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# OPTIMIZER

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

## Our Predictions For The Top Developments To Watch In 2025

As the new year and new presidency begin, it's clear there will be a significant focus on de-regulation – though not without some resistance, we hope.

**The number one trend for our industry will be a major easing of anti-trust rulings in the M&A sphere.** It's clear that many prohibitions (like the failed airline merger that led to a bankruptcy filing, and the blocked **Albertson-Kroger** merger – despite **Wal-Mart** already outpacing both in grocery sales) have gone too far. M&A activity is poised to boom, not only because bigger tends to perform better in today's competitive environment, but also because of the vast amount of capital sitting on the sidelines, ready to be deployed. Public companies that aren't in the top quartile performance-wise better prepare for well-funded and organized hostile offers, as many contributors to this issue have advised.

However, we hope that any easing of banking regulations will be done cautiously and judiciously. It's crucial that we don't forget the role deregulation played in the real estate boom that led to the 2008 market crash – from the easing of bank regulations to Congressional actions and the reduction of "field regulators."

**A true Mega-Trend is now unfolding: the nearly \$90 trillion wealth transfer from baby boomers – and now their heirs – to Gen-Z.** As we've been highlighting, Gen-Z is a very different demographic. They're far more self-directed, less reliant on traditional financial services, quicker to make their own financial decisions, and in many cases, think and act like "gamblers" (as seen in the meme stock and bitcoin booms). They are incredibly tech-savvy, web-savvy, and largely unimpressed by traditional media. Issuers must adapt if they want to engage effectively with Gen-Z. Importantly, many of them consider environmental threats their top concern, and unlike previous generations, they are more skeptical of "big business" in general.

**Another huge issue for issuers:** While we expect Gen-Z to own larger portions of the stock market in the coming years, most of them are woefully uninformed when it comes to voting their proxies. In 2024, less than 10% of shares owned by individual investors were voted in time for shareholder meetings. This was the lowest turnout in 50 years! (Consider making our "Shareholder Votes Have Value" booklet available – even if only online. The printed version is designed to be short, sweet, and inexpensive to mail – far more effective than the usual "Vote Now" cards.)

**A new "de-regulatory trend" is emerging,** with a well-funded far-right-wing attack on the Shareholder Proposal Process – alongside an increase in Anti-ESG proposals from those who typically oppose shareholder proposals. As you'll read elsewhere in this issue, many longtime proponents of shareholder proposals are uniting to counter this trend. They've been responsible for major improvements in corporate behavior over the last 50 years, and they're expected to continue succeeding. It's worth noting, too, that shareholder proposals generate massive revenue for law firms, proxy advisors, and proxy processors. This is a multi-billion-dollar industry!

**Another trend to watch is the shifting stance on DEI programs.** Companies like **Wal-Mart** are stepping back from DEI initiatives, while others, such as **JPMorgan Chase, Costco, and Apple**, are taking a more measured approach. JPMorgan Chase, for example, recognized at its 2024 AGM that as global citizens, they must offer equitable opportunities worldwide. Meanwhile, Costco emphasized that DEI is a key component of their success (unlike Wal-Mart). Apple has even recommended voting against a shareholder proposal to eliminate DEI efforts. (And let's not forget **McDonald's**, which is being sued over a scholarship fund that exclusively supports disadvantaged Latin American students. What were they thinking?)

**Our favorite new development, as announced in this issue by Alliance Advisors, is the push to eliminate the "OBO rule" altogether.** This rule made sense when there were thousands of transfer agents handling proxy materials, counting votes, and potentially using broker-customer information for their own purposes. But today, with only a few trusted distributors and tabulators, and established standards for protecting personal financial information, the landscape has changed. Corporate communications – and "Engaging Effectively with Investors" – now requires a more open, two-way communication process to be effective and fair. We strongly encourage our readers to sign the Alliance petition; we believe its time has come.

