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SHAREHOLDER ESG PROPOSALS ON THE RISE



The surge in environmental and social resolutions is posing new challenges for companies and their IR teams.



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About NIRI

Founded in 1969, the National Investor Relations Institute (www.niri.org) is the professional association of corporate officers and investor relations consultants responsible for communication among corporate management, shareholders, securities analysts, and other financial community constituents. NIRI is the largest professional investor relations association in the world, with more than 3,300 members representing over 1,600 publicly held companies and \$9 trillion in stock market capitalization. NIRI is dedicated to advancing the practice of investor relations and the professional competency and stature of its members.

About IR Update

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About half of all shareholder resolutions submitted this year deal with environmental and social issues. **READ MORE ON PAGE 10.**

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Former SEC Chair
Elisse Walter speaking
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Annual Conference.



Three-Letter Acronyms



Gary A. LaBranche,
FASAE, CAE
NIRI President & CEO

ESG is among the most talked about – and possibly controversial topics – discussed in IR circles. This was reflected during the NIRI Annual Conference in June, when at least it was the focus of at least four educational sessions.

This issue of *IR Update* includes a commentary on ESG by former Securities and Exchange Commission Chair Elisse Walter (who spoke at the Annual Conference) on page 14 as well as a cover story on page 10 about the rise of environmental shareholder proposals during the past few years. A recent item in the *IR Update* Advocacy Spotlight focused on various efforts – such as the CHOICE Act – that seek to rein in abuses of the shareholder proposal process.

NIRI has increasingly addressed the ESG issue through magazine articles, webinars and educational sessions to foster understanding and dialogue within the IR community. In my short tenure as CEO, ESG is certainly among the top issues that I have heard about from IR practitioners, consultants, investors and other associations that serve the corporate community. It seems certain that ESG will be among the most discussed topics within the IR space for some time to come.

The other three-letter acronym addressed in this issue is the IPO process. Navigating an IPO is often a “baptism by fire” for many IR practitioners. Of course, there are far fewer IPOs than we had “back in the day,” but there are some efforts to correct that change. NIRI is very actively engaged in a coalition to promote IPO formation and associated reforms that should encourage more private companies to go public. This won’t happen overnight (it is Washington, DC after all), but there are promising signs that legislators and regulators understand that IPOs have largely been MIA due to barriers to entry. The long-term health of capital markets requires a healthy IPO market. And a healthy IPO market is a good thing for the IR community. 

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NIRI Hires Three New Staff; Promotes Robin Kite



Aaron Eggers joins NIRI as vice president, sponsor and partner relations. He most recently served as director of partnerships and programs at PitchBook Data, Inc., where he oversaw relations with 85 private capital industry associations and organizations. Before joining PitchBook in 2014, he worked as the West Coast director of business development for Xconomy, Inc. and served as director of communications and programs at the Washington Technology Industry Association. Eggers received his Master's in Public Administration from Drake University in Des Moines, Iowa, and he earned his B.A. in Political Science from Central College in Pella, Iowa.



Shannon Potter joins NIRI as director, education and programs. She brings a varied background in educational programming and relationship management. Potter most recently served as global seminars manager for the Institute of International Finance, a global association providing learning and development solutions for the financial services industry. She holds a Master of Arts from The Ohio State University and a Bachelor of Arts from the University of Northern Colorado.



Bles Dones joins NIRI as manager, membership & marketing. She has extensive experience working with membership organizations. Before joining NIRI, Dones was the membership manager for PRIMA (Public Risk Management Association), an association serving the education and training needs of public sector risk managers. Dones has an MBA with a concentration in Business, Economics and Public Policy and a Bachelor of Business Administration in Accounting and Finance. She attended the George Washington University in Washington, DC.



Robin Kite, who has served on the NIRI staff since 2005, is taking on an expanded role as senior director, chapter and member engagement. She will broaden NIRI's focus on member engagement efforts, which will include more regional and industry-focused gatherings.

