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THE SHAREHOLDER SERVICE

OPTIMIZER

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

A Last-Minute-Checklist To Assure Your Meeting Security

Your editor-in-chief was pleased to be part of an all-star panel put together by CCR in late March on Conduct of the Annual Meeting, where he offered his Top-Tips to Assure Security at the Annual Meeting, freshly revised in light of the devilishly well-planned and truly frightening sneak attack at the Walgreens meeting, reported in our last issue. A transcript of the CCR webinar is available at their website, but our message here – late as it may seem is this…

IT'S NEVER TOO LATE TO ASSESS YOUR MEETING SECURITY ARRANGEMENTS – RIGHT UP TO THE VERY MINUTE BEFORE YOUR MEETING BEGINS - WHERE, IN FACT, YOU ARE PROBABLY MOST VULNERABLE TO BEING TAKEN BY SURPRISE...

HERE ARE OUR TOP TIPS:

- **NEVER MAKE THE FATAL MISTAKE OF ASSUMING THAT THIS YEAR'S MEETING WILL BE JUST LIKE LAST YEAR'S:** Keep reassessing the Meeting environment, paying careful attention to potentially inflammatory issues in your industry and on the meeting scene as a whole – and making needed enhancements in your run-of-show and script – and beefing-up security measures if warranted – right down to the wire.
- **REMEMBER THAT "SECURITY IS FOR EVERYONE":** While yes, most of your gameplan is properly focused on the folks on the dais – and on the Directors and Senior Officers in attendance – be sure you have a carefully written "emergency script" – and sufficient staff on hand – to clear the room quickly - and safely - if any unusual situation should arise.
- **RELIGIOUSLY OBSERVE THE "FIRST COMMANDMENT" OF ANNUAL MEETING SECURITY: "THE CHAIR MUST ALWAYS BE IN CHARGE."** All questions must be directed to the Chair; Wait to be recognized, then identify yourself and confirm your status as a shareholder before being permitted to address the audience; Be sure to follow the official Rules of Conduct or face prompt removal from the room. If, somehow, "the crowd" – or a threatening band of disrupters takes control - bad things will always ensue.
- **YOUR OFFICIAL RULES OF CONDUCT ARE THE BEST MEETING-SECURITY PROVISIONS OF ALL:** Tweak them right down to the wire, we say, and be sure they have provisions like "no demonstrations, no signs, no shouting-out, no rude or derogatory comments about people" – and this year, we are advising, NO GUNS. Hand the RULES directly to each attendee once they clear your registration process, we advise – and ask each person to read them carefully before the meeting begins.
- **ESTABLISH FOUR DISTINCT BUT ADJOINING "SECURITY ZONES":** A Registration Area, where shareholder credentials can be checked before they can enter a separate Assembly Area - and where the doors to the Meeting Room itself will not be opened until, say, five minutes before the Meeting comes to order – and establish a safe and secure area, close to the meeting room, where Directors and Senior Managers can gather before the Meeting begins, and where they will be able to exit quickly and safely, "according to plan" if trouble should arise.

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- **A NEW SUGGESTION THIS YEAR, IN LIGHT OF THE BAND OF HOODLUMS THAT HID OVERNIGHT IN A CLOSET AT THE WALGREENS VENUE - BUT ALSO IN LIGHT OF TODAY'S "OPEN CARRY RULES": CONSIDER USING SNIFFER-DOGS AT THE CHECK-IN STATION, AND ALSO TO THOROUGHLY SNIFF THE FOUR SECURITY ZONES BEFORE ADMITTING ANYONE.**
- **LAST BUT FAR FROM LEAST, BE SURE THAT AT LEAST ONE OF YOUR DESIGNATED PROXIES HAS SIGNED A BALLOT TO OFFICIALLY CAST THE VOTES THAT RUN TO THEM, AUTHORIZING THE INSPECTOR(S) OF ELECTION TO "RECORD THEM IN ACCORDANCE WITH THE INSTRUCTIONS ON FILE." THIS ALLOWS YOU TO LEGALLY CONCLUDE (and not, please note, to "adjourn") THE MEETING THEN AND THERE.**

