

OPTIMIZER

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

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NOW IN OUR 27th YEAR!

FIRST QUARTER 2019

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AN UPDATE ON WHAT'S UP - AND WHAT'S NEW - IN THE HURLEY-BURLEY TRANSFER AGENT WORLD

Ordinarily, we lead off the 1st quarter issue with our "Early Returns" from the Annual Meeting front. But since our last update on the Transfer Agency world in our year-end Special Supplement - focusing on "Transforming Shareholder Relations" - there has been an astonishing variety of new and potentially "transformative" developments in the intensely competitive Transfer Agency arena - including acquisitions, new ventures and a raft of senior management changes and additions to staff. And yes, "What's Up with Those Transfer Agents?" is still the number-one question we get from readers.

Here, in alphabetical order by T-A, are some updates:

At AST:

Gearing up big, it seems, for its promised "transformation" AST announced a new CFO in January, Brett Weinblatt, "to oversee the company's financial strategy and operations. He will report to Chief Executive Officer **Marty Flanigan**. "Most recently, Weinblatt was the Senior Vice President and Chief Financial Officer at **Corporate Risk Holdings** (formerly known as Altegrity), a company with more than 4,000 employees worldwide and over \$800 million in revenue. Earlier, he was Senior Vice President and Chief Accounting Officer at **Avis Budget Group** and before that, he was VP and Chief Financial Officer for multiple divisions at **Alpharma**. "We look forward to embarking on a *transformational year* [italics ours - and for all the other 't-words' that follow] with Brett as part of our core leadership *team*" said Flanigan.

In February, AST announced that "Alan Eddie has joined as Chief Technology Officer, overseeing the company's technology strategy and operations" and also reporting to Flanigan. "Based in New York, Eddie was most recently Chief Information Officer of Trading Technology at **Nordea**, the eighth-largest bank in Europe, delivering and managing

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technology solutions for its Capital Markets, Wholesale Banking, Wealth Management and Asset Management practices. Earlier, he served in senior technology roles at **JP Morgan Chase**, **RBS**, **UBS** and **Citigroup's** Cash Management unit. "Eddie is an innovative leader adept at building and integrating global teams, and he brings extensive experience in strategic technology planning, innovation and *digital transformation*." (Oh good....that "t-word" again) "Alan is well known and respected for his strategic leadership and innovative approaches, having made a *transformative* impact on some of the world's preeminent banks through large-scale business line and company integrations, the buildout of regulatory reporting and lending systems, and the implementation of revolutionary platforms to manage client interactions...We are pleased to welcome Alan to our senior leadership team and know he'll play a key role in the ongoing *transformation* of our business, to the benefit of our clients." said Flanigan.

THEN IN MARCH, AST ENTERED THE PRIVATE-COMPANY REGISTRAR BUSINESS: "AST Private Company Solutions™ is developing innovative and next-generation technology, products and services to support the entire lifecycle of a private company, including when the next phase involves going public....we are building something truly special, using next-gen software to support private companies and their investors, employees and advisors....[and] will introduce a robust offering for various types of private companies, from venture-backed to private equity-owned, including capitalization and waterfall tracking, employee stock plan administration, and related transactional and liquidity support. The company will be headquartered in Silicon Valley, one of the U.S.'s primary epicenters for start-up activity, and will launch its solution later this year."

And in yet another noteworthy beefing-up of senior staff, AST "appointed Carine Schneider, FGE, to lead AST Private Company Solutions as President. An experienced and well-connected entrepreneur in the private company market and global compensation industry...she has held positions including President of **Nasdaq Private Market Equity Solutions**, CEO and Board Director at **Certent**, and Founder, CEO and Board Director at **Global Shares**. She was formerly a Partner with **PwC** and **Nua Group** and has held senior roles at **Morgan Stanley** and **Towers Watson**.

"There are millions of private companies in North America and around the world, and in this market environment, many are staying private longer" the press release noted. "Historically, they have had to work with multiple providers for the critical services that keep their businesses running smoothly, but we can give them the convenience and stability of an integrated, AST-backed platform. AST already serves some 400 private companies, and we are making a significant commitment to expanding in this space. We're going to do it right, and that includes bringing in leaders who have spent their careers building solutions for the private market."

To support the new venture AST also made two more additions to senior staff: "Central to the buildout of AST Private Company Solutions' innovative software is **Steve Madeira**, who has joined as CTO...recently CTO of **SynchroNet** and, before that, Head of Product Operations at **Nasdaq Private Market** and Senior Vice President at **Certent**. Earlier...he held various senior positions at **Navio Systems, Inc.**, **ePeople**, **Philips Electronics**, **Siemens** and **IBM**.: (Whew!) Madeira will be joined by **Eric Kissler** as Chief Architect. Kissler was formerly Principal Architect with **Certent**.

Clearly, AST is making a big investment - and a big bet on succeeding in this space - and we wish them all our best - and hope that their math proves to be on-the-money. As we noted in our last issue, Carta - which was a previously unknown entity to us - already has around 2,000 privately owned companies as clients. And Computershare, which had been focusing on this space for a few years, but now seems to have lost interest, has around 200. But AST, with 400 such clients right now, has a very nice "jump" here, we think - with a solid base, a solid space in the TA world to grow on - and a special understanding, we think, of the needs of highly entrepreneurial but much smaller than average companies, much as they have in the newly hot Employee Plan space as well....

AT BROADRIDGE:

Rather quietly it seems to us, Broadridge has been gaining very significant traction vs. competitors in the T-A space of late: In 2018 they added 46 new T-A clients - which was more than all of their top competitors' wins *combined* - a record they've maintained over the last six quarters (!) - including many large-cap companies like Boise Cascade, Constellation Brands, Deere & Co, Eaton, Liberty Media, New Jersey Resources, Piper Jaffray and Sysco to name a few.

They also landed some mega Reorg deals, including Cigna's acquisition of Express Scripts and the Bristol Myers - Celgene deal.

Most significantly, we think, for the T-A marketplace as a whole, market adoption of Broadridge's "Annual Meeting/Proxy Solution" - where public companies consolidate all of their Annual Meeting printing, mailing, e-distribution and proxy tabulation with Broadridge - continues to expand at a very robust rate: In calendar year 2018 over 275 public companies, with roughly 2.5 million registered shareholder records, became client adopters.

Still further, Virtual Shareholder Meetings are expanding at a rapid rate - and other transfer agents are completely unable to offer them - due to the need to allow all shareholders who wish to do so to vote online during the meeting - coupled with the total disinclination of bank and broker custodians to "give up" the names and voting entitlements of their beneficial-owner clients to other Transfer Agents. *In 2018, 285 issuers held Virtual Meetings - a 20% increase vs. 2017...and we are betting the 2019 numbers will be up by another 20% - or more.*

Another HUGE win for Broadridge - and no small thing in the competitive arena - they were ranked number-one in the financial data services industry in FORTUNE Magazine's 2019 list of "The World's Most Admired Companies."

In yet another recent development - which we noted in the course of our usual "tombstone watching" - Broadridge has entered the Information Agency business - with some big successes right out of the box. The combination of strong existing relationships with issuers - where every single one needs to deal with Broadridge every year, to handle the "street-side" distribution and voting at their shareholder meetings - plus Broadridge's fast-growing printing capabilities - plus the allure of "one-stop shopping" where over-busy corporate people are concerned - and the need for speed - and a high degree of dependability too - represents something of a threat to proxy solicitors, who have been the traditional players; here. But it poses a much bigger threat, we think, to the Reorg departments of other TAs - where the issuer's TA has been the *traditional* Depository of choice.