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Q4

Lawmakers Seek New Limits on Shareholder Proposals

BY TED ALLEN

Corporate advocates have long complained that SEC rules on shareholder resolutions are too permissive and force many companies to expend shareholder funds to respond to fringe-issue proposals filed year after year by investors with minuscule stakes. For example, the ease of filing ESG-related shareholder resolutions is contributing to the surge in this area, a trend we analyze in the cover article on page 10 of this issue, “Shareholder ESG Proposals on the Rise.”

Under SEC Rule 14a-8, an investor who wishes to file a shareholder proposal needs to continuously hold company stock worth at least \$2,000 for at least one year. The SEC also has modest resubmission requirements for resolutions that deal with substantially the same subject matter as proposals that appeared in the company’s proxy materials within the past five years. Under these rules, proposals may be omitted if past resolutions did not achieve certain voting (3, 6, or 10 percent) thresholds that depend on the number of times a proposal has been previously submitted. Corporate advocates have complained that investors can keep filing the same obscure resolution each year, even if 90 percent of the company’s investors repeatedly vote against the proposal.

In February 2017, U.S. Representative Jeb Hensarling (R-TX) introduced an updated version of the Financial CHOICE Act that included new limits on shareholder proposals. Most notably, the legislation would direct the SEC to require investors to own at least 1 percent of a company’s voting shares, regardless of the company’s size. The Council of Institutional Investors and other shareholder advocates argue that such a standard would be too onerous and would prevent almost all current proponents from filing resolutions. They point out that an investor would have to hold a multi-billion-dollar position to submit a proposal at Apple, Wells Fargo, ExxonMobil, and other mega-cap issuers.

The bill would also increase the required holding period for

shares from one year to three years. In addition, the CHOICE Act would raise the resubmission thresholds as follows: if proposed once in the last five years, the proposal could be excluded if the vote in favor was less than 6 percent; if proposed twice and the vote in favor on the last submission was less than 15 percent; or if proposed three times (or more) and the vote in favor on the last submission was less than 30 percent. (NIRI, the U.S.

Chamber of Commerce, the Society for Corporate Governance have called for raising the resubmission thresholds as a modest reform to help weed out fringe resolutions).

The Financial CHOICE Act would also bar proposals submitted by activists who act as a proxy, representative, or agent on behalf of other shareholders. This is significant because activists John Chevedden, William Steiner, James McRitchie and their families routinely represent other investors. Together, they sponsored one-third of all shareholder resolutions at Fortune

250 companies in 2016, according to the Manhattan Institute’s ProxyMonitor.org website.

The CHOICE Act passed the House Financial Services Committee in May 2017 and was approved by the Republican-controlled House in a party-line vote in June. However, it appears unlikely that the 591-page legislation will advance in the Senate, where Republicans hold a slimmer majority. U.S. Senator Michael Crapo (R-ID), chair of the Senate Banking Committee, has said he will try to advance a narrower bill that can attract bipartisan support. Investor advocates and ESG investors have publicly defended the current shareholder proposal process and urged lawmakers to oppose the stricter limits in the CHOICE Act. [IR](#)



TED ALLEN is vice president of strategic communications at NIRI; tallen@niri.org. For more on this topic, please visit NIRI’s Advocacy Call to Action page at: www.niri.org/advocacy/call-to-action.