Big News For Issuers On "Retail Engagement" - Vow Now To Do Better Next Year

Big and important news from Broadridge's 5th annual CX [Customer Experience, we figured out] and Communications Consumer Insights report, *"capturing the responses of 4,000+ consumers across North America regarding their preferences for different communication channels, what's keeping them from going paperless, their concerns about privacy and data security, and more." The big and important news…*

- **65% of consumers have cut spending with companies that don't meet their CX standards amid ongoing economic uncertainty.**
- **68% of consumers have lost trust in a company after a poor experience or communication.**
- **The biggest news, we think - 82% of consumers (including us) would go paperless if the digital experience was more engaging.**

Much as we love saving issuers money – especially when we own their stock ourselves – your editors still insist on getting hard-copy proxy materials. Why? Because we actually try to read this stuff – and often need to return several times to key sections to "do our jobs" as reporters, IOEs AND as investors. But sorry, folks – most of the E-Versions we look at are just awful to look at, much less to digest – and about as far from being "Engaging" as one could imagine. Please note that retail investors who receive "full packages" in the mail continue to vote their proxies much more frequently than e-only recipients. It shows they are "engaged" to begin with but also, as we have been saying for years, "the push model will always beat the pull model" - where the desire to pull up a voting site, and work one's way through a dense and non-engaging muddle of info lessens with every passing moment.

Here Are The Three "Most Engaging Proxy Materials" From The Two-Dozen "Packages" We Received Through Mid-April

PEPSICO's ANNUAL REPORT - Tops to date – and one of the two or three most engaging sets of reports over our 30+ years of reviewing proxy materials. Packed FULL of engaging soundbites, like the theme – "Winning with pep+" (which we have been doing for 30+ years) plus lots of quick facts on things like "Sustainably Sourced Ingredients… Expanded Portfolio Offerings, Climate, Water, Packaging. People" – and, our favorite, "Continuing to invest in the business - more than $10 billion in advertising and marketing and capital investments" - PLUS *GREAT RESULTS* like 14% organic revenue growth, EPS up 11% and a 10% increase in the annual dividend – for their 51st consecutive year… PLUS…lots more interesting, positive and "engaging" news, very engagingly presented in their well-written and well-laid-out 6 page summary section.

"PROXY VOTING IN THE PALM OF YOUR HAND" – a paper-thin, ½ page tutorial on how to vote QUICKLY with a ProxyVote app from Broadridge – and how to get it - in the **CITIGROUP** meeting package. Why did Broadridge not enclose this in EVERY proxy package they mailed, we wonder.

3M's AR – "Accelerating our transformation" - for the way it began with its 120-year-old mission-vision, then candidly admitting that "we recognize our company is not reaching its full potential" and following up with a fact-filled description of their progress to date. While yes, reviewing stellar results is still the most "engaging thing" to investors, coping aggressively with the future is equally important to communicate if you want to hold our interest – and our investment in your company.

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LEAST ENGAGING – AND ACTUALLY, A BIT OF A PROBLEM…Those heavy cardboard inserts with soggy-sounding slogans, like Intel's "GO VOTE…Let your proxies be heard." What kind of writing is THAT? There's also a big problem with a lot of the cardboard-sloganeering we've seen to date, saying "take two minutes right now on any device you prefer." Sorry, folks - and a potential source of "buyer-blowback" we think: There is simply NO WAY to vote today's average proxy card in an informed manner in a mere two minutes!

Dear Readers, we will continue to monitor and report on the best and worst examples of Shareholder Examples that cross our desks in the coming quarters. Reader nominations will be much appreciated! NOW is the time to seek out the best examples AND to resolve to do better at your own company next season!

A SPECIAL SHOUT-OUT TO BofA AND IBM FOR CONTINUING TO CONTRIBUTE $1 TO CHARITY FOR EACH SHAREHOLDER ACCOUNT THAT VOTES – AND TO NEWCOMER THIS YEAR, PEPSICO. THIS IS A PROVEN WAY, PLEASE NOTE, TO INCREASE SHAREHOLDER "ENGAGEMENT" - AND GET THEM TO VOTE.

This year, BofA will split its donations equally among three Mental Health organizations (three big cheers!) ONE MIND, NAMI (National Alliance on Mental Illness) and, in a very nice nod to non-US shareholders, MENTAL HEALTH UK - and IBM will contribute $1 to Water.org for each shareholder account that votes its proxy.