And then...just as we were going to press, came another big announcement - a bombshell, we think: Remember our last issue, where we noted Broadridge's roll-out of a broker-app that allows voters to vote over their mobile devices...which we said was "maybe the biggest breakthrough ever to increase retail voting"?

Now, Broadridge has rolled out an even bigger and broader app: It will allow investors with an iPhone or Android device to get a free app - that will let them log-in directly to a voting 'dashboard' - using thumbprint or facial recognition. There, they'll be able to see everything they need to cast their votes right then and there...and do it!

The biggest news...every single bank and broker client of Broadridge will be covered (at no additional cost to them)...and no need for passwords or individual "control numbers" once you are set up. The app will also let you sign up for alerts when there are un-voted positions...and will allow reminders - with all the relevant materials - to be "pushed" to your phone on a schedule you can set up for yourself.

It pains us to mention this, since your Editor in Chief was a former transfer agency head himself, and still loves the business, and the many great people in it - but for transfer agents, the Broadridge offerings represent a serious "existential threat" to a core part of their business: For public companies, the Annual Meeting is the most important part of the transfer agency "value proposition" - by far.

No wonder, we guess, that all of the big-four TAs are looking to branch out in so many other ways...and to "transform" their infrastructure - and perhaps their fee structures too - to better cope with a 21st century environment...so do read on...

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AT COMPUTERSHARE:

Computershare, like most of the four major TAs, had a pretty good year in 2018, with overall revenue up a healthy 9.7%. While revenue in its U.S. Registry Service declined by a basically negligible \$1.3 million (- 0.2 AU\$), revenues from U.S. Corporate Actions jumped 26% (!) or just shy of 33 million AU\$...And Stakeholder Records Management (basically its proxy solicitation business) increased by \$14 million - due to proxy work for “a large US Fund” in the 1st quarter of 2018. Meanwhile, its cost-cutting initiatives, mostly in the shareholder servicing units, booked savings estimated at 49.4 million, and CPU saw its earnings on balances left on deposit grow (even though WE can't figure out why so many corporate treasurers seem to be OK leaving so much money there for free) which also improved their overall margins very nicely.

In November of 2018, CPU's parent company completed the acquisition of Equatex Group Holding AG - “a leading European employee share plan administration business headquartered in Zurich. Equatex was formerly the European share plans business of UBS. The business provides equity compensation administration services to 160 clients servicing over 1.1 million share plan participants. Equatex has an innovative range of scalable technologies and client solutions. The acquisition enhances Computershare's Employee Share Plans client base, product suite, capabilities and position in key European markets.” (Interestingly, this is a space that CPU largely abandoned in the U.S. many years ago - selling it off to Merrill Lynch - except for the low-tech, relatively low-margin, payroll-driven Employee Stock Purchase Plan business...But maybe things will change now. For more information about this suddenly “hot space” see our article on Global Employee Plan servicing developments elsewhere in this issue.)

Most of interest to our readers, perhaps; after a rather long vacant space, following the retirement of Jay McHale in mid-2018, Computershare has named Jennifer Warren as its Head of U.S. Issuer Services: Warren is the former head of the US Region for CIBC (the Canadian Imperial Bank of Commerce) where she worked for 11 years. During the last four of those she led CIBC's businesses in the US, including broker-dealer operations, wealth management, corporate banking and capital markets. Earlier, Jennifer served in senior legal positions at CIBC as well as Rogers Communications in Canada and currently serves as corporate director of the Granite Real Estate Investment Trust. She is also an Entrepreneur Mentor with New York City's Fintech Innovation Lab.

A special shout-out to Computershare is due here - for the very fine way they followed up on our article in the last issue, describing an outrageous offer by “mini-tender firm” Baker Mills to purchase shares of CPU client Principal Financial Group - at a whopping 20% discount from the market price on the day of the offer - while not disclosing that Computershare's own DRP would allow many if not all of these same shareholders to sell shares through them - at the market price. This would save your editors' family members roughly \$3,000 vs. taking the Baker Mills deal if they DID want to sell.

Just as we were set to go to press, our family members - who have gotten yet another offer from Baker Mills since our last issue - got a DRP statement with a very eye-catching insert from CPU: “Heads up: Recent unsolicited offers to buy PFG, Inc. common stock” - noting that “Principal is not associated in any way with Baker Mills, its offer or its documents...You are not obliged to accept the offer or to respond to Baker Mills”... and a recommendation that “you carefully review any such offer...and compare the offer price to the current market value of PFG common stock”...And, on the back, the form noted that investors can “Sell a portion or all of your shares at market price”... by calling CPU's toll-free number.

AT EQ:

*EQ - the company that purchased the Wells Fargo Shareowner Service business last year - formally announced in January “its strategic entrance into the proxy solicitation market” as we had predicted in our last issue. This, their press release says, “supports EQ’s growing capabilities as a global organization under **Equiniti Group plc** (LON: EQN) and Equiniti’s successful proxy solicitation and corporate governance advisory business, **Boudicca Proxy**. EQ now offers a full suite of proxy services, including proxy solicitation and consultation for annual meetings, special meetings and conversions, information agent services for corporate actions, and market and shareholder intelligence services. Clients who want a deeper or ongoing look at their shareholder base can retain their intelligence services year round or on a project basis for specific instances like ownership identification, peer analysis and debt identification. EQ Proxy is led by **Rudy Muzik**, founding partner of **Market Intelligence Group** prior to its acquisition by **Okapi Partners**, and Tom Cronin, former Senior Vice President of Business Development, **Laurel Hill Advisory Group**.”*

We wish our many friends at EQ all our best in this new venture. And, while Rudy Muzik is an unknown tune to us so far, his fans at EQ speak highly of him. We do, as we have mentioned before in this space, know and think very highly of Tom Cronin, who is very well-known in the small-company world - and especially in the small-bank space, where we think M&A activity will be heating up big-time.

But full-fledged proxy solicitation will be very hard space to break into successfully, we think: There is a very overcrowded field now - that already has so many true superstars at the biggest firms - who instantly pass the “lifeboat test” that we have long said is, or should be, the deciding factor in selecting a solicitor.

(Please see the brief history elsewhere in this issue of the many twists and turns - and some sudden falls-from-grace of many old-time firms - but also the many sudden successes of super-savvy newcomers in this fascinating - and still changing business.)

And guess what else is new? EQ too is entering the private company market in the U.S. - announcing “the expansion of its M&A Paying Agent Services to private companies. This service is a natural extension” the press release says, “of the robust corporate actions EQ executes for large public companies annually. EQ processes an average of 20 million transactions each year, and has experience managing private deals. With their depth of expertise, the EQ team is proud to bring M&A Paying Agent Services to the broader market.”

As noted, this space has been getting mighty crowded all of a sudden...But we were very happy to learn that EQ has recently “insourced” all of the complex - and highly risky Reorg work - that had been previously outsourced by WFB to a small competitor with a mere fraction of EQ’s big and savvy staff - and its strong financial resources - as an important safety net.

