question has informed the company that he provided information to a proxy solicitor over a number of years about how a number of ISS clients voted their proxies [and] stated that the proxy solicitor in question provided him with meals and tickets to various events." The employee "acted alone" the 8-K stated. ISS terminated his employment on March 26th and "continues to cooperate with investigations of both the SEC and the US Department of Justice."*

So one mid-level rat is down…with the name of the rat with the perks – and his firm, who paid for them – and the name of the "ratter-out" and his firm (no glory here, for sure) still to come out along the way…Ouch! We have our own "prime suspects" – and a fairly long list of firms we think are totally in the clear – but we can hardly wait to know for sure…

This really is a bad thing for the proxy solicitation business, as most solicitors acknowledge…And guess what? More than just a few of last-year's alleged bad acts are being teed-up for airing in court almost any week now.

So what's a good corporate citizen to do in the meantime? First, if it were *us*, we'd ask ourselves if our own solicitor has been touting "secret sauces" (read, "secret sources") that were promising to give us a big "edge" over others.

Second, we'd grudgingly admit that *we* might have been turning a blind eye here…"Secret sources" might seem like a *good thing* to have in your corner. And to tell the whole truth, we know lots of folks who actually *like* proxy solicitors who are "point shavers" – who are willing to do whatever it takes to win the day – including a few back-alley deals. But here, we really need to weigh the negative consequences to our company – and to us personally – if our "favorite solicitor" comes up as the perk-laden briber.

Next, we need to remember that many times it is a "mid-level employee" who goes astray here, and not the firm itself – just as it was at ISS…But here, we have a feeling that the rat who solicited the info – and the ratter-out too – will be fairly well-known and fairly senior people, though we hope we're wrong.

Last, but far from least, we'd ask ourselves if, in our heart of hearts, we feel that "our" guy or gal – and the firm itself – passes our own sniff test for *basic integrity*, and if not, we at least, would get out ahead of the pack.

What should we really be looking for in a proxy solicitor if we're smart? NOT a "proxy chaser" or someone with 'secret sources' or 'secret sauces' we say: When the chips are really down, you want someone who is smart…and *trustworthy*…and who can give you good and well-thought-through advice…A statesman, not a salesman… and definitely NOT a rabble-rouser – or worse, a "point shaver" – tempting as it may sometimes seem. There are plenty of good ones out there.

EN GARDE: PROXY VOTING GAMESMANSHIP IS ALIVE AND WELL – AND ESPECIALLY "CREATIVE" THIS SEASON... CREATING VOTES OUT OF THIN AIR

Your editor had a very unusual experience in March, in the course of serving as Inspector of Election in a proxy contest: About ten days before the Meeting, counsel for the company called to say that one of their largest investors – a smallish hedge fund – and not part of the dissident group, according to them – called the Chairman to say they'd made an SEC filing to disclose that they now controlled 29% of the shares eligible to vote – up from the mid-teens that had been previously disclosed. They wanted three seats on the board and a plan to promptly look for "strategic alternatives" or they'd vote with the dissident group. "What might this mean from an Inspector's standpoint?" the attorney asked.

"This does not sound right at all" said we. "First off, you need to ask if they held the shares on the record date for the meeting – and, ideally, where they held them, so you'll know for a fact if it's so. But frankly, there seems to be a very strong likelihood that this guy is simply bluffing – and looking to bully and *bulldoze* his way in."

When questioned further, it turned out that the big investor was going to "borrow" shares – from an entity controlled by him. But when questioned still further, they turned out to be a "loan" of the very same shares he owned…and where he was planning, it appeared, to vote both the shares he owned, and the shares he lent himself…to effectively double his voting power! And had he not tipped his hand, no one would have been the wiser – unless the custodians he chose ended up voting over 100% of their positions. And even then, there was a good chance they'd still be able to vote most of the shares under current procedures – without falling foul of any SEC rules – as long as they stayed at or under 100% of what the custodian voted in total.

In this case, the investor quickly backed away. But we think he, or other investors, may have played this hand several times this season…and seems to have plans to do so again. We can't say more yet – since the subject company is considering a lawsuit…but stay tuned. If this does not resolve itself in a courtroom, your editor will file a formal complaint with the SEC.

Here is proof positive, we say, that the only way to fix the over-voting problem – and there IS a problem here – is to require custodians to have a pre-reconciliation process – so that "voting entitlements" are issued only to "entitled voters" – and to guarantee that only one vote per actual share outstanding can or will be counted.

AN UPDATE ON END-TO-END CONFIRMATION OF PROXY VOTES: BROADRIDGE HAS IT, BUT TAs WILL HAVE A STRUGGLE

With proxy contests back in style big-time – and with voting-system "gamers" apparently busier and cleverer than ever, as you will read at several spots in this issue – and with lots of loopholes that continue to allow over-voting to go undetected – it's no wonder that interest in end-to-end confirmation of proxy votes has been running high.