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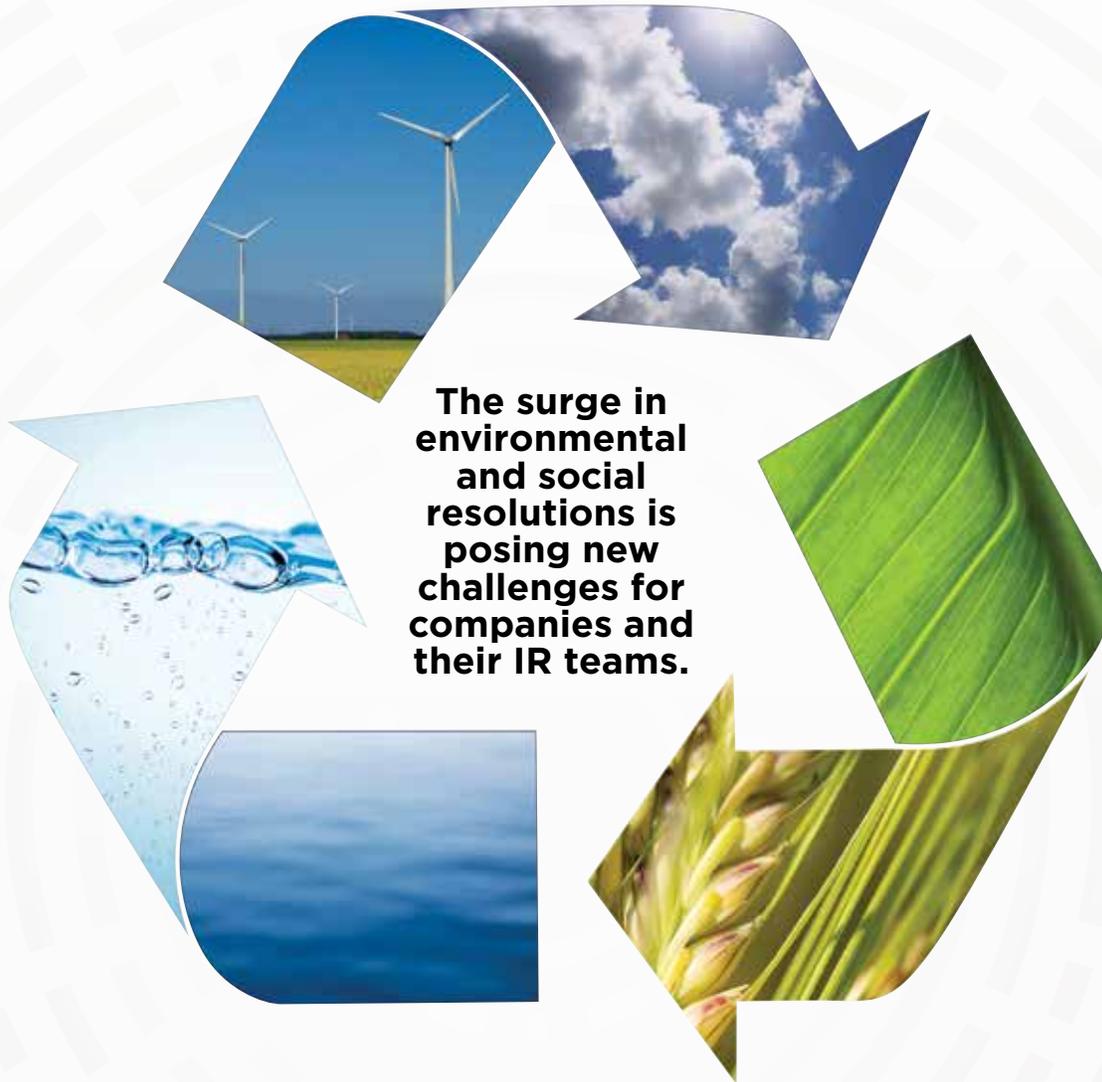
stock trades in a market where fundamentals are often subordinated to robots and computer models. Measuring market behaviors is an essential IR action leading to better decisions about how to spend your time and resources. *You can continue to ignore the passive investment wave, but having no answer when the CEO asks is...awkward.*

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The surge in environmental and social resolutions is posing new challenges for companies and their IR teams.

SHAREHOLDER ESG PROPOSALS ON THE RISE

BY ALEXANDRA WALSH

There's nothing particularly groundbreaking about shareholder proposals. More than 16,000 have been submitted to corporations in the S&P 1500 since 1997.