M&A and Paying Agent Services are, by far, the riskiest businesses a transfer agent typically engages in...So all potential buyers of such services need to shop with special care, and pay special attention, we advise, to staff knowhow and experience, to the systems that are in place - with cybersecurity measures a major area of importance - to the errors and omissions insurance in force - and to the overall ability of an agent to “make good” if there is a major operational snafu, a cyber-fraud or an employee defalcation along the way. Historically, there have been some monster foulups here.

*In a related development, we assume, **Equiniti Group**, “the multinational provider of payment and administration services,” recently announced “the appointment of **James (“Jim”) Groenewold** as Executive Vice President. Jim joins EQ from **TCF Bank**, a major regional bank, where he was EVP and Chief Financial Officer of its leasing companies. He has over 29 years of business experience working for big brands such as **Cargill**, **General Electric** and **St Jude Medical**.”*

Still more beefing-up at EQ - Adam E. Burke, a long-term senior exec at U.S. Bank - where, according to his **LinkedIn** profile, he had been responsible for \$400 million of revenue - has been appointed Executive Vice President - Relationship Management at EQ, replacing former head of U.S. Relationship Management **Robert Hoke**.

Tom Kies, who has served a stint - and sometimes two - at virtually all of the “old-line” proxy solicitation firms - including the “Old Manny Hanny” firm, where he was our first recruit - has just signed on as Executive Vice President with EQs new proxy firm, which bolsters their roster significantly.

We need to add one more important update to our previous reporting on EQ; they have now decided that they will indeed have to “convert” all of the old WFB shareholder records to a totally new system, now under rapid development we have been told.

We shudder when we recall the records-conversion efforts of the old and aptly-named “Chemical Mellon” joint venture in the mid-1990s - which caused widespread inconvenience - and outright outrage - among clients and shareholders alike - and which led to the loss of hundreds of millions of dollars in re-work and make-good efforts - and an extensive loss of business. We also recall the sudden and equally disruptive records-conversions at “the old Computershare” just a few years later...

So we are favorably impressed that EQ has quickly understood and ruled out the risks of trying to use - or to “retrofit” - old and/or non-U.S. based systems in today’s cyber-driven world - and that they seem to know exactly what they need to do - and to guard against - as they go forward. We wish them all our best!

TRANSFER AGENCY FEES

ARE YOU PAYING HIGH 20TH CENTURY FEES FOR LOW 21ST CENTURY ACTIVITIES...AND FOR THINGS YOU DON'T NEED?

Right now, most of our readers are up to their eyeballs in Annual Meeting-related activities...So it might seem weird to run this article right now.

But we say NO: This is actually a great time to reflect on what’s really important in your day-to-day corporate activities - and on what is NOT...And to resolve to dig deeper as soon as your Annual Meeting is over.

Here’s our checklist of things to check. Doing so can result in big savings - up to six and even seven-figure numbers at larger companies in our experience as consultants in such efforts:

- **Step-one** is to see exactly how many of your registered shareholders have a truly negligible interest in your company. The numbers are almost certain to shock you - especially if you offer a Dividend Reinvestment Plan. Here’s a note we got in March from our long-term colleague - and former STA President - **Ray Riley**: “I just received a proxy package from Bristol-Myers [one of many that he would ultimately get] that included a big, thick merger document and a proxy card and return envelope. The account has a total of .12300 shares. A complete waste of shareholders money!” Ray observed. And we agree: That’s just over six dollars-worth (that was left when Ray transferred all his full shares to a brokerage account) for a package that cost well over \$6 to print, enclose, add postage to and mail out! **The big takeaway here; If you haven’t already done so, insist that your Transfer Agent/DRP Agent amend the Plan to automatically close any and all accounts that drop below some predetermined amount and send a check to the owners - perhaps after issuing a fair warning to them, but certainly where only “fractional interest” is left.**

- **If your Transfer Agent is offering or wants to offer an “Agent-Sponsored DRP” - check to be sure that all expenses related to Plan holders will be completely absorbed by the Agent:** Arguably, they should be allowed to collect the same fees and out-of-pocket expenses that banks and brokers charge to distribute *proxy materials* - but here is where you need to impose reasonable ownership thresholds for remaining IN such plans. And, of course, YOU should not be charged for any “account maintenance” fees or expenses for telephone calls or other “miscellaneous expenses” that arise from servicing Agent-Sponsored plans.
- **Find out exactly how many “closed accounts” are being maintained, how much you are paying to maintain them - and when exactly they will roll-off the “live records”:** It does make sense to keep closed account information available online to shareholder service personnel...for a full calendar year or so after they close. After that, “off to cold storage” we say. *A few years ago, a very large company we worked with - with a once huge registered shareholder base - and with an admittedly complex history - was able to save a seven-figure number this way, when they realized that the number of inquiries per year from former owners had dropped nearly to zero!*
- **Right after your Annual Meeting is over is exactly the right time to benchmark any and all of the out-of-pocket expenses you are paying to maintain your registered holder accounts, such as postage, stationery, handling, storage and telephone charges.** It isn’t that hard to do. And at most companies, the out-of-pocket expenses are many times larger than the annual service fees. Remember too that your Agent is, arguably, entitled to a bit of a markup for ordering or sometimes manufacturing and storing printed matter, envelopes, etc. *But we call them the “OOPS” for good reason...Often, you will find direct charges, surcharges and “allocated expenses” that are not in line with those of more prudent shoppers - much less in line with the “value received.”*
- **Read our article on “RFP-Lite” - and, if you have not done so in three years or more, resolve to formally benchmark all of your fees and expenses against the small group of “best-in-class” Transfer Agents.** As our sub-head indicates, they are operating in a very different world today - one with far fewer people to serve, much lower VOLUMES of work to do (if they do a good job in the first place, that is) and with far-more automated “self-service ways” to serve them. *Very important to note, Transfer Agents are operating in an intensely competitive environment these days - and many of them have done an excellent job of “transforming” their operations - and their pricing models - and where “the price of bacon” has gone down a LOT over the past 3-5 years.*
- **Last but far from least - be sure to solicit competitive bids from the top-TAs if a “Reorg transaction” is on the horizon.** While there is *something* to be said for allowing your TA to handle it - especially if your company will be the surviving one - you will likely be astonished at how many dollars can be saved by doing some smart comparison shopping, and some well-informed negotiating.

A FEW “EARLY RETURNS” FROM THE ANNUAL MEETING FRONT... AND MAYBE A LATE-BREAKING SHOCKER...

Let’s start with the potential shocker: Just as we were locking up this issue came news from Vanguard, which is rolling out a new policy to vote in most cases against directors who hold two or more board seats in addition to their own company’s seat...starting now. We haven’t seen firm numbers yet on just how many director candidates will be affected - but we guess there will be a lot.

We would hope that Vanguard will be “open to discussion” in cases where a board is well-diversified overall - and where a company can make a good case that targeted directors make an unusually strong contribution in the overall mix...so readers, if this affects your company’s slate, start your engines now!

Also, if ever there was a strong case for “reaching out” to retail investors, and making special efforts to gain their votes for the management slate...this is IT. With that in mind, let’s move on to...

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Must-Read Proxy Materials as you Prep for your own Meeting

Following his shout-out to GE [not usually one of the OPTIMIZER's favorites] for its new and leaner look and reader-friendly feel, our great friend and master-blogger Broc Romanek beat us to the punch by blogging, most appropriately, about the Bank of America's 2019 Proxy Materials.

BofA was our own top-pick in 2017 - and tied for first place with Pepsico in 2018 for the best overall presentation of proxy materials. And so far, it's number-one with us again... for the third year in a row! Absolutely Must-Read materials we say.