New this year is PEPSICO - heartiest congrats - which will donate to WORLD CENTRAL KITCHEN, which provides "fresh meals to communities affected by disasters around the world." We drop everything to vote our proxies right away when companies do this as we know many other investors do too.

We still can't understand why every company that has a large retail investor population doesn't do this, since it can increase the quorums of mostly company-friendly voters by four percentage points or more over pre-donation levels – basically eliminating votes that are the bane of all Directors - on shareholder proposals that are too close to call.

Far better - and far less expensive - and far more effective than trying to round up retail votes at the last moment – and *gratifying* to retail holders, rather than *annoying* them with evening phone calls – a tactic that sometimes actually backfires!

ANOTHER GOOD REASON TO INCREASE INVESTOR "ENGAGEMENT" THIS YEAR:

We have been struck by the large numbers and varieties of Anti-ESG Proposals being advanced this season by far-right-wing proponents who try to characterize them as "good governance proposals."

Smart issuers should want to see most of these proposals soundly defeated – with too few Yes-votes to be resubmitted next year. But most of the management rebuttals we have seen to date seem over-legalistic - and sound to us like 'protesting too much' - and far too obtusely - rather than bluntly calling out how wrong-headed they really are.

It will be interesting to see how many "Anti-ESG Proposals" fail to meet the threshold for resubmission, but right now, we are not optimistic, even though here, ISS and Glass Lewis look to us like issuers' best friends on this front.

An Unusual - And Disturbing Trend This Season – Failing To Name The Auditor Up-front – And, For Shame - On Your Proxy Card

Through mid-April we've noted at least three instances where the Audit Firm's name was omitted in both the summary of items on the ballot in the Proxy Statement – and on the Proxy Card itself.

This is a totally unacceptable thing to do in our opinion – and makes us immediately suspicious about the company's motive for omitting it - and very much inclined to vote NO.

As we have noted before, Votes-No on auditors have been creeping up - against the audit firms with 25+ year tenures and especially against the audit firm that consistently leads the pack with failing audits from PCAOB. We continue to say that treating auditor ratification as a "routine item" does not and ultimately will not pass the sniff test with voters who are truly "engaged."

Is Your Budget Being Busted By Shareowners With Immaterial Holdings? Are Any Of Your Suppliers Carelessly – Or Out Of Self-Interest – Creating "Nuissance Positions" To Enrich Themselves?

Just in time for this issue your editor-in-chief received his quarterly dividend check for Kraft Heinz....for a whopping 40 cents.

These annoying little windfalls date from the time, several years ago, when we cashed out of the Kraft Heinz stock we had in a DRIP – at a very nice profit, thank you – but where the transfer agent's system generated a tiny reinvestment on the remaining fractional share, which the T-A (not the current one, btw) failed to cash out and where – double-trouble for small shareholders – Kraft Heinz abruptly eliminated their DRP – though OOOPS, their Investor Page wrongly says they still have one.

We see red every time we get the quarterly check (plus another for $.50 per quarter on a different schedule from Mondelez, arising from similar circumstances) which is now way less than the postage that the issuers have to pay for - not to mention the cost of the envelope, the check itself (where many TAs charge nearly a buck apiece) not to mention the costs of annual 'account maintenance' charges plus (sometimes) charges for preparing, enclosing, mailing and CLEARING each check - and mailing Annual Meeting materials each year, where we get only the "Notice" from Kraft Heinz – which is not always the case in situations like this.

That same week we heard from our colleague of 60+ years – Ray Riley, a former president of the Securities Transfer Association – that he gets a quarterly dividend check from Bank of America for one cent! And, he said, he continues to get a full set of paper proxy materials on this totally immaterial "investment" - despite the fact that his "household" already gets hard-copy proxy materials on the shares held with his broker. He and I have tried several times to get rid of the senseless expenditures here, since we hold material investments in both stocks through our brokerage accounts and truly detest the wastefulness here – but to no avail, since we are not willing to pay the TAs a $15 - $20 fee, plus commissions, to "sell" our nominal interests. (See the articles further down for an account of the annoying "Catch-22 situation" at TAs – plus our tips on how to stop the "bleeding")

Ray's call pointed out another area that we have written about many times before – the creation – whether 'by accident' or by design – of miniscule accounts that arise from spin-offs and mergers.

