

OPTIMIZER

PROVIDING STRATEGIC AND PRACTICAL ADVICE - AND MONEY-SAVING TIPS...SINCE 1994

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FIRST QUARTER 2021

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VSMs Come On Strong As Preferred 2021 Meeting Venues

As the Covid pandemic continues to make in-person shareholder meetings a poor choice for most widely-held companies, most of last year's VSM users - and a large number of companies that used "strong keep-away rules" last year instead - have been lining up extra early, to assure the availability of top-flight service providers at convenient dates and times.

Early returns from the *CT Hagberg LLC Inspector of Elections Team* indicate a "return rate" for VSMs of nearly 90%. And we are betting that new adopters this year will more than offset the number of companies (mostly very small ones) that decide to hold their meetings at their law firms, or in some other small space...by a significant margin.

The biggest former naysayers and pooh-poohers where VSMs are concerned have dramatically changed their tune in the face of 2020 VSM statistics - which show larger turnouts, more shareholder voting and - at the best-run meetings - more and better shareholder questions at VSMs than most public companies have seen at their in-person meetings in years. And yes, while we know many companies that actually love their in-person shareholder meetings - and get good value out of them - and will indeed return to having an in-person component when it's safe to do so - VSMs are decidedly here to stay.

But readers, please note well: As we have been saying over and over, investors of every size and description are raising the bars significantly in terms of what they expect from VSMs. If your company is perceived as a laggard in terms of your technology - and especially in your ability to provide a "virtual experience" that is as close as possible to an in-person meeting experience - watch out. Expect to be pilloried and soundly called-out in the press and - far more damaging, for sure - in social media.

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The **OPTIMIZER** has developed quite a long list of practical tips, important dos and don'ts, a long list of best practices - and some brief but comprehensive reports on the very best VSMs of 2020 for you to learn from as you gear up for your 2021 shareholder meeting...

A summary of our best info - with hot-links to the articles themselves - is directly below:

Active Links To All Our Best Advice On “Acing Your VSM”

“[ACE YOUR VIRTUAL MEETING](#)” (Passcode: h5%gt!Gk): This is a rebroadcast of a “virtual presentation” the OPTIMIZER’s editors put together with and for the SSA. It focuses on the 2020 General Motors Meeting and features the two leading lights behind the technology and the “overall run-of-show” that made the GM meeting the best by far in 2020.

As an extra reason to watch, the SSA is offering non-member viewers a **20% discount** to our **OPTIMIZER** followers. Simply include the Discount Code SSA2021 in the Comments section of your [membership application](#). We consider this the best membership for any public company to have, given the high dollar-value of the very practical info they provide.

- [The Five Best VSMs To Review – And To Learn From... The Most Noteworthy Feature Of The Very Best VSMs? Women! | Optimizer Online](#)
- [Our Short-List Of Must-Listen VSMs | Optimizer Online](#)
- [The Biggest VSM Blooper To Avoid: Lost Connectivity Here’s How To Get Set For 2021 – And To Prepare For The Worst Things That Can Happen With Your Meeting Technology | Optimizer Online](#)
- [Several Serious “Bloopers” In The 2020 Q&A And Voting Periods That Are Very Easy To Fix For 2021 | Optimizer Online](#)
- [The Virtual Shareholder Meeting Q&A – and How to Tackle It | Optimizer Online](#)
- [A Word To The Wise: Big Brother Is Watching – And Listening To Your VSMs... Taking Notes... and Gearing Up To Push Back | Optimizer Online](#)
- [Inspectors of Election - More Important Than Ever](#)
- [Here’s Another Useful Development To Smooth The Way At Your VSM: IROs Finally Get A Prime Seat At The AGM Table | Optimizer Online](#)
- [Some Timely Reminders On Meeting Etiquette – At In-person And Virtual Meetings | Optimizer Online](#)

VSM Service Providers Enhance Platforms To Improve Access For Street-Name Holders

Good news: The top-four VSM service providers - Broadridge, Computershare, EQ and Mediant - worked together as a sub-committee of the “End-to-End Vote Confirmation Committee” - and, as we’d predicted they would, they have come up with ways to make it easier and surer for shareholders who keep their shares in “street-name” to attend VSMs hosted by providers other than Broadridge - and to cast their votes online this season if they so desire, via new “APIs” or “Application Program Interfaces.”

The Broadridge API generates a “Digital Legal Proxy” to street-name holders who wish to *attend a meeting* hosted by a non-Broadridge provider - and to *vote online if they so desire* - which will be immediately recognized as valid at VSM voting sites other than Broadridge’s own. Currently, Computershare, EQ and Mediant are now able to recognize the control numbers right off the bat.