Here's Broc's take on the "notables" where we agree completely:

Proxy Statement:

- Succinct presentation of key facts about director nominee skills, qualifications & diversity
- Board's self-evaluation processes, including enhancements made in response to director feedback
- Board's oversight of risks, including conduct & culture, and cybersecurity & information security
- ESG activities, including deployment of capital for sustainable growth, being a great place to work, and focus on equal pay for equal work & workplace diversity.

Annual Meeting Webpage:

- Director interview videos [again this year, we'd note - and a major plus, we think, in giving investors a very favorable impression of the leadership] - discussing the company's focus on responsible growth
- Interactive proxy statement
- Director photos, bios and highlight of skills/qualifications
- Additional soliciting materials highlighting key performance, governance, compensation, environmental, social & human capital management metrics

Donations to Bring Out the Vote:

- For the third year, the company is donating \$1 for every shareholder account that votes [promoting] the company's efforts to "get out the vote." The charity this year is the American Red Cross - (2017; Special Olympics; 2018: Habitat for Humanity)

Please see our article on the incredible 49% increase in retail voting this program has generated over two years. The OPTIMIZER is hoping that the selection of the Red Cross will not lessen voter support this year, and that, in fact, there will be further building...which we will report on in our next issue.] .

Broc also blogged out a few notables from IBM's 2019 proxy statement:

- 'Lead Director' letter
- Donation for each stockholder account that votes provided to AnitaB.org (*an organization that "connects, inspires, and guides women in technology"*) [An excellent choice of a non-profit org, we say - and exceptionally well-highlighted in the "packaging" - and in overall presentation to recipients]
- Enhanced political contributions & lobbying disclosure
- New environmental & climate change risk disclosure
- Enhanced CSR disclosure - including full page devoted to mapping practices to the U.N. Sustainable Development Goals [Three cheers for this, the OPTIMIZER says]

Also in the "great minds think alike category" Broc also blogged about the Prudential materials; *"I don't think*

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a year has passed that I haven't blogged about what Peggy Foran is doing with her company's proxy."... And the same is true for the OPTIMIZER...Among the "notables" that Broc noted...

- First three pages are a fold-out on the company's ESG program [Very impressive, say we.]
- Alignment with the Investor Stewardship Group's framework [and a wonderful model for others to use, as Broc's colleague Liz Dunshee blogged later.]
- Companywide initiative around culture
- Two director videos [A 'first' for Prudential, we think. Very glad to see this catch on!]

Broc's colleague Liz Dunshee also identified another set of Must-Read Materials; Regions Financial's Proxy: "Bringing It All Together": "After Broc blogged last week about GE's "Letter to Shareholders," a few loyal readers reached out to gush about the proxy statement that was recently filed by **Regions Financial**. One person said it was "unreal – totally changes expectations around proxy disclosures." And this comment explains why: "It's like a proxy statement, proxy advisory data report on governance practices, **consolidated sustainability report [emphasis ours]** and review of every shareholder hot topic rolled into one. It's worth checking out if you're looking for sample proxy disclosure on virtually any topic – it was even cited by CII in its recent report on best practices for board evaluation disclosure." **Here's a link to the Edgar version.**

- But better, we think, to go to the Regions Investor page for easier and far more enjoyable viewing...

ANY DOUBTS ABOUT THE IMPORTANCE OF "SUSTAINABILITY" THESE DAYS AFTER SEEING ALL THE BEST DISCLOSURE PRACTICES NOTED ABOVE?

HERE ARE TWO MORE ITEMS TO PONDER...

- **The University of Miami Business School is Now Offering a Master of Science Degree in Sustainable Business:** Your editor in chief was pleased to attend a forum on governance issues, sponsored by Broadridge and hosted by the University of Miami, where the Dean of its B-school, Professor **John Quelch** - a deeply experienced corporate director both here and in the U.K. -also served as a highly thought-provoking panelist, along with luminaries like **Bob McCormick**, Managing Director of **PJT Camberview**, **Bob Lamm**, Chair of the Securities and Corporate Governance Practice at **Gunster et al**, and a senior advisor at **Deloitte**, **Christina McGuire** Managing Director, Proxy Voting and Governance Research at **BNY Mellon**, **Michael McCauley**, Senior Officer, Investment Programs and Governance at mega-investor **Slate Board of Administration - Florida**, and **Mark Preisinger**, Director of Corporate Governance, The **Coca-Cola Company**.
- After the meeting, Quelch - an **Oxford** grad and a former **Harvard-B-school** professor - and former Dean of the **London Business School** and the **China Europe International B-school** (!) shared the impressive new MS brochure with us, highlighting...**A Focus on Business;...Data-Driven and Informed by Science** [*aside from the strong B-school faculty, the program will draw on the university's "world-renowned **Rosenstiel School of Marine and Atmospheric Studies** and its industry-leading **Department of Civil Architecture and Environmental Engineering**]; and **Emphasis on ESG** - "all three of the pillars of sustainability." And - as the Dean also pointed out, **Miami is a living laboratory when it comes to the opportunities and threats of climate change! We were mightily impressed.***
- Further evidence for our prediction that 2019 would be a year of unprecedented "engagement" by retail investors - including employee-investors - some 4200 **Amazon** employees have signed a letter to management in support of an employee-introduced shareholder proposal to dramatically lower the company's carbon footprint. As we write, we are betting that Amazon will agree to adopt most if not all of what's called for in advance of the Meeting.

ON THE OTHER HAND...HOW'S THIS FOR A SHAREHOLDER MEETING RALLYING CRY? "BURN MORE COAL!" ... COUPLED WITH POTENTIALLY INCENDIARY "FLOOR PROPOSALS." SURE TO GENERATE HEAT FROM BOTH SIDES AT ELECTRIC COMPANY MEETINGS THIS YEAR

Can you believe it? A massive series of shareholder-proposal initiatives and "engagements" - led by the very kinds of folks that have been trashing the shareholder proposal system as a waste of shareholders' time and money??

Sure enough, a former Trump campaign official and lobbyist and a former exec, and lobbyist ex of **Peabody Coal** have been filing shareholder proposals under the "Burn More Coal" banner that will require electric utilities to issue detailed reports on the costs and benefits to shareholders of carbon-reduction activities, which, they contend, are...guess what???... A waste of shareholders' money, as they think the reports will verify!

To date the clearly well-financed proponents have 'engaged' with 21 electric companies - where at least two proposals are on ballots this year, and where at least one other company will, in accordance with their bylaws (Ouch!) allow them to enter a "floor proposal" on their issues this year.

Readers; if your company still allows so-called "floor proposals" please bone up on the vote-counting and the even more important governance issues here via our website - and vow to eliminate the ability for shareholders to introduce them by amending your bylaws if it's at all possible to do so without a shareholder vote on the item itself.

We also say, consider doing it even if a vote is required - since no proposal should be presented for a vote at a meeting that has not been seen by over 90% of the shareholders - and usually (but not always) has not been reviewed by holders with more than 90% of the voting power either. Maddeningly, both ISS and Glass Lewis automatically vote AGAINST allowing board proxy committees to vote against clearly egregious proposals that arise "from the floor."