## How to Increase Retail Investor Voting: Top Three Tips from the *OPTIMIZER* ... Plus One to Grow On!

With the 2025 Annual Meeting Season fast approaching – and with more and more activist activity expected – it is urgent, we believe, for issuers to take added steps to reverse the ever-growing apathy of individual investors when it comes to voting their proxies. Here are our top-three tips to turn the tide – plus one to grow on:

### 1. Investor Education on the Value of Their Votes

We believe educating investors on the value of their votes—and the distortions and disruptions that occur when normally pro-management investors fail to vote—has become absolutely essential. We urge you to enclose a copy of our inexpensive and easy-to-enclose pamphlet, "**Shareholder Votes Have Value**" with all your "full-sets" of proxy materials – and to include a link to the text with all of your e-deliveries – and on your Investor Page. It explains how much time and money is *wasted* when investors fail to vote – and counters the widely-held but **WRONG** idea that "my vote is too small to matter.\*"

### 2. Put Your Money Where Your Mouth Is

We urge issuers to "put their money where their mouth is" – and to donate \$1 to a charity of its choosing for every shareholder account that votes – as half a dozen or so smart companies have chosen to do. We know that over two or three years, issuers have been able to increase their previously shrinking quorums by four to six percentage points, which makes a **HUGE** difference in closely contested matters – and improves the "optics" enormously. **ISSUERS!** Most of you are giving money to charity anyway!

### 3. Engagement Gifts for Voters

Consider another kind of "thank you for voting gift" – like planting a tree or sending a company tote-bag to folks who vote, as Prudential has done successfully for many years. The gift has clearly helped investors to feel really connected to the company – and *appreciated by the company* as shareholders.

**A tip to grow on: Come up with ways to make your Annual Shareholder Meeting more interesting – and more satisfying to retail investors – and give them a little preview of why it's worth tuning in a VSM – or turning up in person if the Meeting is nearby.**

**To discuss the options for using our "Shareholder Votes Have Value" information, contact Peder Hagberg at 917-848-6772 or email: phagberg@cthagbergllc.com**



## On The Service Provider Scene:

**Ken Bertsch** - one of the most knowledgeable corporate governance experts anywhere - has succeeded the much-loved **MaryEllen Andersen** as Corporate Governance leader at Broadridge Financial Solutions, Ken spent his early years “in the governance trenches” at Moody’s, then, four and a half years as Executive Director of the **Council of Institutional Investors**, then as an advisor at **CamberView**. Impossible to think of a better candidate for the Broadridge job.



Ken Bertsch



Jo Palmer

### Big Moves at EQ:

With longtime AST/EQ CEO **Marty Flanigan** retiring, EQ has appointed **Jo Palmer** as President and CEO of EQ U.S. Palmer, who was EQ’s Global Chief Transformation Officer, previously worked at Equiniti when it was part of the large UK registrar Lloyds.

She’ll report to **Dan Kramer**, the newly tagged CEO of Global Shareholder Services at EQ. Kramer brings 30 years of leadership experience from roles at Morgan Stanley, Merrill Lynch, Deutsche Bank, JPMorgan, BNY Mellon, and several fintech companies.



Dan Kramer

**This appears to us to be a very heavy “lift” for both candidates - to manage the systems changes and enhancements that are necessary to better customize the EQ systems for US markets - and for US cybersecurity challenges - which have been very much on the increase - but we hear good things about both candidates. We reached out to both of them and the team at EQ, and trust that when their feet are more firmly on the ground, they will want to share their objectives with our readers. Meanwhile, we wish them all our best!**

## Some Things Never Change...

Here’s the cover image from one of our very first Special Supplements, featuring the ‘high priestess of the Annual Meeting’ with her timeclock, gavel, agenda, and law books—reminding us to be both diligent and prepared for all outcomes.

This issue, from 1998, has two articles that are still very much worth reviewing today and are published below: **“Our Top-Ten Proofreading Tips”** and an article on **“Challenge-Proofing Your Proxy Voting and Tabulation Process”** - which is even more important in these contentious times. One tip we’d add here, since the widespread adoption of Virtual annual Meetings - and a new focus on procedural issues and “share-owner access” - is to have an Inspector of Election who will review your script in advance, to be sure that “virtual attendees” will have ample time to be heard - and to vote or change their vote. “Big Brothers” will be watching closely this year, and rightly so.