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Mediant - which provides vote processing services to brokers that are similar to Broadridge's - and also "hosts" VSMs on behalf of public-company clients who hire them for meeting-management services - has two features we like a lot: First, they allow street-name holders to be recorded as having "voted in person." Broadridge's Digital Proxy (unlike the paper document we had become used to seeing) is designed, at the behest of its broker clients, to safeguard the identity of the owners from outside scrutiny. So votes via the Broadridge API platform are voted by Broadridge and reported as "broker votes" - since the brokers are considered the "holders of record." Another nice feature of the Mediant model; unlike the Broadridge model - that revokes any earlier votes when the Digital Legal Proxy is issued, and then permits voting ONLY at the VSM - is that voters who may attend but decide not to vote at a Mediant-hosted meeting - or who fail to attend at all - will not have any earlier votes revoked. The mechanical aspects of the Broadridge model are still under study with 2022 in mind, according to the sub-committee report.

For avid proxy-industry watchers, it will be interesting to see if Broadridge will continue to expand its enormous share of retail-voter tabulation for both street-name and registered holders this season - which so far this year it seems to be doing - or if the new APIs can stem or even reverse the tide a bit. Broadridge's new venture with Q4 (see On the Supplier Scene section in this issue) may pose a bigger challenge than ever to smaller competitors this season.

One thing seems sure, however: Publicly traded companies will be seeing a lot more of Mediant this season, since they handle the proxy voting for Robinhood's newly-gigantic base of retail investor clients.

Are You Sure You Will Have A Quorum On Your Meeting Date? Shifts In Broker Voting And Shareholder Demographics Say Maybe Not. What To Do Now

Hats off to Alliance Advisors for alerting us all to a big change at big retail brokers *Charles Schwab* and subsequently at *TD Ameritrade*:

Where previously they had cast so-called 'broker votes' on "routine matters" - where they voted them proportionately, relative to their overall retail-client votes - they will no longer cast ANY votes on such matters.

This has the potential for companies with large retail ownership at Schwab and/or TD Ameritrade to fall short of having a quorum on their scheduled meeting day. And for some companies who have a quorum, it might make them fall short of having a needed majority-of-the-outstanding-shares vote on some other matters normally ruled as "routine" - like for stock splits or for increases in the number of authorized shares.

We are betting that other retail brokers will consider following suit - (a) because, unlike the "old days" where the big retail firms actively courted issuers, there's simply nothing "in it" for brokers anymore and (b) let's face it, it does put a thumb on the scale that will normally favor the management positions...So a questionable process at best.

And Oh...Woe....There Are A Few Other Big Wild Cards In The Proxy Card Deck This Year...Thanks To A Truly Huge Growth In The Numbers Of Retail Investors Investing In Individual Stocks In 2021 Vs. Early 2020

Some pundits say it's mainly due to the pandemic, where folks working from home, with time on their hands, have taken to gambling on stocks...with some of them truly addicted.

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Others say it's the monstrous gains that have been reported in the "hottest stocks" of late, where many investors have the horrible and potentially ruinous habit of bragging on their big wins, while totally ignoring their losses...as well as the big potential to have even bigger ones during "bubbles" - which are bound to burst - and where many have already done so.

We, on the other hand, have been writing for the past three years that individual investment in stocks - which, last January, was at an all-time low - was overdue for a big "cyclical rebound," which, clearly is happening now.

Lastly, stock markets have headed steadily upward for over a decade - and HELLO - virtually all rich people own individual stocks, while virtually all "regular people" were holding few if any... So all those mega gains went to the top one percent of our population. This alone would make the average person suddenly "go crazy" about owning stocks.

Since last April's meeting season kickoff, the brokerage units of *Fidelity* and *Vanguard* and *Schwab*...and *TD Ameritrade* added a reported 10 million new individual brokerage accounts. And, can you believe it?... *Robinhood* added over 15 million new individual stock-traders. And guess what? Robinhood does not cast any "broker votes" at all. So if your company now has big positions at any of these five entities it will spell double-trouble in the quorum department.

This meeting season, last year's base of maybe 40 million "retail investors" (most of whom historically owned only 3.2 stocks on average) has increased by 25 million - who, reportedly, are building portfolios of dozens and dozens of stocks - including "slices" of stocks - where many of the newcomers never owned any stock at all.

Four Big And Important Questions Loom For Issuers As We Go Into The 2021 Proxy Season:

1. What does this portend for proxy voting? Many of the new "investors" are totally new to proxy voting...and, we bet, will likely not vote unless extra efforts are made to educate them a bit, and encourage them to do so...
2. On the other hand, however, the majority of the newbies seem to be Gen-X-ers...many of whom - though certainly not the wildest traders and "plungers" among them - say that climate change, environmental issues in general and social-justice issues are especially important to them. Thus, some companies may see some major voting surprises this season in favor of ESG matters. If you think your company may be affected here, you'd be very smart to prep your board ahead of time.
3. Will any of these trends affect MY COMPANY? - And if so, how? Our own bet is that "the average company" will probably not be affected all that much where voting is concerned. But as we have been writing for nearly 30 years now, FORGET THE AVERAGES: The only company you need to be concerned with is YOURS. So you'd better start looking - and doing the math on YOUR COMPANY... ASAP.
4. The sixty-five-million-dollar question, of course, is "What will this do to my budget this season?" We guarantee that companies that have been in the "hottest" investment sectors will be in for some very unpleasant surprises when the bills come in.