AN EARLY NOMINEE FOR OUR ANNUAL FICKLEFINGER AWARD:

Sad to say, the candidate is your editor's own best-performing investment, **Apple Inc.** - which, very sad to note, repeatedly disses its fanatically loyal individual investors: From the get-go they have been holding the Annual Meeting in their own on-campus auditorium...with a capacity of 1,000 - knowing all along that demand for admission substantially exceeds the supply of seats.

Maybe we should go this year, we thought when we received our proxy materials...So we went immediately to the company-sponsored website to register: COMPLETELY SOLD OUT -WEEKS BEFORE THE MEETING DAY. Not even a live webcast - from a tech-company, please note - much less a larger hall, or a decent overflow space - from a company that's also swimming in cash! Ouch!

HOW TO HAVE A SMOOTH AND SUCCESSFUL MEETING DAY

Just in case you somehow missed this timely and widely circulated news, Broadridge has published a detailed "white paper" on this subject, where your editor-in-chief wrote the first draft, based on his 50+ years of meeting-going - and where an expert panel from the public company and institutional investor worlds offered invaluable editorial and practical suggestions. Go to:

<https://www.broadridge.com/white-paper/how-to-make-your-annual-meeting-day-run-smoothly-and-successfully>

BIG TRANSFORMATIONS IN THE EMPLOYEE STOCK OWNERSHIP WORLD...INCLUDING A QUICK “WHO’S WHO” ANALYSIS

We literally jerked to attention when we saw the news on page-one of the WSJ that Morgan Stanley is acquiring Solium Capital, Inc. - a Canadian firm “which manages the stock that employees receive as part of their pay”... for a whopping \$900 million ... “the largest takeover by any Wall Street firm since the [financial industry] crisis.”

And wow! Solium has 3,000 clients! With one million employee accounts - to Morgan Stanley’s 330 clients...but with 1.5 million employee accounts - which is particularly impressive in a business that has, historically, been aimed primarily at senior executives - as part of their major focus on “wealth management strategies” - rather than on the needs of “ordinary folks.”

Any way you slice it, this is a MAJOR development in the populous and highly-fragmented group of Employee Plan service providers. Coming as it does, so close on the heels of Computershare’s November 2018 acquisition of Equatex Group Holding AG - formerly the European share plans business of UBS - that provides equity compensation administration services to 160 clients servicing over 1.1 million share plan participants, mostly in Europe - it sets up a global race, we think, to grab market share - that will change the face of the industry.

Here in the U.S. the major-players include...

- **Fidelity** - with 400-500 Plans covering lots of senior execs and millions of regular folks.
- **Vanguard** has about 300 clients...with a mix, we think, mostly of “regular folks”
- **E-Trade** is surprisingly large - and very highly rated by clients - with 600-700 clients, with participants across all income groups. we are told
- **BofA’s Merrill Lynch** unit has about 300 clients - with services aimed primarily at senior execs, and a “wealth-management” focus.
- **Computershare**, which focuses primarily on ‘regular employees’ in the U.S. has roughly 300 clients here - with large numbers of small participants - but with very large numbers of clients, and mostly retail Plan participants in Australia and the U.K.
- **AST** has about 300 clients too - mostly small companies, but with a much broader mix of always demanding “senior execs”...so kind of a nice niche for them, we think
- **Charles Schwab** is mostly “boutique-ish” we’re told - with an outstanding reputation for service and about 100 clients

Interestingly, both Morgan Stanley and Solium get only “fair-to-middlin” grades from clients on “overall satisfaction.” Same with their “loyalty scores” too - as compiled by professional Plan-Raters, Group 5...

Even more interesting, we think, Equiniti - which is a major player in the U.K. has yet to throw its hat into the ring in the U.S. where, almost certainly we think, they will want to do so...

So stay tuned, dear readers! But note carefully: These are very difficult businesses to run well: All Plan participants feel “entitled” - with top execs feeling “extra entitled” to red-carpet treatment. And OUCH! The high-service/high margin plans - aimed primarily at the top dogs - require constant I-T investments to keep up with the inventiveness of the comp consultants, which has served to bifurcate most of the U.S. service-provider market. Prepare for a free-for-all we say!

BOARD PORTALS: TIME FOR A FRESH LOOK, WE SAY

Two developments this quarter convinced us that companies should be taking a fresh look at the Board Portals they are using...and how, exactly, Directors are thinking about them...and using them...or not....

The first was a March 7, 2019 posting by John Jenkins on the www.corporatecounsel.net blog with the results of the survey his firm conducted, as follows;

1. When it comes to board portals, our company:

- Doesn't have one and isn't considering using one in the near future – 3%
- Doesn't have one but is considering whether to use one – 3%
- Adopted one within the past two years – 9%
- Adopted one more than two years ago – 84%

2. For those with board portals, our company:

- Licensed an off-the-shelf portal – 100%
- Built it in-house – 0%
- Hired a service provider to build a custom portal – 0%

3. For those with off-the-shelf board portals, we have:

- Asked whether our vendor has ever had a security breach – 24%
- Investigated our vendor's security – 48%
- Plan to investigate our vendor's security in the near future – 14%
- Not worried about our vendor's security – 14%

Two huge takeaways here: First, almost 100% of all public companies seem to have installed Board Portals - and now - after a few early false-starts, that all went badly - all of them use an outside supplier. So the market seems to be pretty well saturated these days.

But, very scary to note - less than half the respondents say they have “investigated our vendor's security” (which is even scarier since it is a mighty vague statement) - and only 24% say they “asked directly” about it!)

And...Hello...Aside from one once major vendor that actually HAD a widespread and well-publicized security breach, there have been numerous other reports - here - and elsewhere in the press - about hackers that have successfully obtained, and traded on sensitive and confidential information by hacking in to company data bases and those of their outside legal advisors too. And geez...these are just the ones that have been caught to date!

If this isn't something that requires a fresh, and very careful look by corporate boards and by corporate staffers, we don't know what is! (Your Editor in Chief is on a non-profit board - and even here, while initially some non-profits may think they have no big secrets...WRONG! We worry all the time, and correctly so, about the names, addresses, bios, “giving abilities” and actual donations of real and prospective donors that are tracked in our internal systems...to cite just one example of the woes that could be caused by unauthorized “snoopers.”

The second thing that caught our eye was an article by Val Srinivas, our great friend Robert Lamm, and Tiffany Ramsay of The Deloitte Center for Financial Services and The Deloitte Center for Board Effectiveness - posted on www.CorpGov.com - on the many plusses and minuses of Board Portals, based on interviews with board members and corporate secretaries.

While this article too noted several “security” and cybersecurity concerns - and widespread inattention to the issues, the main takeaway, we thought, was this:

“Too Much Information, Too Little Time...”The directors we interviewed felt that they were often deluged with information, and that information overload was especially severe in the financial services industry, with its highly regulated environment. One interviewee lamented that directors continuously receive “reams and reams of information,” *often impeding their ability to ask probing questions and potentially diluting their judgment... Another challenge is the tendency to provide a great deal of information in an undigested form, assuming that different board members will want to analyze and classify it in their own way. However, this assumption is rarely accurate,” the paper concluded. “The directors we interviewed stressed the importance of management sending cogent, concise reports and summaries.”* (Emphasis ours)

Yes, we are ALL suffering from information overload these days. But the fact that it is “often impeding” the ability of directors to ask probing questions...and “potentially diluting their judgement” ought to be a very serious call to action!

THE LONG AND SOMETIMES CHECKERED PAST OF THE PROXY SOLICITATION BUSINESS...AN ARTICLE FOR OUR HISTORY FILE, WITH SEVERAL LESSONS WORTH LEARNING...