He had in hand a four-page Letter of Transmittal to be used to submit instructions in a pending spin-off transaction. While the cover letter said it was pre-imprinted with his name and address, it was not. The letter also said he needed to submit a new W-9 form, which we both felt was totally unnecessary since, if he opted for shares in the new company, a W-9 form would normally be sent, automatically, by the TA when the shares were issued. "Who reviewed this letter?" we wondered.

But the real kicker was that there was no provision to automatically cash out the relatively small number of shares he was entitled to, which should be SOP in deals like this - to prevent the creation of shareholder accounts with only nominal value, as his would be. Worse yet - adding insult to injury – if the all-cash option was *undersubscribed* (!!) the entire pro-ration would be re-calculated – virtually guaranteeing that every shareholder would get some stock certificates no matter what. Who reviewed *these provisions*, we wondered again – and what was the reasoning here?

The "Catch-22 Money-Trap" For DRP-ers At Most Transfer Agents

Most Transfer Agents charge absolutely nothing to transfer shares from "book entry form" to one's brokerage account through the fast, efficient and easy-to-use DRS System.

But the system was not designed to forward "fractional shares" – which virtually all DRP accounts have. Accordingly, you are left with three choices where the "fractional" position is concerned: either "SELL ALL SHARES" (including the fraction) where the fees currently range between $15 - $30 – plus $.10 - $.15 "per share" - or LEAVE THE FRACTION ON DEPOSIT where maybe, someday, it will compound to a material amount - or MOVE THE FULL SHARES AND SELL THE FRACTION. Your editor's cost to sell the .221 shares of Mondelez, worth about $15 on the day we called the TA – would be $20, although it sounded as if, maybe, they would graciously accept the fifteen bucks and forget the "official" balance due. But who would be stupid enough to give away even $15 worth of shares, just to get rid of junk mail?

Our Tips On How To Eliminate Shareholder Accounts With Immaterial Holdings – And To Prevent The Creation Of New Ones

- **If your company has a Dividend Reinvestment Plan, amend it immediately to specify that accounts with less than X dollars in value (pick a number to suit yourselves) will be cashed out, after 'fair warning' and a chance to get up to snuff.**
- **Make sure your Plan Agent sends a notice to all shareholder accounts that fall below the limit and monitors this - and follows up regularly.**
- **Make sure too that if a Plan holder sells or transfers shares to a broker, the remaining "fractional interest" will immediately be sold and forwarded to them – at NO COST to the holder. (The TA is, of course, entitled to something for its work here, but your company will receive a quick payback by eliminating the nuisance account once and for all.)**
- **For most companies these days – whether you have a DRP or not - there is little or no need to conduct a so-called odd-lot buyback program. Instead, simply write to all your holders where the value of their shares is below your target level, offering to buy back their full and fractional shares at no cost to them whatsoever, in recognition of the savings to the company.**
- **Do the math on the savings you will realize by eliminating *de-minimus* accounts – which will, we are sure, justify making a $5 donation to charity – or a $5 bonus payment to the holder - as an added incentive that will, we guarantee, increase response rates.**
- **If you are planning to spin-off a division – or acquiring shares of another company in a merger – be sure to provide that all holdings at or below a 'target level' you select will be paid in cash – unless the holder opts in writing to take stock, which you should point out is NOT a good idea for really small shareholders in light of the high costs to shareholders of selling very small holdings.**

On The Supplier Front:

COMPUTERSHARE DROPS IRA ACCOUNTS from DRPS: ADDITIONAL ACTION MAY BE REQUIRED BY JUNE 30 – AND PROBABLY LATER - TO ASSURE THAT HOLDERS FIND A GOOD WAY FORWARD. One big surprise is how long it took CPU to drop a failed product. Another was the relatively short timeframe investors appeared to have to make other arrangements.