# Our 10 Best Tips For Proofreading Your Annual Report & Proxy Material

Updated (just slightly) from the 1998 *OPTIMIZER* Magazine

1. **Don't rely on the same people who drafted and typed the material to do the final proofreading.** Two inherent flaws of human nature to remember: we're often blind to our own mistakes and hyper-alert to the mistakes of others.
2. **Avoid proofreading from a screen or low-quality printouts.** For example, the letters "i" and "l" can be nearly indistinguishable, as can "c" and "e."
3. **Double-check the spelling of every proper name—especially those you think you know by heart.** A single error could require redoing the entire job, easily turning into a six-figure mistake.
4. **Always test every phone number, scan every QR code, and check every active link in your Annual Report.** This includes contact details for your transfer agent, IR department, consumer hotline, etc. Incorrect information can frustrate key stakeholders, and that frustration can last a long time.
5. **Never let AI or spellcheck lull you into complacency.** Spellcheck wouldn't, for example, have helped our alma mater, Manny Hanny, avoid one of the most infamous Annual Report bloopers of all time—a reference to their "**certified pubic accountants.**"
6. **Use shared software with edit tracking capabilities to collaborate with your internal and external teams.** This saves time (often the root cause of proofreading oversights) and money by eliminating the need for messengers or overnight shipping.
7. **Designate one "captain" to authorize changes.** This ensures that edits are agreed upon and implemented without confusion or conflicting versions.
8. **Let the material "gel" for a few days, if possible, before your final review.** A fresh perspective after some time away can help you spot errors that might have been overlooked initially.
9. **Try proofreading backwards. Instead of scanning for flow or meaning, focus solely on spelling errors.** This forces your brain to focus on individual words rather than context, making mistakes easier to catch.
10. **Take your time!** Rushing the proofreading process leads to mistakes. Give yourself enough time to review thoroughly and carefully.

## A SPECIAL OFFER TO READERS OF THIS ISSUE FROM THE SHAREHOLDER SERVICE *OPTIMIZER*

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# Challenge-Proofing Your Proxy Voting and Tabulation Process

*(with minor updates to the article originally published in the 1998 edition of OPTIMIZER Magazine)*

Close observers of annual meetings know that votes on non-routine proposals, such as the election of Directors, the issuance of preferred stock, merger approvals, bylaw changes, and more, have become increasingly contentious. The final outcomes are harder to predict each year. Management proposals are losing more frequently, and many votes now end up as narrow squeakers.

Even when a management victory seems assured, it's still wise to be prepared for formal challenges and to ensure that your voting procedures are airtight. Here are some tips to help you challenge-proof your proxy voting and tabulation process:

- **Understand Voting Requirements:** Make sure you know exactly what it takes to pass each proposal, and ensure these requirements are clearly outlined in your proxy statement. Don't just rely on your inside or outside counsel for this.
- **Review "Rules of the Road":** Go over the procedures with your proxy tabulator and Inspectors of Election. Ensure your Inspectors are independent, knowledgeable, and familiar with activist tactics and street-name voting practices.
- **Inspectors' Oaths:** Ensure that Inspectors' oaths are sworn and on file before the meeting begins.
- **Introduce the Inspectors:** Introduce the Inspectors during the meeting, briefly summarizing their qualifications and duties as independent inspectors. The perception of fairness is just as important as the reality and can help prevent challenges.
- **Prepare Inspectors for Challenges:** Review the script carefully and ensure Inspectors know what to say if challenged. They must be ready to defend their processes.
- **File Validity Presumptions:** Ensure that your Inspectors' presumptions about the validity of proxies are on file, agreed upon by your proxy solicitors and tabulators, and observed by all involved.
- **Confidential Voting:** Pay special attention to policies and procedures surrounding confidential voting. There's no room for error here—safeguard the integrity of your shareholders' privacy.
- **Watch for Stealth Solicitations:** Be vigilant for "stealth solicitations," and pay close attention to last-minute ballots, reversals, and online, faxed, or telexed submissions. These are common sources of voting errors.
- **Ballots from All Relevant Parties:** Ensure signed ballots are obtained from all relevant parties, including "omnibus proxies," employee ownership plan trustees, the DRP nominee, and the Proxy Committee. Elections have been lost due to failure to observe these "technical details."
- **Understand Poll Closing Procedures:** In tight situations, make sure you, the Chairman, and the Inspectors understand the implications of keeping the polls open or declaring them closed. Avoid rushing to close polls prematurely—especially in a virtual meeting environment.
- **Take Time with Close Votes:** Avoid rushing to report a final vote, especially if the outcome is close (within one percentage point or less). In such cases, the Inspector should conduct additional due diligence procedures before certifying the final results.