But a new noteworthy trend is that the majority of shareholder proposals now involve environmental or social concerns. "While the type of entities sponsoring those resolutions –

social investment funds, public pension plans, and religious orders – hasn't changed significantly, environmental and social proposals overall are on the rise," notes Shirley Westcott, a senior vice president at Alliance Advisors, who advises public companies on corporate governance practices. "The highwater mark by my count was in 2014, when 490 environmental and

social resolutions were filed. This year so far, 443 have been submitted, so the number has fallen back a bit but this is still a huge increase compared to 10 years ago.” She says a total of 943 shareholder resolutions have been filed this year.

According to Alliance Advisors’ “2016 Proxy Season Review,” the Paris Climate Summit, which set out a global action plan to limit global warming below 2 degrees Celsius, brought a new impetus to shareholder campaigns on climate change. Social and religious investors and public pension funds filed over a dozen carbon asset risk resolutions urging energy companies to “stress test” their business plans against the Paris accord’s carbon reduction goal or to disclose the risk of stranded assets resulting from lower demand for fossil fuels.

Elizabeth Ising, a partner at Gibson Dunn & Crutcher and co-chair of the firm’s Securities Regulation and Corporate Governance practice group, observes that one reason for the increase in sustainability proposals is that shareholders have been encouraged by their success with governance-related proposals as they see companies implementing governance reforms requested by shareholder proposals.

Greater Engagement

“Activism around governance has been around a long time and shareholder proponents are encouraged by their successes over the last decade with governance shareholder proposals – whether it is high votes, companies implementing changes, or increased engagement on these issues,” Ising suggests. “A growing number of stakeholders concerned about environmental and social issues have seen these successes and are using the SEC shareholder proposal process to advance their specific environmental cause with company shareholders.”

Another trend Ising sees with environmental and social shareholder proposals is that major institutional investors are increasingly supporting them. “Some of the large institutional investors are sending letters reflecting their concerns and seeking dialogue on environmental issues to CEOs and board chairs of S&P 500 companies because they, in turn, are being questioned by their investors about their voting records on these issues,” explains Ising. “And, in turn,

the increased willingness of these investors to vote for these proposals has encouraged proponents, which is why there is an upward trend both in the number of, and level of support for, environmental and social shareholder proposals.”

CamberView Partners, a firm that advises companies on shareholder engagement, points out in a recent white paper, “While major investors such as BlackRock and State Street Global Advisors have historically preferred to wield influence through constructive engagement with their portfolio companies, this year they have made it clear that they will also back up their sustainability policies with their vote if engagement proves ineffective.” (See sidebar, “Climate Change Resolutions Win Broad Support.”)

“There are different factors at play here, including the growing recognition that climate change can be both a risk and opportunity for companies,” notes Allie Rutherford, a partner at CamberView. “One factor driving increased engagement is that almost every large asset manager is now a signatory to the United Nations-supported Principles for Responsible Investment (PRI), which requires investors to incorporate sustainability into their investment practices.”

In the past, sustainability was typically the domain of socially responsible investors, but today almost all large institutional investors are engaging on environmental and social topics, Rutherford says. “Shareholders want to know how a particular company’s board looks at sustainability and what the board deems material. What’s changed this year is that long-term governance-focused investors are backing up their engagement with support for shareholder resolutions calling for greater transparency and disclosure around climate change.”

Rutherford adds that shareholder proposals on sustainability topics are becoming more nuanced and appropriately targeted to specific companies. “Investors today don’t separate sustainability issues from how they evaluate a company’s governance. They are more sophisticated about how they engage on sustainability and the shareholder proposals reflect that.”

As examples, Rutherford points to the inclusion of sustainability metrics in executive compensation as well as ensuring that certain skill sets are on the board to ensure proper oversight.

"What's changed this year is that long-term governance-focused investors are backing up their engagement with support for shareholder resolutions calling for greater transparency and disclosure around climate change."

- Allie Rutherford, partner, CamberView

THE IR PERSPECTIVE

There are different perspectives among IROs on the value of sustainability reporting and the merit of sustainability-related shareholder proposals.