Unlike the TA "agency business" IRAs require a *fiduciary* to monitor the age of participants and to calculate required withdrawals – not a TA system's strong suit. But also, putting IRAs into individual DRIPs required a lot more paperwork for the holders, making their portfolios much harder to monitor - and worked against the ideal of building a *diverse* retirement portfolio.

Your editor-in-chief felt that DRIP IRAs were a bad idea from the get-go and refused to offer them to his then 1700 client companies when the idea first hit the street, almost 40 years ago… and was never sorry for it.

Computershare had only modest success here, with only 11 corporate clients - albeit some "mighty big-name companies" like Exxon Mobil, McDonalds, Verizon and Walmart - whose loyal shareholders will now have to scramble to find an alternative provider or risk paying taxes and penalties if they foolishly cash out – where they'd have to pay income taxes, say at 30%, and penalties of 20% on 'early withdrawals.' What a horrible financial hit this would be!

We reached out to Computershare to check on the status of their exit:

Q: Did Computershare have any communications effort to help shareholders with DRIP-IRA accounts understand what's happening, tax implications and also alternatives (e.g. where and how can they move the DRIP-IRA assets)?

A: "Computershare Trust Company N.A. acts as custodian for IRA accounts established under certain dividend reinvestment and direct stock purchase plans. Starting January 3, Computershare sent out a series of communications to alert IRA plan participants that the program would be ending and that they must take action before June 30, 2023.

Owing to the fact we do not provide financial advice, we encouraged each holder to consult with their own tax advisor on any tax implications."

Q: Is June enough time for shareholders to move their assets from their DRIP-IRA accounts?

A: "In our communications roll-out, we provided several options for participants, including a direct rollover to a new custodian, moving to a broker or a registered account, and selling shares or taking the distributions" – where the last two options, we'd note again, could result in serious financial "hits" to unwary investors.

A bit of good news here, prompted, we think, by our call: **"We have further communications planned during the next few months, which includes emailing and telephoning customers. Please note," they wrote us, "that Computershare will continue to support shareholdings designated for an IRA account as long as the registration is in the name of the Custodian For the Benefit Of (FBO) Investor IRA."**

NOTE TO ISSUERS – you may have a duty here, since you authorized these deals, to see that IRA owners are offered proper time, proper education and proper opportunities to find a proper home for these assets. (P.S. Special thanks to Chuck Carlson, the editor of the DRIP Investor – a "must subscribe publication" for issuers with DRIPs – who found out about this from subscribers.)

ERNST & YOUNG has dropped its plan to split the business in two to 'reduce audit conflicts' – which the internal debate exacerbated rather than smoothed. Issuers can breathe a sigh of relief, we think, since moves like this would surely generate a lot of internal *sturm und drang*, which no issuer has time for.

PROXY-PROCESSOR MEDIANT COMMUNICATIONS GETS ACQUIRED BY BetaNXT. The March 1 press release noted that "certain affiliates of BetaNXT have acquired Mediant Communications ("Mediant"), a provider of investor communications technology and technology-enabled solutions to banks, brokers, corporations, funds, and investment managers..

"Backed by **Clearlake Capital** and **Motive Partners**, BetaNXT has an operating history of over 40 years" – and notably, we think - "the firm supports more than 50 million retail accounts, has more than $6 trillion of assets on the platform, and processes more than 35 million securities-related transactions daily." While still something of a blip on the Proxy Processing scene, issuers may well be seeing and hearing more from Mediant going forward.

SAY TECHNOLOGIES, a Robinhood subsidiary, "is launching a new messaging feature that enables public companies to send tailored communications directly to retail investors within its network, and allows them to respond. Newer trading apps including **Robinhood**, **Public** and **WeBull**, are all competing for younger investors, and building ways to connect companies directly with shareholders" the press release notes.

"Individual investors — through retail and private banks, wealth managers, and self-directed accounts — are expected to dominate global investing by 2030, making up more than 61% of worldwide assets. That necessitates a shift toward more multi-channel, virtual and conversational communications, a report from consultancy **Indefi** concluded last year."

"Right now, there are about 50 companies that compensate Say, based on their size and depth of engagement with verified shareholders. Existing features like **Q&A** and shareholder proxy voting aim to gather feedback. The new messaging function can build a better direct relationship between companies and their shareholders."