Taking an extra day or two to thoroughly review the results is better than risking an adverse outcome on appeal. Opponents may attempt to mislead you by submitting multiple proxies or reversing a large in-favor vote at the last minute.

Since 1992, The CT Hagberg, LLC has provided independent inspection and certification of votes at thousands of in-person and virtual annual meetings. We've also served as Inspectors in hundreds of proxy fights. With a team of over 50 experienced Independent Inspectors of Election, we currently inspect more than 500 public company annual meetings each year. Engaging one of our expert Inspectors of Election is one of the best ways to ensure your annual meeting vote is certified with complete confidence.

To reserve an Inspector for the upcoming Proxy Season please call Team Manager Carl Hagberg at (732) 778-5971 or email him at [cthagberg@cthagbergllc.com](mailto:cthagberg@cthagbergllc.com). And do please remember that April, May and June get booked-up mighty fast these days.



# Checklist: Best Practices in Evaluating & Selecting a Transfer Agent

We first published this article in 2003 and refreshed it again in 2016 and, believe it or not, it didn't need much updating until recently, other than to note that there has been a very good market for buyers of TA services and a very difficult one for sellers throughout this long period of industry contraction.

However, in the past 5-7 years, things have changed quickly. The number of registered shareholders has dropped sharply, leading to even fewer transfer agents. Now, only a handful of agents can meet the needs of medium-to-large companies. But here's the catch: more public companies are regularly putting corporate services out for bid, often every three years. While IPOs have been few and far between lately, events like spin-offs or other corporate action still require careful selection of a transfer agent. With IPO activity expected to pick up in 2025 and beyond, now is an ideal time to reassess your transfer agent relationships.

Here's our updated guide to help you navigate the process of evaluating and selecting a transfer agent.

## PLANNING THE SEARCH

### Step 1: Define Your Priorities

The first step is to assess what is most important to your company when selecting a transfer agent. Consider the following examples:

- A high-tech company may prioritize cutting-edge technology.
- Companies that follow Six Sigma processes may place more importance on strong quality control programs.
- Some companies focus on their "ranking" in terms of priority among TA clients—an important consideration, especially with the market consolidation.

However, based on our experience, the smartest companies prioritize personal service—and the quality and expertise of the people assigned to their accounts.

### Step 2: Talk with All Departments That Interface with the TA

Involve all departments that interact with the TA—Corporate Secretary, General Counsel, Governance Officer, Investor Relations (IR), Treasury, HR, Corporate Communications, and Public Affairs. The goal is to inventory all their needs and concerns. For example, companies with stock option plans, restricted shares, or employee ownership plans (such as 423(b)) will need an agent capable of seamlessly integrating with related service providers like brokers, plan trustees, and record keepers.

Ask yourself: Are there upcoming service needs that the TA will need to manage? For example, a global stock option plan, a new ESOP, or a Direct Stock Purchase Plan (DSPP)? Rank your current and future requirements in order of importance, but remain flexible, as priorities may shift during the search.

### Step 3: Prepare a Focused RFP

Craft a concise RFP that focuses on your top 10-15 concerns. We strongly advise against using "canned" RFP templates, which often lead to long, unwieldy documents filled with irrelevant questions. These typically result in equally long and generic responses from transfer agents. Instead, focus on brevity and relevance, and penalize responses that are overly generic.

Ask agents to clearly outline any out-of-pocket expenses, such as those related to dividend payments, tax reporting, annual meetings, shareholder communications, etc. Some agents may overcharge for basic supplies or treat these expenses as profit centers.

Include a list of all activities your current agent performs, along with relevant volumes, especially for services that involve coordination with third-party providers. This will help avoid "surprises" later.