A 2016 NIRI survey report about the views of IR professionals on sustainability noted that in many sectors, only 40-60 percent of IROs think a sustainability strategy is necessary to be competitive, and only 18 percent of IR professionals say their company communicates how sustainability aligns with corporate strategy.

Also, 69 percent of non-U.S.-based IR professionals said that sustainability issues are either permanently or temporarily on their top management's agenda compared with 39 percent of U.S.-based IR respondents.

At the same time, some NIRI members report that they are constantly being asked by investors, especially those from Europe, to be on one index or another that scores sustainability efforts, to respond to sustainability questionnaires, or to adhere to specific standards when compiling sustainability reports. These members express concern that the requests are seemingly "never ending."

Some NIRI members also believe that the priorities of most activists submitting proposals is to attract public attention and to fund their activism, rather than make a return on investment. A few IROs have expressed frustration that their companies have negotiated settlements with ESG proponents only to see them the following year with a new resolution that seeks additional information.

But not all IROs share these views. "We have not been subject to any ESG shareholder proposals, but decided several years ago to begin a data-driven sustainability reporting program using the Global Reporting Initiative standards," explains Theresa Womble, director of IR and assistant treasurer at Compass Minerals International. (See the "IR Ideas @ Work" column authored by Womble on page 22 for more background on this.)

What Activists Say

Andrew Behar is the CEO of As You Sow, a nonprofit organization that promotes environmental and social corporate responsibility through shareholder advocacy, coalition building, and legal strategies, and he contends that one thing shareholders are really good at is risk analysis.

"Shareholders are constantly looking at what risks are being presented to the company, and they're doing it in a friendly way," says Behar. "When we engage a company around an issue, such as climate change, if there is no movement on the board and we think there is risk, we advise the company to write a report and have transparency around the risk. We hope they do the report, see the risk, and mitigate it."

Behar points out that As You Sow has had many successes. "There are many instances where we called a company or sent a letter, and the company responded positively without us having to file a resolution – no resources expended on our part and no embarrassment for the company."

Behar says he's seen a conscious shift by company boards and management and an awareness that they are part of a bigger system. "By being accountable to all stakeholders, the company can be a more successful organization and part of a bigger ecosystem," he says.

"There are good people at all these companies and whether they're in CSR or IR, we find those people because we always need an internal advocate, and they welcome us. They're happy someone from outside is knocking on the door. Companies have a knee-jerk reaction that this is going to cost them money, but actually they usually end up making more money because we are all about efficiencies."

What Does the Future Hold?

According to the Proxy Review published by As You Sow, corporate political activity and climate change remain the key issues for investors to consider in 2017 proxy statements, but resolutions about diversity on the board and in the workplace have surged past previous levels, as have those about pay equity.

Climate change proposals continue to ask about strategic implications and how companies will adapt to physical changes, new regulations, and new technologies. They also address methane leaks from U.S. energy production and encourage more carbon tracking and goal setting, but renewable energy proposals have been cut in half. New climate-related resolutions ask about high-carbon asset divestment and carbon finance risks. Other environmental issues include antibiotic resistance

CLIMATE CHANGE RESOLUTIONS WIN BROAD SUPPORT

In a significant development, climate change proposals won majority support at three major energy companies during the spring 2017 U.S. proxy season.

The proposals asked each of the companies — Occidental Petroleum, the Pennsylvania utility corporation PPL and Exxon Mobil — to issue a report providing a 2-degree scenario analysis, a term that refers to the goal of the Paris Climate Accord of limiting global temperature increases to 2 degrees Celsius (3.6 degrees Fahrenheit). The report would assess the impact on the company's asset portfolio of long-term climate change.

At Occidental, the shareholder proposal was approved by a two-thirds vote, PPL reported a 57 percent vote in favor, and the proposal at Exxon Mobil received 62 percent support. The proposal to Occidental was submitted by CalPERS along with a coalition of other large asset owners, while the proposals to PPL and Exxon Mobil were submitted by the New York State Common Retirement Fund.