Following the announcement that EQ, the relatively new owners of Wells Fargo Shareholder Services was entering the proxy solicitation business, our good friend, loyal reader and fellow history lover Michael Mackey, President of Alliance Advisors, sent us an outline of the many comings and goings there have been in this fascinating and hotly contested space. We could not resist adding additional information from our own archives, and elsewhere, to provide the following, fairly detailed history of this seventy-five year old business...and adding a few observations at the end...

1935 – Georgeson & Co. - Originally a brokerage firm, P-R experts from the Nye family repurposed it to establish the first ever “proxy solicitation firm.” Sold to the London based **Corporate Communications PLC** in 1989, it was subsequently acquired by key Georgeson employees after lofty British growth plans fizzled. In 1999, Georgeson was acquired by **Shareholder Communications Corp.**, which continued to use the Georgeson brand name, as does **Computershare**, which acquired the business in 2003.

1941 – Kissel-Blake - Bill Willis, Russ Houseman and Bob Schwede from DF King bought Kissel-Blake in 1982 from then owners John “Bucky” Blake and Thomas Kirby. In 1998, the firm was sold by Willis to **Shareholder Communications Corp.** – SCC’s first entry into the corporate proxy solicitation business, and the first of other SCC acquisitions soon to come.

1942 – D.F. King & Co. - Founded by the Long family and others, DFK steadily built and continues to maintain one of the largest “books” of large-corporate solicitation business in the industry. They were the first proxy firm to get into the mutual fund proxy solicitation business in a big way and they continue to be a major contender in the proxy fight arena. In 2008, **Sage Holdings**, founded in 2007 and led by a former Computershare CEO - backed by U.K. venture capital firm **The Riverside Company** - acquired a majority interest in DFK and London based PR firm **M Communications** for a whopping \$180 million...in an (ultimately failed) bid “to build a global financial communications agency.” Subsequently, after employees were twice found guilty of trading sports tickets and other perks in exchange for confidential voting info, DFK was acquired by **AST** in 2014, where it is still doing business, very successfully, under the D.F. King name.

1969 – Shareholder Communications Corp. - Founded by ex-Citi-banker Alexander Miller as a lost-shareholder finder and odd-lot tender offer firm, SCC was the first firm - and for a long time the only firm - to get into mutual fund solicitation business. SCC also invented the Post-Merger Clean-Up business, where their success

CONT'D →

allowed them to make three consecutive acquisitions in 2+ years - of Kissel Blake, Georgeson and CIC between 1998 and 2000. The entire enterprise was sold to Computershare in 2003.

1972 – Morrow & Co. - Founded by Joe Morrow, ex of Georgeson, it was acquired by European-based proxy firm **Sodali, Inc.** in 2016 and re-named as **Morrow Sodali**. Interestingly, the current Chairman of Morrow Sodali is the estimable John Wilcox - a very long-term employee and a former Chairman of Georgeson who departed for Sodali soon after the CPU acquisition - and one of the best-known and most highly regarded people in the industry.

1975 – The Carter Organization – Founded by the famously flamboyant Don Carter - who had been a lost-shareholder and odd-lot-buyback guy (!!) at Shareholder Communications Corp. - it was acquired in 1987 by British investors **VPI Group**, which kept the Carter name. It was dissolved precipitously in March of 1990 after founder Donald Carter pleaded guilty to felony counts of grand larceny - via wildly inflated bills for “out-of-pocket expenses” - and tax evasion.

1975 - Corporate Investor Communications - Founded by Don Gundry, Mike Mackey and Herb Janicki, ex of Georgeson, it was acquired in 2000 by Shareholder Communications Corp. The two Mackey sons stayed in the business until it was sold to Computershare in 2003...and two years later, in 2005 (see below) they founded **Alliance Advisors**.

1987 – MHT Stock-Watch and Proxy Solicitation - Founded by your editor in chief, and others (including Larry Dennedy, now President of MacKenzie Partners) - in response to having been “spoofed” by proxy solicitors (one of whom stuffed the ballot box with duplicate proxies and a “stealth revocation and re-vote” at the last moment - and another that urged the Chairman to close the polls immediately when they thought victory was theirs - and also...in response to continuing complaints from the Bank’s Inspectors of Election that proxy cards were being apparently “manufactured” - and slipped under their hotel room doors after midnight and through the wee hours of the morning!!) It was dissolved in 2010, after the aptly-named “Chemical Mellon” was sold to Mellon and virtually all the proxy solicitation ‘talent’ - and the clients - had departed.

1990 – MacKenzie Partners - Founded by current Chairman Dan Burch, and others, ex of D.F. King, MacKenzie Partners and Innisfree M&A, have become the top-two players in the high-flying, high-margin proxy fight and M&A transaction businesses.

1991 - Regan Proxy - Founded in 1991 by Artie Regan, ex of Morrow & Co., Regan specializes in small to mid-cap banks, credit unions. credit union conversions, and proxy fights at mostly-smallish banks and other “community-oriented” companies.

1997 – Innisfree M&A - Founded by the late Alan Miller, Arthur Crozier, Jennifer Shotwell and Meredith Cole, ex of Georgeson, Innisfree, as noted above, has become one of the top-two proxy fight and M&A firms in the country, and abroad as well.

2001 - InvestorCom - Founded in December, 2000 by current owner John Glen Grau, and specializing in small-company proxy fights. Earlier, Grau was a co-owner for 10 years of **Beacon Hill Partners**, a company he formed - along with Ed McCarthy, Rick Grubaugh (now at D.F.King), the peripatetic John Siemann,, now retired and Paul Schulman (now at MacKenzie Partners) - following the collapse of The Carter Organization -

2002 – The Altman Group - Founded by P-R expert Ken Altman, they were the 3rd firm to enter the mutual fund solicitation business, where, for a while, they enjoyed fairly good success. It was acquired by AST in 2011.

2005 – Alliance Advisors - Founded by the Mackey brothers, Michael & Kevin Mackey, following the expiration of their non-compete agreements, it has grown steadily and rapidly since its founding, due, we think, to its special emphasis on governance advisory work and client service at small-to-large-cap companies - and mega-cap companies as well - that are often underestimated and sometimes under-served by the largest solicitors.

2007 -- Laurel Hill Advisors - Founded by the Catacosinos family, whose very savvy patriarch experienced some life-changing circumstances as Chairman of **Long Island Lighting Company**, and the many machinations of Don Carter, during its historic proxy fight in the 1990s. Laurel Hill has offices in the U.S. and in Canada, where it claims to have the best winning record in Canadian proxy fights over the past seven years.

2008 – Okapi Partners - Founded by Bruce Goldfarb and Patrick J. McHugh, ex of Georgeson, Okapi Partners has been giving the top-two proxy fight providers (by fame, market-share and revenues) quite a run for the money in recent years. The first large firm to work for dissident groups, rather than to serve only as defenders in proxy fights, they make a strong case that they have a much better than average understanding of the ways activist investors think, and act.

2016 – Saratoga Proxy Consulting LLC - Founded by ex-Morrow staffers John Ferguson, Ann Marie Mellone and Joe Mills

Other recent entrants:

Harkins Kovler - Formed by Peter Harkins, a 23 year veteran and former President and CEO of D.F. King, following their sale to AST, and later joined by 13-year DFK veteran Jordan Kovler; billed as an “independent full-service proxy solicitation firm, specializing in complex and contested campaigns in the U.S. and Europe.”