The RFP is also an opportunity to inquire about pricing for future services—like DSPPs, ESOPs, or stock splits—so you can compare costs in advance. Often, the "cheapest" agent may end up being the most expensive when unexpected services arise.

### Step 4: Record Retention & Transition Plan

A critical consideration when changing transfer agents is how the new provider will manage and preserve historical shareholder records, especially those from prior agents. Many of these records could be decades old, and the original agents may no longer be in business. It's essential to ensure that the new agent can handle these records properly.

If you're unsure about the process, consider consulting with an industry expert to ensure all the fine details are handled correctly and efficiently.

## Step 5: Timeline and Process

The process of selecting a new transfer agent typically takes several months:

- 3 weeks to gather internal feedback and prepare your RFP
- 3 weeks to receive responses from agents
- 1 month to evaluate the responses

If you choose to change agents, it can take at least 45 days to notify the necessary parties and transfer shareholder records.

## SELECTING RECIPIENTS FOR YOUR RFP

The process of selecting transfer agents has become easier in recent years due to market consolidation. There are now no more than three or four agents that can meet the needs of medium-to-large-cap companies. If you're a subscriber, feel free to reach out for "free consulting"—we're always happy to answer your questions.

## EVALUATING RESPONSES

### Start with Fees

While fees aren't the most important factor, they should still be carefully evaluated. Transfer agents often offer bundled pricing for basic services, but it's important to clarify exactly what's included. You may be surprised by the number of services that aren't covered under the basic package.

Create a matrix of fees for each service and compare them across agents. Similarly, create a matrix for out-of-pocket expenses to ensure all costs are accounted for and comparable across bidders.

### Assess the Top 10-15 Issues

Create a matrix to evaluate the agents' responses to your top 10-15 issues. While you can enter quantitative data (like fees) after reviewing the responses, the qualitative aspects are often best assessed through direct interaction.

### Site Visits

We recommend scheduling site visits with each finalist. This is the best way to assess qualitative factors. After each visit, evaluate the agents based on your most important decision points. Assign numerical weights to the factors and calculate the final scores to help finalize the decision.

### References

Ask for references from clients with similar needs and philosophies. Don't rely solely on the references provided by the agents, as they may not fully reflect your needs. Conduct your own research to uncover valuable insights.

### Avoid "Quality" Surveys

Be cautious about placing too much weight on transfer agent quality surveys. These surveys often lack statistical validity and may not accurately reflect your specific needs. It's better to benchmark against companies similar to yours than rely on broad, generalized surveys.

## AWARDING THE CONTRACT

Transfer agents usually have standard contracts that define their responsibilities and your obligations. Be sure to carefully review the contract, especially the provisions regarding notification, indemnification, termination, renewal, and assignment. In particular, watch out for overly restrictive indemnification clauses, unrealistic limits on the agent's liability, automatic renewals, or issues regarding shareholder records during contract disputes.

The final agreement should incorporate the fee and service proposal, along with any amendments made during the evaluation and negotiation process, as well as any commitments the agent made regarding performance.

## TOP-SIX CONSIDERATIONS IN CHOOSING A TRANSFER AGENT

From the perspective of someone with 32 years in the transfer agent business, here are the Top Six Key Items to consider:

- 1. Management Quality:** The experience, stability, and interpersonal dynamics of the management team are crucial. Strong leadership typically leads to a well-functioning organization.
- 2. Staying Power:** In today's shrinking market, it's essential to consider the long-term viability of the agents you're considering. Only three or four agents are likely to remain dominant in the near future.
- 3. Service Excellence:** Focus on the quality of people, systems, procedures, and technologies that ensure fast, responsive, and reliable service for both shareholders and the company.
- 4. Relationship Management:** The individual managing your account day-to-day is key. Look for someone who understands your business and has the influence to advocate for your needs within the organization.
- 5. Systems & Technology:** Evaluate the TA's systems and technologies that can streamline operations and reduce costs for both your company and shareholders.
- 6. Data Security & Cybersecurity:** Given the increasing frequency of cyber threats, it's crucial to consider the strength of the agent's data security, records retention, and backup systems.

By following this checklist and focusing on these key factors, you can ensure that your selection of a transfer agent aligns with both your current needs and future goals.