According to *The Washington Post*, "The shareholder rebellion at the Exxon Mobil annual meeting

was led by major financial advisory firms and fund managers who traditionally have played passive roles. Although the identity of voters wasn't disclosed, a source familiar with the vote said that major financial advisory firm BlackRock had cast its shares in opposition to Exxon management and that Vanguard and State Street had likely done the same. All three financial giants have been openly considering casting their votes against management on this key proxy resolution."

Ceres issued the following statement on the vote. "The vote at Exxon, coupled with recent majority votes at Occidental Petroleum and PPL Corporation, represent a historic shift in investor support for climate risk disclosure. As recently as 2015 these resolutions averaged 23 percent support. Now the very largest investors in the world are challenging the companies representing some of their biggest holdings on this issue."

In light of these vote results, energy companies are likely to see similar proposals in the future, assuming of course, that the Financial CHOICE Act's limits on resolutions never become law.

in the meat supply chain, the reduction of food waste, and the use of nanomaterials in infant formula.

In light of the Trump administration's recent decision to withdraw the United States from the Paris Climate Agreement, Mindy Lubber, CEO and president of Ceres, a nonprofit sustainability advocacy organization, said in a statement, "In the face of the Trump administration's failure to lead on climate change at the national level, the business community will not back down. Investors and companies will redouble efforts to support and invest in solutions that will accelerate the transition to a sustainable, low-carbon economy."

Westcott adds that if Congress approves far more rigid ownership requirements to submit shareholder proposals (see the Spotlight on Advocacy article, "Lawmakers Seek New Limits on Shareholder Proposals" on page 8), individual filers, social investment funds, and union pension plans, which typically don't own large positions, will be unable to file proposals at all. "In a deregulatory environment where President Trump is pull-

ing back from environmental regulations and accords, activists will be drawn to more engagement with issuers," Westcott says.

Confirming this perspective, Behar says, "With a new administration bent on cutting government regulation and rolling back key legislation, shareholder proponents remain committed to protecting hard-won gains that form the underlying bedrock of the relationship between corporations and the shareholders that own them.

"Advocates won't go away, there will just be more lawsuits because there will be no avenue for conversation, and this will be time-consuming and onerous for companies to deal with.

"The system we have now has worked well for many years — 90 percent of companies have never had a resolution filed with them. Having this engagement is great for the company as it allows them to hear from their shareholders, and why wouldn't they want that?" 

ALEXANDRA WALSH is a senior publishing consultant with Association Vision, the company that produces *IR Update*.

WITNESSING AN EVOLUTION: INVESTORS DRIVING DEMAND FOR **SUSTAINABILITY DISCLOSURE**



A former SEC chair urges IR professionals to help their companies provide better sustainability disclosure to investors.

BY ELISSE WALTER

During the more than two decades of my career at the U.S. Securities and Exchange Commission (SEC) – as a staffer, commissioner, and chair – I spent each day focused on one question: how do we help investors?

During that time, I witnessed a profound transformation in the information investors need to make decisions in today’s world. These changing information needs reflect a changing globe: sustainability issues such as climate change, resource constraints, and data security are increasingly affecting the way companies operate. As such, mainstream investors want to know how companies are performing on material sustainability risks and opportunities.

This was not the case when I started at the SEC in 1977. Several years prior, in 1971, the National Resources Defense Council (NRDC) brought a rulemaking petition to the SEC

seeking to expand civil rights and environmental disclosure under the securities laws.

At that time, the SEC rejected calls for increased requirements for such disclosures largely due to a lack of sufficient investor interest: the percentage of holdings of “ethical investors” was estimated at “two thirds of one percent” of all U.S. stock and bonds.

When examined in the light of proxy voting, the SEC found that proposals around social issues received a paltry average of 2-3 percent of affirmative votes. So the Commission determined these disclosures were of interest to only “an insignificant percentage” of investors. Moreover, while the SEC acknowledged its broad powers under the Exchange Act, it concluded that it didn’t have the authority to require disclosure of information that was primarily valuable in a social context.