According to **Alexander Lebow**, co-founder and CEO of Say Technologies, "retail investors generally tend to be more pro-management. Therefore, companies that engage with shareholders could mobilize that base against activists' proposals.

"We don't take sides ... we're on [a] multi-decade project ... to totally reconstruct the shareholder communications infrastructure," Lebow tells **Axios** in an interview. At the same time, Lebow said that Say has also discovered that public companies view new forms of engagement as "interesting in the activism defense world," because of how costly attacks can be.

We wish Say all the best with this and while we hope that individual investors will account for 61% of all investments by 2030, we have to note that at least three times in the last 30 years individual investors got spooked by downturns and left the market in droves.

Also, as we have noted here before, a huge number of the "new generation" of wired-in investors are keenly interested in environmental issues – and are more supportive than average of shareholder proposals asking for bigger and better efforts than many companies are up for. So a mixed bag at best, we say, where voting with management is concerned.

On the activism front, we keep harking back to the Disney proxy fight in 2004 where Michael Eisner was ousted as chairman after 43% of the votes were cast against him - where web communications by the dissidents played a huge role. And yes, there can be huge cost savings here vs. the usual paper-blizzards and expensive phone campaigns. But so far, and much to our surprise - online communications campaigns seem not to have gained a bit of traction since then.

We hope that SAY will have a big say here, although we must also note that it is the MESSAGING – and not so much the delivery vehicle - that is the key to success in proxy fights.

Out of Our Inbox – and just for the record – the settlement date for most securities trades will drop to T+1, or one business day after the trade is placed, starting May 2024. A tiny but welcome development for individual investors.

People

This is the first time in our 29+ years of publishing the OPTIMIZER that we found no people worthy of mention - or whose name the average reader would recognize - being promoted, riffed or moving on to a bigger/better job in the calendar quarter - or through April.

Something is up here – but we're not sure exactly what: Maybe everyone is simply too busy with Annual Meeting Season. Maybe all the 'reductions in force' are now over, at least where noteworthy people are concerned – which we hope is true, but which we kind of doubt. A lot of companies seem to have over-expanded a bit – and are looking to rebalance and "optimize" their workforces - so we are betting that the current drought in our PEOPLE column - the most visited and talked-about column of all – will be over, come Fall. As we have been noting in our columns on shaky internal control systems, truly outstanding people are much needed – and in extremely short-supply these days.

Regulatory Notes... and Comment

ON THE HILL: The DOJ has announced a new requirement that every settlement reached with the Justice Department will have to develop compensation plans that will "promote compliant behavior by its executives." Companies that claw-back compensation will be able to deduct it from their own penalties and those that try and fail will still be eligible to receive some credit from the DOJ, chief enforcer Lisa Monaco told an ABA conference in March.

AT THE SEC: In response, we're sure, to increasing concerns about internal control environments, in a recent settlement order reported by Bryan Cave Leighton Paisner LLP "the SEC charged Activision Blizzard with failing to maintain *adequate disclosure controls and procedures*" [even though the disclosures themselves were good ones.] "Notably, the SEC did not claim that the company's SEC filings were false or misleading. Instead, the SEC charged that management was unable to evaluate whether workplace complaints created a material risk that might need to be disclosed -- because the company did not adequately collect information about such complaints… The company agreed to cease and desist from causing future violations and to pay a $35 million civil money penalty. It did not admit to or deny the SEC's findings."

IN THE COURTHOUSE: THE SUPREME COURT, in a rare unanimous opinion, took aim at in-house courts at both the FTC and the SEC, ruling that defendants can sue in U.S. District Court to address "claims that the structure, or even existence of an agency violates the Constitution."

THE DELAWARE CHANCERY COURT "has clarified for the first time that non-director officers have a duty of oversight akin to that of corporate directors. The January decision has raised alarms that corporate officers may be subject to new claims that they somehow breached this duty. But both officers and directors should be aware that the court's opinion also articulates important limitations on any such claims." **Be sure to review Duty of Oversight for Non-Director Officers: Seven Things to Know | Public Chatter from Perkins Coie. *Based on the upsurge in internal-control failures we have been noting in the OPTIMIZER, corporate officers are likely to be in for a very bumpy ride over the next few years.***