Kingsdale Advisors - A well-known proxy solicitation firm in Canada since 2003, they have had an office and staff in NYC for the past three or four years, but have gained relatively little traction in the U.S. to date.

2019 - EQ Proxy - “Led by Rudy Muzik, founding partner of **Market Intelligence Group** prior to its acquisition by Okapi Partners, and Tom Cronin, former Senior Vice President of Business Development, Laurel Hill Advisory Group.”

We can't resist concluding with a few observations on this very long history:

First-off, is the startling fact that there are now at least 14 proxy solicitation firms vying for business with a still steadily-shrinking number of public companies!

Most notable, perhaps, is the strong “people aspect”: Virtually every firm has been founded by seasoned, and somewhat charismatic *experts* - at least where the big successes are concerned - entrepreneurs all - who either left their old firms, or saw them dissolved or sold - or who, sometimes, were dismissed - *foolishly* as it usually turned out - from a then “major firm.”

Another part of the history of this business, and worth noting, we think - periodically - in their eagerness to “win” - over-eager folks have succumbed to “dirty tricks. This, in fact, is what led your editor in chief to establish the first (and only) bank-owned proxy solicitation firm, which enjoyed very long-running success...until the key people were lured away by other firms - or were sometimes driven away by new management - taking their clients with them. And please note well: the determining factor when it comes to the relative degree of success in the business is the ability of the industry's super-stars to draw clients away from their over-numerous competitors - and to retain them, of course, come what may.

We can't resist noting how much V-C money has gone up in smoke here over the years - starting with the ill-fated investment in **The Carter Group** in 1987 by British investors **VPI Group**, followed by the short-lived acquisition of **Georgeson** by **Corporate Communications PLC** in 1989 followed by the **Sage Group's** short-lived, V-C-backed acquisition of **D.F. King** in 2008. Please note, however, that except for The Carter Group, both Georgeson and D.F. King found able rescuers - and continue to do well.

The most important takeaway for readers, as we have often noted here; this is ultimately a “people business” - where all the talent leaves the business every night - but where “the people at the top of the house” - and the people who are assigned to you own account - are the most important factors, we say, in choosing a solicitor...as the record clearly indicates if one studies the many ups and downs with care.

IS GLASS LEWIS ADDING PROXY SOLICITATION TO ITS EXPANDING PRIVATE “ACCESS” SERVICES?

That's the allegation from our friend and frequent noisemaker Gary Lutin, following the announcement of a new service, posted to the Harvard Governance Blog by Katherine Rabin, Glass, Lewis & Co., on Sunday, March 31, 2019...just in time for Lutin's April Fool's Day re-post and riposte.

The new service will allow purchasers of various other services to add “Direct, Unfiltered Commentary from Issuers and Shareholder Proponents” to Glass Lewis analysis and advice on how to vote on proxy matters - and, to respond to any and all comments that may be added by other Glass Lewis clients that subscribe to the new service.

“In order to facilitate processing and distribution, there is a distribution fee associated with participation in the RFS service, and subscribers must also purchase a copy of the relevant Proxy Paper on which they wish to provide feedback” the blog-post notes.

We think that Lutin has a point: Any and all such published comments do indeed seem to be “proxy solicitation” efforts by Glass Lewis itself - efforts that are covered, we think, by SEC proxy rules and regulations. Hmmm..Let's watch to see how this actually goes...

OUT OF OUR IN-BOX: A FEW THOUGHTS ON PRESS RELEASES - AND ON “BRANDING”... WHO WRITES THIS STUFF - AND VETS THIS STUFF - AT YOUR FIRM?

Two totally wacky things jumped out from our in-box this quarter; the first, a press release that announced a major new hire who has the title “FGE.” Gee...what's that? we wondered...So off, of course, to Google, where the first entry, in the Free Dictionary was this: “Diaz Henao explica que estos magros resultados se deben a la “incompetencia” e “ineptitud” que prevalece en la FGE, mezclada”... which our rudimentary Esperanto made fairly clear to us.

Next came the Urban Dictionary definition - and YIKES! - The first two citations were P-G if not X-Rated. Surely not what the Press-Release-writer ever intended to convey.

The next few entries were; France Génétique Élevage (French: France Livestock Genetics) Fédération Genevoise Équestre (Geneva Equestrian Federation) Fédération Genevoise d'Echecs (Geneva Chess Federation)

In 20 minutes of searching, we couldn't find a single definition that might be even the vaguest equivalent of a CPA, CFA, MBA - or any notable title at all...

And yikes again! The press-release-writer incorrectly cited the holder of this title as “the founder of the National Association of Stock Plan Professionals” - which we immediately knew is not correct: The founder - and still the owner of NASPP is the noted publisher Jesse Brill.

A few weeks later came a reference in a press release to “Boudicca Proxy,” a U.K. firm we'd never heard of before...But as English history buffs we did know that Boudicca, “The warrior queen” - was the first-ever ruler of England to be mentioned in recorded history.

So off to Google again, to brush up our recollection and - oh, woe - here's what we found: “Boudica. Boudica or Boudicca (Latinised as Boadicea or Boudicea /boʊdɪˈsiːə/...was a queen of the British Celtic Iceni tribe who led an uprising against the occupying forces of the Roman Empire in AD 60 or 61, and died shortly after its failure, having supposedly poisoned herself.”

What an inauspicious name, thought we, for a firm that says it's creating a brave new world of proxy solicitation - where actually, winning is everything. And what a Bodacious naming mistake, thought we, despite the mostly favorable meaning of bodacious these days...But as to ‘mistakes’ - we all make'em, of course...and good for a chuckle, for sure, for English majors...But, guess what? It sounds sort of good - and it sure does make you look... so maybe not a marketing and branding mistake after all....

PEOPLE

George H. Beehler, a longtime printing salesman at **Security Bank Note Company** - who was lucky enough to retire when stock certificates were still a big business - passed away on March 26 at the age of 92. George was one of the longest-serving members of the old **Corporate Transfer Agents Association** - and he remained active until fairly recently in its new incarnation as the Shareholder Services Association as well. According to SSA guru **Jimmy Smith**, “Big George” was a CTA/SSA member for 50 years, and maybe a few more - and was the only member who had not served as President to be awarded a lifetime honorary membership. A Minnesota native who retired to Rehoboth Beach MD before returning to MN, George was the very model of an old-school gentleman - an avid bridge player and New York sports teams fan, and someone who always had a new (and always clean) joke at the ready. He will be very warmly remembered by the many friends and colleagues he met through the SSA. He is survived by loving wife of 64 years, Aileen; children, Patricia (James) O'Donnell, Christopher (Patty) and John (Alison) Beehler; nine grandchildren; five great grandchildren.

Douglas Chia, a former Corporate Secretary of **Johnson & Johnson**, will be leaving his current role as Executive Director of **The Conference Board Governance Center** in June to become a Fellow for **Rutgers Law School's Center for Corporate Law & Governance**. Doug will continue to make contributions to The Conference Board as a Senior Fellow of the Governance Center, which we are renaming the **ESG Center**. A great move for Doug - and for Rutgers!

Jim Miller, an ISS veteran who, “in 2008 joined ISS in the M&A Edge Team covering proxy contests and contentious mergers, before becoming head of the Financial Sector Group and Deputy Head of U.S. research... and who has led numerous high-profile engagements with issuers and investors” has joined fast-growing **Alliance Advisors** as a Managing Director, joining **Reid Pearson**, **Shirley Westcott** and **Tyler Herka** in Alliance's Corporate Governance Group.