That last part remains true today: securities laws exist to serve investors, not serve a social purpose. But what has changed is that sustainability factors increasingly impact the financial condition and operating performance of companies. As such, these factors have a heightened potential to be material to investment decisions. Mainstream investors want to incorporate sustainability factors into their investment decisions. This is no longer a niche activity.

Dubious? Let me give you a few stats. 89 percent of the world's top 100 asset managers are signatories to the Principles for Responsible Investment (PRI), including BlackRock, Vanguard, SSGA, Fidelity Investments, JP Morgan, and PIMCO. Signatories commit to incorporating environmental, social, and governance (ESG) issues into investment analysis and decision-making processes and seek appropriate ESG disclosure by the entities in which they invest.

As BlackRock CEO Larry Fink, head of the world's largest investment management corporation, observed in his 2016 letter to companies, "Generating sustainable long-term returns for our clients also requires us to factor the ESG challenges companies face today, such as climate or changing labor markets, into our investment analysis and decision-making processes."

The SEC, too, has acknowledged burgeoning investor interest in sustainability disclosure. In April 2016, the SEC issued a concept release on Regulation S-K that invited feedback on a range of issues related to how disclosure must evolve to meet the needs of today's investors, including the topic of sustainability disclosure. Although just 3 percent of the concept release discussed sustainability, 66 percent of the non-form letters discussed sustainability disclosure, and 85 percent of sustainability-related letters called for improved disclosure of sustainability factors in SEC filings. Demand by investors for better sustainability information – because they deem it material to investor decisions – is clear.

Yet, there's a disconnect between investor demand for improved ESG disclosure and corporate response to this demand. In a 2016 PwC survey, 100 percent of corporate respondents expressed confidence in the quality of ESG information they report, but only 29 percent of investors said they are confident in the quality of the ESG information they receive.

Because of the lack of decision-useful information in existing sustainability disclosures, investors resort to other means of getting data and assessing performance. The number of sustainability-related shareholder proposals filed each year continues to rise. In 2016, 67 percent of resolutions filed related to ESG issues, according to Proxy Preview data. And, it's not uncommon for companies to receive hundreds of ESG questionnaires every year, which are costly and time-intensive to respond to.

A Role for IR Professionals

That's where IR professionals come in. More complete corporate disclosure is an opportunity to better communicate your story. And by disclosure, I mean the information investors need to put the numbers into context – not just the "what?" and "how much?" but the "why?" That's where sustainability disclosure – which often deals with forward-looking information – comes in.

The principal section to do this is in the Management's Discussion and Analysis, or MD&A. This section was first introduced in 1968, and the SEC adopted the current framework for MD&A in 1980. For 35-plus years, companies have been using this section of their statutory filings to explain financial statements from management's perspective, to enhance financial disclosure and provide context for its analysis, and to enable investors to better understand whether past performance is indicative of future results.

MD&A, Item 303 of Regulation S-K, already requires that companies describe known trends, events, and uncertainties that are reasonably likely to have material impacts on their financial condition or operating performance in the MD&A section of Form 10-K or 20-F. As such, companies often address sustainability matters in SEC filings.

According to 2016 research by the Sustainability Accounting Standards Board (SASB), 69 percent of companies are already addressing at least three-quarters of SASB disclosure topics for their industry, and 38 percent are already providing disclosure on all SASB disclosure topics.

When companies address these issues in their Form 10-K or 20-F, it is a clear indication that they consider the risk to be material and the information to be relevant to investors. However, more than half of sustainability-related disclosures in SEC filings use boilerplate language, which is inadequate for investment decision-making.

This is where corporate disclosure currently falls short of investor expectations, because boilerplate disclosure isn't effective. All companies – even all companies within a single industry – are not the same. For example, they are not affected in the same way by external trends and uncertainties. SEC regulations set the stage, telling companies what, at a minimum, should be covered, but it's up to the company to make sure the story gets told. That's where MD&A becomes a real opportunity for the company to tell shareholders what's really going on.