Your senior editor is pleased to have been part of an April 14th panel, hosted by the Society's Nor-Cal Chapter, which reviewed all of these developments, added some fresh facts, straight from the marketplace as to the size and scope of these issues - and discussed a variety of strategies to be ready early...knowing, of course, that the impact on specific companies is certain to vary widely, from none to maybe severe. We will aim to disseminate a link to the webcast at our earliest.

Our Report From The Front On Virtual-Only Proxy Fights: Goodbye And Good Riddance To The Old-time ‘Snake Pits’ We Say

As we go to press, our sister company is in the midst of its fourth virtual-only proxy fight where it will serve as the Inspectors of Elections...over just the past five months. We are expecting 2021 to be a record year for them.

Amazingly, the Virtual-Only format came as a great and ultimately pleasant surprise to the combatants - and to their legal advisors and proxy solicitors - and even to us, to a degree: The virtual-only format served to make the entire process - from the preliminary planning, the jockeying for position and for votes, through the meeting itself, and the final voting - and especially the challenge process - simpler, faster, far more transparent, tons less expensive... And whoopie, no travel! Most notably, it produces a far more civil process than the old, in-person model, where the victor was ultimately decided in the legendary “snake pit.”

The huge difference is due to two factors; the planning and the discipline that needs to go into a virtual-only event and the savvy use of modern technologies instead of relying on stacks and stacks of paper proxies and stacks upon stacks of paper tabulations from multiple sources that required literally armies of people to fight their way through them on all fronts.

While we don’t want to describe our own unique roadmap in too much detail, here are a few things that differentiate our model from that of the bad old days:

The first thing we do is to file our official Presumptions as to the Validity of Proxies with the subject company - and urge them to make them available to the “other side.” The Presumptions are tailored to the corporate code of the company’s state of incorporation - and to its own articles of incorporation and bylaws, which often, and increasingly, have specific voting rules of their own. They are written to spell-out, in plain English, exactly what we will consider to be “good and valid proxies” and where we also take case law - and modern technological developments, like telephone, Internet and e-mailed voting specifically into account. Aside from being a scrupulously fair way to begin, it puts the burden of soliciting “good proxies” on the combatants, where it belongs, and it makes the “challenge process” infinitely shorter - and sweeter.

We do NOT look to scrutinize each and every proxy on our own, as other IOEs do - to “challenge” its validity ourselves. And we definitely do NOT try to re-tabulate the entire tabulation - all of which consumes totally unnecessary time and can inject errors and omissions of the re-tabulator’s own making - as occurred after stratospheric expense and well over a month of multiple, revised reports in the infamous **P&G** proxy fight.

We use technology to present all of the voting and non-voting positions - in the same order as the official shareholder list, with the CEDE bank and broker positions downloaded and included, of course - so as to be viewable by both sides, from their own offices. We also expect to receive scans of the proxies from both sides in the same order - so everyone will be able to easily view any and all proxy votes, to check on “validity” and on the latest dated valid items - from their own offices.

When challenges are made - as is typically the case - we write down the stated basis for the challenge, sometimes ask a few questions so as to be clear, and to give the challengers something to respond to, to “make their case” and/or to rebut. On rare occasions we ask for brief ‘briefs’ from both sides. Then we confer among ourselves, sleep on our tentative position and issue our Final Report, usually that day. It will include the reasoning behind each and every decision in a way that we believe will stand up if challenged in court. Averting a trip to the courthouse usually proves to be a major money-saver for the combatants, since we do know the ‘rules of proxy’ inside and out - and in 30 years of doing this, have never been reversed in a court of law.

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Readers: If your company is unlucky enough to become the subject of a proxy fight, we hope you will contact us as one of your very first steps. We have 30+ years of experience as a business, impeccable references and a record of delivering highly knowledgeable, top-quality service in a highly cost-effective manner. We strive to make our Final Report a FINAL one...and, as an added bonus, to eliminate a lot of the stress, and drama, that so often comes with the territory.

We'd also urge you to check out the primer on proxy fights we did on Broc Romanek's Zippy Point...on the web: [The Definitive Guide to "Proxy Fights"](#) - YouTube

"Floor Proposals" Rear Their Ugly Heads Again: Must-Read Advice On Vote Counting

Sad to say it, but every year for the past five or six now, we have been confronted by one or more companies that have allowed a shareholder to submit a so-called "floor proposal."