Last season, **UnitedHealth Group**, which felt that individual investors should have the same degree of transparency as institutional holders where voting is concerned, volunteered for a pilot program at **Broadridge**, which made it possible for individual investors – including employee plan investors – to check on the way their proxy votes were recorded if they wished to do so. And, something of a surprise to us we must admit, many of them actually did. UnitedHealth will be offering it again this year, and several other large issuers have already signed on for the same program. We think it will soon be SOP for companies.

Ironically, Transfer Agents – who've endorsed the idea of end-to-end voting confirmation – and who announced in the latest STA newsletter that they are participating with Broadridge in a "jointly initiated" project that will "give institutional shareholders the assurance that their vote was received and cast in the amount and disposition directed" – may find themselves very much behind the eight-ball here: Institutional investors have *always* been able to confirm the way their votes were recorded at Broadridge – right down to the position level at each custodian they might use. And if Broadridge tabulates the entire vote, they already have an end-to-end confirmation that their vote was not just received and recorded correctly – but that it is actually *in* the final tally.

We would be astounded however, if institutional investors were to "give up" the same account-level information to transfer agent tabulators as they give to Broadridge. So the best that TA tabulators will be able to do is to offer vote confirmations to the NOBOS – and *maybe* give institutional investors a confirmation of the way their total positions were voted – but only at the custodian level rather than at the "position levels" they may have with various of their custodians – assuming, that is, that institutions would be willing to give up the number of shares they held at each custodian on the record date, along with a way to identify the institution itself. Very unlikely in our book – and with lots of valuable time and money needing to be spent by TAs…for very little benefit that we can discern.

HUNDREDS OF COMPANIES WILL HAVE QR CODES ON THEIR PROXY MATERIALS THIS YEAR – TO TAKE VOTERS STRAIGHT TO MOBILE VOTING PLATFORMS: AT LEAST SIX COMPANIES – INCLUDING GM AND ALLSTATE – WILL TAKE VOTERS DIRECTLY TO THEIR VERY OWN VOTING ACCOUNTS

Wow! We think the new mobile-voting applications that Broadridge and Computershare are rolling out this proxy season will prove to be the biggest and best innovations in proxy voting technology ever.

Scanning a QR code with your own mobile device gets around the many impediments to actually voting ones' proxies better than anything we can think of: It's quick. It's easy. It takes you straight to the voting site, where you can view everything you would be able to see on your own PC – or on the paper documents – and allows you to cast your vote – virtually from anywhere – and at any time and place that's most convenient.

Computershare is placing QR codes on all but "a very small handful of companies" of the roughly 1,000 whose proxies they tabulate, that will take you to their central proxy-voting website this season.

Broadridge is placing *personalized QR codes* ("PURLS" – for "Personalized URLs" we've since learned) on the NOTICES… for at least six companies so far – that will automatically enter and authenticate the recipient's own Control Number, so they'll be set to vote as soon as they connect. (Computershare says they do this now too, in Australia, and will probably roll-out PURLS in the US by next proxy season.)

Last year – with no fanfare or special marketing efforts at all, over 150,000 people recognized the QR codes on their own – and voted their proxies from a mobile device. Roughly 30% of these folks had never voted a proxy on the Broadridge site before, as far as Broadridge could tell.

Another factor that gets us so excited, is that the demographic group that is most likely to use the ap is the group that is otherwise the least likely group to ever vote a proxy – the 'under-sixty set.'

P.S. If you're not sure what a QR code stands for, it's Quick Response…If you've never seen one, scan this one with your iPhone or a similar device. This will be BIG…we guarantee…Readers, we will keep you updated…

PEOPLE: SOME BIG MOVES IN TRANSFER AGENT LAND

Mike Nespoli – a 30+ year shareholder service veteran of the "Old Manny Hanny," the "Chemical-Mellon," "Chase-Mellon" and **BNY-Mellon** businesses – and one of the most knowledgeable and most customer-oriented people IN the business – has left the building at **Computershare** to become the Senior Vice President for Relationship Management at **American Stock Transfer (AST).** A HUGE win for AST...

Equally big news from AST, we think: **Ken Staab**, who was a major contributor to the major makeover of "the OLD, Carfunkel brothers-owned AST" has left *their* building to concentrate on his family foundation, we were told; **www.TylersHope.org**

Broadridge Financial Solutions has been actively on the move to beef up its transfer agency staffing, recently hiring operations execs **Bill Ericson** and **Phil Iacono** and Chicago-based T-A salesperson **Ken Franke**, from the **BNY-Mellon** group. They have also hired **Joan Oshinski**, the former manager of shareholder relations at **Quest Communications** (who did a brief stint with **Group 5**, as reported in our last issue) to open and run a new shareholder call center in Denver, CO.