Patrick Tracey, whom we wrote up in our last issue upon his move to **Carta**, e-mailed back to remind us, correctly, that ‘the event you met me at was in 1980 or 81...Not ‘the 70’s’ - and that “I was in 6th or 7th grade in 1970!” Ouch! Maybe a momentary memory lapse on our part, or, we hope, just an example of our all too frequent fat-fingering...but a good excuse to give another shout-out to Pat...one of the very best “hires” your Editor in Chief ever made.

REGULATORY NOTES...AND COMMENT

ON THE HILL:

The biggest news of the quarter, perhaps, was the stinging rebuke to **Wells Fargo Bank**, issued by the **Comptroller of the Currency**, just minutes after the WFB CEO was mercilessly grilled by members of the **House Financial Services Committee**: “*We continue to be disappointed with performance under our consent orders and [WFB's] inability to execute effective corporate governance and a successful risk management program. We expect National Banks to treat their customers fairly, operate in a safe and sound manner and follow the rules of law*” the OCC wrote - shortly after which, no surprise, CEO **Timothy Sloan** resigned from the bank.

On a happier note, a bi-partisan bill has been introduced in the Senate that will give the SEC up to ten years to claw back funds due to investors after securities frauds...following a Supreme Court decision that five years should be the limit under existing law. Since the decision the SEC has had to forego \$900 million in disgorgement.

AT THE SEC:

Speaking at the ICI Mutual Funds and Investment Management Conference in mid-March, Commissioner Elad Roisman confirmed his willingness to take a lead role in proxy-plumbing reform: “I have been focusing extensively on what the Commission can do to improve the “plumbing” that underlies our proxy voting system. The November roundtable shed light on how complex, inefficient, and, at times, unreliable this infrastructure is. I believe the Commission needs to consider not only “quick-fixes” that could marginally improve some aspects of how the system works, but also comprehensive solutions based on modern technology. For example, I think it is incumbent on all of us to find a way to achieve end-to-end voting confirmation. I am interested in hearing, from all those involved, about short-term and long-term ways to accomplish this and other improvements. For all of these suggestions, I particularly hope to hear feedback about what private ordering could accomplish versus what Commission action might be needed (either to remove barriers to private action or solve collective action issues among private actors).” *[So far, except for some very fast action, and a visit by Broadridge execs to DC to revive interest in end-to-end confirmation, the issuer community - and the governance community as a whole - has been very slow to follow-up. We will draft our own response shortly - noting especially Roisman’s failure to highlight the travesty of continuing to allow some bank and broker custodians to issue voting credentials to lenders of securities with still-open loans, due to the lack of adequate pre-reconciliation procedures, and we will e-mail copies to our readers.]*

“Another aspect of proxy voting that I am interested in” Roisman continued, “is thresholds for submission and resubmission of shareholder proposals. It is important to achieve a balance here so that we allow for robust shareholder engagement without providing a mechanism for certain shareholders with idiosyncratic views to use the shareholder proposal system in a way that does not benefit the interests of the majority of long-term shareholders. In that spirit, reviewing whether the current monetary threshold and holding period for submissions strikes this balance, or whether other alternatives could better do so, may be appropriate. Relatedly, I am interested in perspectives on whether raising or modifying resubmission thresholds would preserve management’s time, and shareholders’ money, from being spent considering the same proposals repeatedly, after they have been rejected by the majority of shareholders.” *[We would note that this subject has been addressed very thoroughly by the Council of Institutional Investors - who pointed to the numerous shareholder proposals that we now take for granted that sometimes took 20+ years to gain traction. Also...WHO is to decide that the views of shareholder proponents are “idiosyncratic? And, by the way, what exactly is intrinsically WRONG with that?]*

“Another area where more discussion would be helpful is “proposal by proxy.” I am aware that the Division of Corporation Finance stated in 2017 that it is of the view that a shareholder’s submission by proxy is consistent with Rule 14a-8.[33] But, I would like to further understand how it is in the long-term interest of shareholders to allow this practice, when the proponent either is not a shareholder or cannot qualify to bring the proposal on his or her own. *[Three cheers for this, Commissioner - and we must note that we were the only commentator to point out the utter absurdity of Corp-Fin’s current position, which is contrary both to the spirit - and to the letter, we believe - of OFFICIAL SEC rules and regs!]*

In another “We told you so” moment for the OPTIMIZER, U.S. stock exchanges are firing Thesys Technologies, LLC - a startup firm (!!) they’d hired in 2017 to build the “Consolidated Audit Trail System” to track and index each and every trade. This project dates all the way back to Commissioner Shapiro’s term, where we said from the start that it was so big and so ambitious it would take years and likely cost billions to execute...and where the benefits are dubious at best. Nonetheless, it looks like they will try again under FINRA supervision.

President Trump has announced his intention to nominate SEC staffer Allison Herren Lee, who was recommended by Sen. Shumer (D-NY) to fill the open seat formerly held by former Commissioner Kara Stein, on whose staff Lee had served. If confirmed by the Senate, Lee’s term would expire June 5, 2022.

IN THE COURTHOUSE:

In a truly shocking development, the senior director of corporate law at **Apple**, 45 year old **Stanford Law School** grad **Gene Daniel Levoff**, has been charged with insider trading in **NJ Federal Court**. Allegedly, Levoff - who was the officer in charge of e-mailing staff about blackout dates - and who, for ten years, also served as a senior advisor on Apple's compliance committee - used his position on three occasions to avoid losses and book profits, based on inside info about Apple earnings releases. The **SEC** has also filed civil charges, seeking disgorgement of profits and disbarment from serving as a corporate officer. Levoff's attorney said he will rebut both sets of charges.

An **Alphabet** shareholder, **James Martin**, has filed a lawsuit in San Francisco, suing the board of directors for allegedly covering up sexual misconduct claims against top executives, coming just months after a NY Times article described how Google asked for the resignation of Android leader **Andy Rubin** after finding sexual misconduct claims against him credible, but, nonetheless, awarded him a \$90 million exit package. Shortly thereafter, a similar suit was filed in San Mateo County on behalf of two additional stockholders, alleging that the board breached its fiduciary duty and had a "culture of concealment" around sexual misconduct, and asserting claims for breach of fiduciary duty, abuse of control, unjust enrichment, and waste of corporate assets. The attorneys say the lawsuit is the result of "an extensive original investigation into non-public evidence" and (Ouch!) produced copies of internal Google minutes from board of directors meetings. "The Directors' wrongful conduct allowed the illegal conduct to proliferate and continue," the suit asserts. "As such, members of Alphabet's Board were knowing and direct enablers of the sexual harassment and discrimination." Rubin has denied any misconduct.

The SEC itself is being sued by the NYSE, NASDAQ and Choe Global Markets - to stop the SEC-authorized "Transaction Fee Pilot Program" which they say will cause them to lose money - and will harm investors and listed companies as well, by widening the bid-asked spreads.

Signs of things to come on the shareholder proposal front? Rather than responding to a corporation's request to the SEC for a no-action letter, the **NYC Comptroller** went straight to court in December to compel inclusion of its climate-change proposal in TransDigm's proxy statement...And - no surprise, really - **TransDigm** promptly backed off.



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