And every year, we have to advise them - and their counsel - that contrary to what they think - or have been told - the only votes their proxy committee can cast against the floor proposal are the registered shareholder votes...UNLESS, that is, they actually tabulate the votes of street-name holders as being For, Against or Abstaining on the company's ability to vote in their discretion on "all other business to come before the Meeting."

Then, as we did in mid-March, we need to very patiently and painstakingly walk the company folks, and their lawyers, through a lot of esoteric and very complicated stuff - with a conclusion they don't really want to hear.

Here's a brief synopsis of what you need to know about "floor votes" and on the ability of your company to vote on all other business in general:

1. VIFs (Voting Instruction Forms) are NOT the same as PROXIES, which do indeed delegate voting authority on "all other business to come before the meeting" to the company's proxy committee. (Unless, that is, the shareholder strikes out that language, which is usually on the *back* of the proxy form, but which we, as Inspectors, can check and adjust the numbers accordingly.)
2. The VIF "appointing language" vs. that on the Proxy Card is not specific enough as to WHOM the authority (which rests with the broker) is being delegated...And, even if an Inspector - or the Shareholder Proponent and its counsel were to "let this slide," there is no method to record if anyone has struck out the language, as one can do with a Proxy Card.
3. More serious however - unless there are For, Against and Abstain boxes to check - and to *tabulate* - as we recommend if the proposal may be "close" - there is simply no NUMBER of "Votes-For" the proposition on which an Inspector can hang his or her hat - except, as noted, for the registered holder votes.
4. Most serious of all, if the proposal in question is a "non-routine item" - which all 'floor votes' *are, by definition* in our book - and ESPECIALLY if a proposal relates to the election of directors - which floor proposals often do - NYSE rules do NOT permit brokers to cast "uninstructed votes" on such matters. (Please note too that it IS the NYSE that has the authority to rule on whether proxy matters are "routine" or "non-routine." So the fact that your company may not be NYSE-listed has no bearing on this at all.)

5. But - most important to note - if the holder has checked the “For box” re “all other business to come before the Meeting,” the Inspector WILL have a firm number to enter, for both registered and street-name holders, in the Final Report.

Bottom line; The idea that all of the votes in the quorum can be cast by the company’s proxy committee as to “all other business” - after excluding those that run to the floor-vote proponent - is a total non-starter.

Under the time tested and court tested ‘rules of proxy’ Inspectors must confine their inspecting to “the four corners of the proxy card.” They are not to consider, much less search around for “extrinsic evidence” as to what voters may have *intended to do*, and they are certainly not able to use their own judgement as to any numbers they write down and certify to as final.

There is simply *no way* for the Inspector - or anyone else, as so many law firms have discovered when the time comes - to come up with a *number* to write down in the Final Report that would pass a sniff-test - except for the total registered vote - unless the tabulator has *tabulated* the votes on “all other business.”

Happily for our client, the “floor vote” proponent has only 15 shares. And his never-before-heard-of proposal, which seems to us to be a “private grievance” - though the company is now past that point - is unlikely to garner more than a tiny handful of registered holder votes. So, while the number of votes against will be smallish relative to the total shares outstanding, it will likely look bigger than it really is, in terms of the total votes cast on the matter.

But readers: As we have been pointing out annually...we have been to four meetings where a proponent “snuck up” and brought with him enough votes to oust the entire board!

If you are not entirely convinced, here’s another article we wrote in 2019 on this subject in 2019: [The Best, Worst and Weirdest Things We’ve Seen in the 2019 Meeting Season to Date | Optimizer Online.](#)

Out of Our Inbox:

Required reading: Prudential’s “Summary ESG Report”: As **Peggy Foran** told us in our year-end magazine, she, and her expert team, would come out with a standalone ESG discussion this proxy season, and we promised to share the link, below.

After a brief introduction, the 16 page report - a separate document from the 2021 Proxy Statement - covers these “hot ESG issues” -and gives readers the *specifics* of Pru’s actions - succinctly but in great detail...as everything Peggy puts her hand to always does: The sections on Diversity, Equity and Inclusion at Prudential, Inclusion and Diversity by the Numbers, Practices to Promote Pay Equity, Global Employee Engagement, Environmental Sustainability, Learning and Talent Development Programs provide a model for good ESG disclosure that every public company would be wise to review, and learn from.

[Prudential ESG Summary Report](#)

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“Keen Observations”... From small-cap-company expert Adam Epstein on SPACs: Also a required-read in our book. Here’s an excerpt, gleaned from **Broc Romanek**’s latest newsletter, **The Five** -which itself is required reading, we say:

Some small-caps look and feel to institutional investors like “real public companies,” while others are much more like “private companies with ticker symbols” or PCWTS. Savvy investors have learned the hard way to approach PCWTS with extreme caution, and their costs of capital, institutional sponsorship, and valuations reflect the same.