REGULATORY NOTES...and comment

ON THE HILL: At long last, after five years of foot-dragging, the "STOCK ACT" – for "Stop Trading On Congressional Knowledge" – and where the name is almost as embarrassing as the long delay – has passed both House of Congress and has been signed into law.

The "JOBS Act" – the absurdly over-optimistic acronym for "Jumpstart Our Business Startups" – which makes it a LOT easier for companies to go public – without those "too-expensive" filings, disclosures or audits – is law now too: Widely heralded as a victory for bipartisanship, it's been widely booed by people who still remember the financial frauds that led to SOX: *"The most investor-unfriendly bill I have experienced in the past two decades"* said **Arthur Levitt**… *"sinister"* said Rep. **John Sarbanes**, son of SOX's father…and, our second favorite quote of the quarter, from **Paul Gillis**, a former **PWC** auditor for China, and now a visiting professor in Peking; *"If you like those emails from Nigerian scammers, wait until you see the new round about to come from shady Chinese companies looking for investment – and they will be legal."*

AT THE SEC: "HITTING THE WALL"...AGAIN AND AGAIN: A proposal to add a tiny fee to each of the millions of rapid-fire trades that high-speed traders use to roil markets "hit a wall" after rapid firing back (surprise!) from the traders who reap the benefits and who whined that the proposed fees would raise costs and "reduce liquidity." What kind of liquidity is this? we wanna' know – where 95%-98% of all such orders are *cancelled* – most within seconds – and where billions of dollars of "orders" are not only bogus ones from the get-go, but have virtually no capital behind them in case of another flash-crash – caused by *them* – which we guarantee, unless the rapid-fire flashing of bogus orders is not stopped *somehow*.

A proposal to prevent money-market mutual funds from "breaking the buck" – by requiring funds to hold reserves, and maybe hold back a small percentage of funds for 30 days or so when holdings are liquidated also seems to have hit a wall – amid fears that money-market money would migrate to offshore accounts. Good luck with that idea, money-market funds – and good luck to any investors who'd be stupid enough to move their money-market mutual funds offshore.

The longstanding, long-postponed SEC "effort" to define a broker's fiduciary duties to investors – and when, if ever, they must put a client's needs before their own (a mere bagatelle it seems, in the SEC's scheme of things) **has also hit a wall**, so staffers can study the costs vs. benefits of any rules that might be proposed.

The SEC proposal, post flash-crash, to have brokers report trades in real-time to an SEC "Consolidated Audit Trail" – or CAT – which we predicted from the get-go was too ambitious, too time-consuming – and far too expensive to ever go forward – has also hit a wall: "We're going to be rational here" (and drop the real-time idea) "because it's really important to get the basic structure in place sooner rather than later" Chairman Shapiro told the press. But even the most optimistic estimates put the mere "blueprint" for such a system at least a year away. And the gushers of data to be gathered – and maybe "processed" at some point – will make the IRS operation, for eg., look like a little "home computing operation" be comparison.

A major loss for the SEC; David Kotz, who served as the SEC's Inspector General since Dec. 2007 – and whose stinging reports on SEC porn-watchers, and the incredibly inept oversight of **Bear Stearns**, **Bernie Madoff** and **R. Allen Stanford** were too pointed to shrug off or shove under the rug, as previous Commissions did, despite red flags galore – has left to join **Gryphon Strategies**, a DC firm, where he will focus on "assisting whistleblowers in exposing [corporate] fraud and improving government accountability." **Chairman Shapiro gave him a well-deserved sendoff**, citing him as "a committed public servant who has served the agency with great distinction…His work helped us to improve the way we operate, bolster our resources and upgrade our technology." **But former SEC Chairman Harvey Pitt weighed in with yet another of his uniquely Pitt-i-full insights**, calling his tenure "a 'reign of terror' [which we guess maybe it *was*, for the porn watchers, insider traders lazy-boneses and out-and-out incompetent folks on the staff] "imposed on innocent, hardworking and dedicated employees for his own self aggrandizement." Self aggrandizement? Check your own rearview mirror, Harvey…And maybe check your facts on the punishment of the innocent…and recheck your own sadly checkered tenure at the SEC, which really doesn't support your self-appointed role as an "expert witness"…to *anything.*

IN THE COURTHOUSE: A unanimous Court of Appeals ruling in NY Circuit Court found that the SEC is likely to succeed in its scheduled full-blown appeal of Judge Rakoff's refusal to ratify a $250 million settlement with Citigroup for misleading investors, on the grounds that without agreed upon facts, or an admission of guilt, he was unable to judge whether the settlement was "fair and reasonable." "We have no reason to doubt the SEC's representation that the settlement it reached is in the public interest" the appeals court said.