PCWTS have some shared attributes: – Officers and directors with little/no public company experience – Websites and investor presentations that are amateurish and/or hyperbolic – Irregular/poorly calibrated communication – Quarterly earnings calls that evidence incomplete/misguided preparation – Needlessly dilutive financings and/or late regulatory filings – Unusual service provider selections [Our own favorite takeaway] – 1-on-1s with management that convey a lack of capital markets/regulatory awareness

Most of the de-SPACs my firm has interacted with are PCWTS. It’s not a close call. I’m not suggesting that this is true for all de-SPACs, and I’m not even suggesting it’s true for most of them. It’s just been my personal experience in 2020 and 2021. Unless the officers and directors of PCWTS figure out what they don’t know – and endeavor to learn those things as fast as possible – their small-cap life is not going to be profitable or enjoyable.

Readers, we could not agree more with these observations and we can hardly stress enough how relevant they are if any of you are considering an investment in a SPAC.

Hall of Shame for AT&T

A truly horrible 4h quarter - and year - for seemingly shameless AT&T, where, as Wolf Richter, writing for WOLF STREET, reported in January, “After a horrendously expensive acquisition spree of legacy companies that included DirecTV and Time Warner – with the purpose to disrupt, one would suppose, but disrupt what exactly? – AT&T today disclosed that it wrote off \$16.4 billion in assets in Q4, for a total \$18.9 billion write-off in the year 2020. The billions are going over the cliff so fast these days it’s hard to even see them” - with still more of what AT&T calls “asset impairments and abandonments” still to come, Richter says.

Then, the SEC sues three AT&T employees and AT&T itself for violating Reg-FD - by selectively disclosing important sales data to analysts who promptly lowered their projections...allowing AT&T to beat earnings expectations; allegations that AT&T (no surprise) says are meritless.

Then, further burnishing their reputation for bad governance, AT&T decides, for the second year in a row, not to allow shareholder proponents to phone-in their statements, but to have them read by AT&T staff...And not to allow other shareholders to call in either. Who’d ever think that telephone calls could be so dangerous?

Absolutely the worst-governed and the most clueless, tone-deaf and shareholder-unfriendly public company in America, we say.

On the Supplier Scene

BROADRIDGE UPS THE ANTE IN THE VSM GAME BIG-TIME - TEAMING UP WITH BIG U.K. BASED MEDIA EXPERTS Q4...

which, in 2020, hosted more than 4,000 capital markets virtual events, including earnings events, investor days and investor conferences, This gives the new venture a big leg-up where technological “bells and whistles” - and the ability to integrate them, and stream them smoothly - is fast becoming “the name of the game.”

As its March 17th press release notes, “New features of [the] fully integrated VSM offering include state-of-the-art video and audio collaboration, role-based meeting views, comprehensive meeting management tools and improved Q&A functionality. For shareholders, the platform allows for a highly engaging and modern virtual experience, starting with a seamless meeting authentication, a “Zoom-like” meeting experience, integrated Q&A, live voting, speaker profiles and easily accessible meeting materials.

“For issuers, the platform provides an integrated console to manage all aspects of the VSM experience, including seamless management of high-quality video and audio streamed from multiple presenters, screen sharing, meeting materials management and voting. Innovative Q&A management has been designed for administrators to review shareholder questions and queue for presenters, while corporate executives and board members benefit from integrated private chat tools for unparalleled collaboration and communication throughout the meeting.”

A very intriguing new angle, “VSMs generate significantly lower carbon emissions than in-person meetings and create an opportunity for companies to reduce their overall carbon footprint. Broadridge data shows that, compared with in-person events, VSMs can help companies virtually eliminate their AGM-related carbon footprint...These enhancements are currently only available in the U.S. and will be rolled out to markets outside the U.S. in the future.”

Glass Lewis To Offer “Controversy Alerts” To Investors This Season, Aimed At Institutional Investors - And The Media:

As the [Glass Lewis blog](#) describes the new offering, it doesn’t necessarily mean that they are recommending votes against management positions. Rather, they intend to flag a subset of issues from its proxy voting reports that they determine are most likely to raise reputational risk for institutional investors. Here are the factors they say they will use in making their determination:

- Widespread media coverage of the issue, which is likely to be considered relevant by shareholders.
- Vocal public opposition from relevant stakeholders, including shareholders, employees, regulators, or political figures.
- Proposals that set a precedent for a new, unusual, or highly controversial ESG issue that may result in some form of public debate.
- Highly unusual issues that are likely to represent a material risk to shareholder value.
- M&A transactions that contain seriously problematic governance concerns, particularly when it appears a board or management team conducted a suboptimal review of strategic alternatives.

There’s little doubt that the alerts will draw added press - and voter attention to the issues they select, and will fuel the fires, and likely affect the voting tallies big-time. And, while issuers will not have advance knowledge of or access to them directly, they will surely be among the first to learn of this - albeit via the grapevine.

At The Society For Corporate Governance: “Springing Forward?” - Or Stumbling Badly In The Covid Crisis...

In a recent note to members, gamely captioned **“Springing Forward: Staff Changes at the Society,”** President & CEO **Darla Stuckey** announced that **Granville Martin**, “our SVP, Policy and General Counsel, is leaving the Society on March 18 to join **SASB** as the head of US Policy and Outreach. In the last four years, Granville has served our members as Society GC and as an advisor to the Board and various committees. He became our expert on ESG issues, and was responsible for the many white papers, meetings with standard setters, and educational programming in this area and others.....we will post a new position on our website very shortly, that of VP, Policy and Advocacy, reporting to me, to do the policy work Granville was doing and supporting the important work of our committees.”

From your senior editor’s perch as a 40+year member, and as a regular attendee of Society events for 50 years, back when “vendors” could only have one member, we have to warn that the Society has not been “springing forward” at all. In fact, over the past five years it has been stumbling badly - even before the Covid crisis severely crimped the budget as two of its biggest revenue sources - the mid-year Annual Conference and its February “Essentials” course - could not be held as in-person events. Goodbye to most of the formerly robust attendance, the formerly fat registration fees - AND to the very significant attendance, registration fees, sponsorships and fees for exhibit space formerly provided by “vendors.” Ouch!

The Society seems to be completely missing the fact that a huge host of other vendors have been increasingly “eating the Society’s lunch” - by providing online newsletters, a virtual blizzard of law firm memos, “Awards Dinners,” seminars and webinars (typically using “Zoom-like” technologies where socially-starved attendees can see each other, and ask questions) and actual PRODUCTS - that not just compete with - but typically *out-compete* with the National Society’s own offerings.

On the ESG front, for example, both **ISS** and **The CorporateCounsel.net** have announced new ESG products aimed squarely at issuers. A month ago, the **Weinberg Center for Corporate Governance** at the **University of Delaware** offered an incredibly thorough and well-attended seminar on hot ESG issues, with all-star moderators and a truly all-star cast of presenters - totally free of charge.

The most frightening thing to us - as very long observers and formerly active participants - is that the two top-drivers of the Society’s long success are no longer working for it. And, in fact, they are pulling it down on a rapidly accelerating basis:

The first issue is that the Society - and virtually all of its major programs and product offerings during its first 70 years - have traditionally been managed by “volunteers.” This was once one of the Society’s greatest strengths - back when the Corporate Secretary had the rank, the staff, the support of their companies, the keen know-how - and the *time*, the *budget* and the *drive* and *willingness* and *enthusiasm* to do this. Those grand old days are gone...and are not likely to return.

The second threat to the Society - and it is a huge one - is its non-profit status - and the un-businesslike mind-set that tends to come with that territory - where the *Society is being outflanked every day by a literal army of savvy - and hungry - eager and well-funded for-profit competitors.*

We have been quietly lobbying with a few friends in the Society leadership, advising that a major re-thinking and re-set is needed - along with a new and carefully developed Five Year Strategic Plan - with a very long list of Strategic Action plans to up the Society’s game Today, it has become apparent to us that this has become a life or death matter for the Society.

WELLS FARGO SELLS ITS CORPORATE TRUST UNIT TO COMPUTERSHARE for \$750 million: The [WFB] corporate-trust business provides trust and agency services in connection with public and private debt securities. It has about 26,000 mandates across a range of securities and bond issuances, according to a separate statement from Computershare. *“It is a clear fit with our successful Canadian corporate trust operations and [CPU’s much smaller] existing U.S. operations,”* Computershare CEO **Stuart Irving** said in that statement... [the purchase] *“provides scale with a top-four market position [a great thing to have in this very tough space, we say] a platform for ongoing growth and increased leverage to long term growth trends and interest rates.”*

About 2,000 employees will transfer to Computershare as part of a transaction that’s expected to close in the latter half of this year. CPU’s star U.S. operations manager **Frank Madonna** will manage the transition.

A BIG, winning move for CPU, we think, and we wish them all the best. Full disclosure; your senior editor was the lead manager at Manufacturers Hanover Trust company during, and for 12 years after WFB’s first sale of its Corporate Trust and Agency business - which included its equally under-performing Stock Transfer business - way back in 1980...which turned out to be a MAJOR SUCCESS. {For the record, WFB got back into these businesses in 1998, when it merged with Norwest Bank in Minneapolis, moved its headquarters there, but kept the WFB name.}

People



Peter Clapman, a true giant in the world of corporate governance, died in March at the age of 84. “Peter served for 32 years as Senior VP & Chief Investment Counsel for **TIAA-CREF**, one of the largest asset managers in the US. From that perch he built a powerhouse of corporate governance, inventing policies and engagement strategies that insisted on giving life to the principle that corporations should be accountable to their owners. He made TIAA-CREF a leader in the US, then brought the same drive elsewhere in the world, where the fund helped pioneer the movement for a fairer global capital market. As chair of the **ICGN**,

Peter was a vital force in creating a long-lasting architecture of investor responsibility. A graduate of **Princeton** and **Harvard Law**, Peter’s leadership earned him influential posts at many other institutions, including the boards of the **US NACD**, the **IRRC Institute**, the **AARP** mutual funds board, **iPass**, and **Governance for Owners**. Wherever he went Peter won lifelong friends with his ready laugh, twinkling humor, sharp intellect, vivid tales, passion for fairness, and unshakeable integrity.” One in a million, for sure.

William T. Dentzer, Jr., who became the founding director and CEO of **DTC** when it was spun off from the **NYSE** as a New York State-Chartered Trust Company in 1973, died on January 25, at the age of 91. During his career he was president of the **National Student Association** (1951-2); a force in the creation of the U.S. foreign aid program in the 1960s; **USAID Mission Director to Peru**; **Deputy Ambassador to the Organization of American States** and the **New York State Superintendent of Banks** - which made him an outstanding choice to become the founding chairman and CEO of the **Depository Trust Co.** (now **Depository Trust & Clearing Corp.**), the entity created to address the paperwork crisis that paralyzed Wall Street in the 1960s and where banks and brokers, normally keen and sometimes bitter rivals,

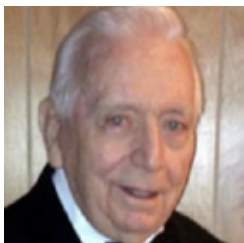


realized they needed to work together or lose a lot of their franchise to the federal government. He is survived by his wife of 68 years, Celia, two sons, two daughters and eight grandchildren.



Mike Ryan, who is widely considered to be one of the Grand Gurus of the Unclaimed Property world, has come out of “early retirement” - as we’d predicted he would - signing on as Director of Business Development at **Linking Assets**.

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James R. (Jimmy) Smith, who was widely and deservedly known as “**Mr. CTA**” passed away on February 14, at the age of 89. From the mid-1960s until well into the 2000s Jimmy rarely - and maybe never - missed a CTA meeting, where he always went out of his way to greet every attendee, welcome every newcomer or guest and introduce them around. After the **CTA** (i.e. the **Corporate Transfer Agents’ Association**) was re-named the **SSA (Shareholder Services Association)** Jim served as the SSA president from 1985 to 1987. A very modest man, Jimmy, who started his career in the shareholder services department of **ITT**, became famous for being part of the duo of Inspectors of Election that was publicly challenged by the infamous **Evelyn Y. Davis**, when she did not get the votes she needed to re-submit her proposal...who turned out to be “Mr. Smith” (Jimmy) “and Mr. Jones” (co-worker George) where even EYD had to laugh when their names were announced. Years later, Jimmy became famous a second time, when the CTA established a scholarship fund in his honor, to be awarded to children - and later grandchildren of SSA members - all of whom exhibited super-high achievements in High School, and ultimately in college.

Jim leaves behind his wife, Josephine, a son, **Michael A. Smith**, who is also very much “in the industry,” two daughters and eight grandchildren. For more on the “Smith and Jones story” and for an early photo from an old ITT shareholder meeting, go to [How Independent Inspectors Of Election Came To Be... | Optimizer Online](#) (Jim is on the far left. For history buffs, **Charlie Garske**, then Jim’s boss at ITT, (and the father of **Chuck Garske**, a star-member of the **Okapi Partners** team) is second-from left. Here’s a bit of info about the SSA Scholarship Awards: [The SSA Announced This Year’s James R. Smith Scholarship Winner – Its 12th! | Optimizer Online](#). If you, like we, are fairly regular contributors to **St. Jude’s Children’s Research Hospital**, do consider making your next donation in his honor. He too was “one man in a million.”

Dan Spengel, who lives in Northern California, and who was “riffed” by **Computershare** a few months ago, after 30+ years as a client-facing rep in the shareholder services industry, has signed on as a relationship manager with **AST**, we are glad to report, where he will work mostly from home. **More full disclosure:** Dan was the very first person hired by **Manufacturers Hanover Trust Company of California**, not long after it acquired the stock transfer and corporate trust businesses of the original **Wells Fargo Bank**, back in 1980, where Manny Hanny saw its new business literally explode at the expense of other, long-established west-coast T-As. Another great and well-deserved deal for Dan - and for AST - and for AST clients.



Regulatory Notes... And Comment

ON THE HILL:

On the heels of the big Covid relief bill, the Biden administration is racing to tee-up a huge Infrastructure bill, which a big majority of the electorate approves of, in principle, but which is already generating a battle-royal on how big it should be - and on how to fund it.

Bernie Sanders is using his perch as Chairman of the Senate Budget Committee to hold hearings on income inequality and, in addition to calls for a \$15 minimum wage and higher corporate taxes, he jumped out with a bill to apply higher taxes on companies where the CEO is paid more than 50 times that of the average worker. Even the most progressive Democrats should remember how badly this idea worked out the last time.

Senator Sherrod Brown (D-OH) introduced a resolution calling for the reversal of last year’s Rule 14a-8 amendments under the Congressional Review Act. A post from Morningstar’s Global Head of Sustainable Investing Research, re-tweeted by **Lynn Jokela** of **CorporateCounsel.net** explains how a

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rescission could happen – and what the impact would be: “The CRA allows Congress to pass a joint resolution disapproving of an agency’s final rule, which requires only a simple majority of both chambers to pass, along with the president’s signature. Once the joint resolution is signed, the shareholder rule will not only be rescinded, the SEC will be prohibited from reissuing the same or a substantially similar regulation in the future, unless authorized by Congress to do so....That means the SEC will revert back to the status quo ante, which required only that a shareholder needed to hold \$2,000 worth of company’s stock for 12 months in order to propose a resolution” and also, that the old, lower resubmission thresholds, not due to kick in til next year, would stay in place. **We still say; Much ado about nothing here. We are absolutely convinced that big investors would band together to give small-shareholder proposals that have real merit a decent chance in the marketplace for ideas - by voting FOR them, rather than see them dissed...and ditched.**

No “Ode from DeJoy” - rather a doleful litany of US Postal Service woes from USPS Postmaster General Louis DeJoy in March, and a plan to raise first-class postage rates significantly and to lengthen targeted delivery times. There’s actually some good news here - to save \$100 billion in otherwise projected losses, and to integrate USPS retirement plans with Medicare - *and* to rescind the rule that has long required pre-funding of retirement benefits for decades into the future, which has been essentially bankrupting the business - *if*, that is, Congress finally gets on board.

AT THE SEC:

After what seemed to us to be an unseemly-long delay, the Senate finally confirmed Gary Gensler on 4/14 as SEC Chair, in a mostly partisan 53-45 vote. Based on his long record as a regulator of financial markets, and often-seamy “marketeers” of financial products, Gensler is expected to be a very tough - and exceptionally knowledgeable regulator; someone who really understands, and very quickly digs into the important “plumbing” issues that escape most regulators - which will likely come as bad news to a lot of bad actors.

And speaking of markets - and marketeers with a *very seamy side* - SPAC enforcement actions are certain to be coming soon: A few weeks ago, the SEC’s Office of Investor Education & Advocacy warned that investors should think twice before throwing money at a SPAC. Soon after, **Reuters** reported that the SPAC boom appears to be attracting attention from the SEC’s Enforcement Division, and that underwriters who’ve been involved in these deals have received letters asking about deal fees, [a potential bombshell, we think] volumes, compliance, reporting and internal controls, and made some guesses about what the Commission could be watching. **CorporateCounsel.net** also reported that the SEC has scrutinized some companies that went public via SPAC deals, including electric vehicle-makers **Lordstown Motors Corp, Nikola Corp** and **Clover Health Investments**, the companies have disclosed. Further, “investors have sued eight companies that combined with SPACs in the first quarter of 2021, according to data compiled by **Stanford University**. Some of the lawsuits allege the SPACs and their sponsors, who reap huge pay-days once a SPAC combines with its target, hid weaknesses ahead of the transactions. The SEC may be worried about the depth of due diligence SPACs perform before acquiring assets, and whether huge payouts are fully disclosed to investors, said a third source...Another potential concern is the heightened risk of insider trading between when a SPAC goes public and when it announces its acquisition target, the second source added.”

On yet another front where there is a HUGE seamy side, Acting SEC Chief Allison Herren Lee (who also used her brief reign to direct the staff re-consider Rule 14-a-8) gave a speech in March highlighting the need for more disclosure on exactly how institutional investors actually cast their proxy votes. Some big firms, as we’ve seen, preach one thing, but do another when it’s time to cast their own votes. She also took a shot at super-secret and sometimes super-seamy securities lending practices, which generate huge amounts of money for investment funds, and where often, they keep the cash, rather than recall the shares in order to exercise their votes - contrary to all their highfalutin rhetoric. **At long last, we think this issue now has “legs.”**