In my view, companies should address investors like they are business partners, and the MD&A should reflect that perspective. You wouldn't address a business partner with

boilerplate. Your investors deserve the same respect. They also deserve the whole story.

To tell the whole story, it's important to put yourself in the perspective of the investor; to ask yourself, "What do investors want to know?" Disclosure isn't driven by what the company wants to disclose but by what the investors want to know. That should be front-and-center as you draft and review the MD&A.

Sometimes finding the right details to give investors is hard. Predicting the impact, either positive or negative, of a future event is even more challenging. It requires significant judgment and thoughtful consideration. But it's a task that should be undertaken by the very insiders who have the information to make that call, so that investors have the complete story. The focus should always be on the investors. SASB standards are a resource to help companies give investors the sustainability disclosure that is material to the companies to which they entrust their resources.

Benefits of Better Disclosure

More complete disclosure will have benefits. Full disclosure is a hallmark of good corporate governance, which should help create the positive corporate culture that results in effective processes and procedures necessary to reveal the important information that your investors need to know. You can only succeed at good governance if you succeed at disclosure.

As discussed, today's investors are interested in material sustainability information. Given the lackluster quality of sustainability disclosure currently finding its way into SEC filings, what we have is a failure to communicate. This is a missed opportunity. Studies have shown a correlation between high-quality investor relations, which naturally involves effective communication, and increased market valuation and lowered cost of capital.

So how should companies proceed to respond to increased investor pressure for more effective sustainability disclosure?

Let's be clear: the regulation to provide this information already exists. Regulation S-K, which is focused on delivering full, accurate, and intelligible information to investors, already provides for the disclosure of information on sustainability factors when they are reasonably likely to have material impacts on a company's business.

How to Meet Changing Investor Need

To reiterate, the information needs of investors are changing. Investors, in fact, have been the driving force behind the development of much of our financial reporting infrastructure.

When the Securities Act was passed in 1933, and the Securities Exchange Act in 1934, investor protection was the primary objective and disclosure was the primary tool they used to achieve it.

The reforms of corporate disclosure practices that occurred during the Great Depression – including those that began as voluntary efforts – are analogous to what is happening now with the emergence and evolution of sustainability disclosure. The core principles that guided that reform – such as the importance of transparency, the primacy of investor protection, and the use of materiality as a moderator – are still relevant today.

Just as the needs of investors once precipitated the establishment of the federal securities laws, of GAAP, and of auditing standards, those needs today must fuel our efforts to bring disclosure into the 21st century.

It is somewhat understandable that many companies are choosing to respond to the regulation with boilerplate. Until recently, companies have referred to U.S. Generally Accepted Accounting Principles (GAAP) for the disclosure of material financial information, but have lacked access to standards for the disclosure of material sustainability information.

This has changed: SASB has prepared standards that help public corporations disclose material information to investors in SEC filings in a cost-effective and decision-useful manner. SASB maintains standards for 79 industries, focusing on sustainability factors that are reasonably likely to have financially material impacts. SASB is becoming the market standard for the disclosure of material sustainability information to investors.

During my decades as a regulator, it was my job each day to help the SEC fulfill its mission to help investors. Effective corporate disclosure is critical to maintaining and improving investor confidence in the markets. And investor confidence in the quality of financial disclosures is what makes our markets work. Better disclosure equals better markets.

Investor demand for sustainability information has reached a critical mass. Simply put, sustainability issues are business issues. They can have material impacts on the financial condition or operating performance of a company, or an entire industry. The time has come for companies to respond. IR professionals should view disclosure not as an obligation, but as a chance to better tell your company's story. 

ELISSE WALTER served as a commissioner at the SEC from 2008 to 2013 and was chair from December 2012 through April 2013. She now is a member of the SASB Foundation Board of Directors and spoke during a general session at the NIRI 2017 Annual Conference.

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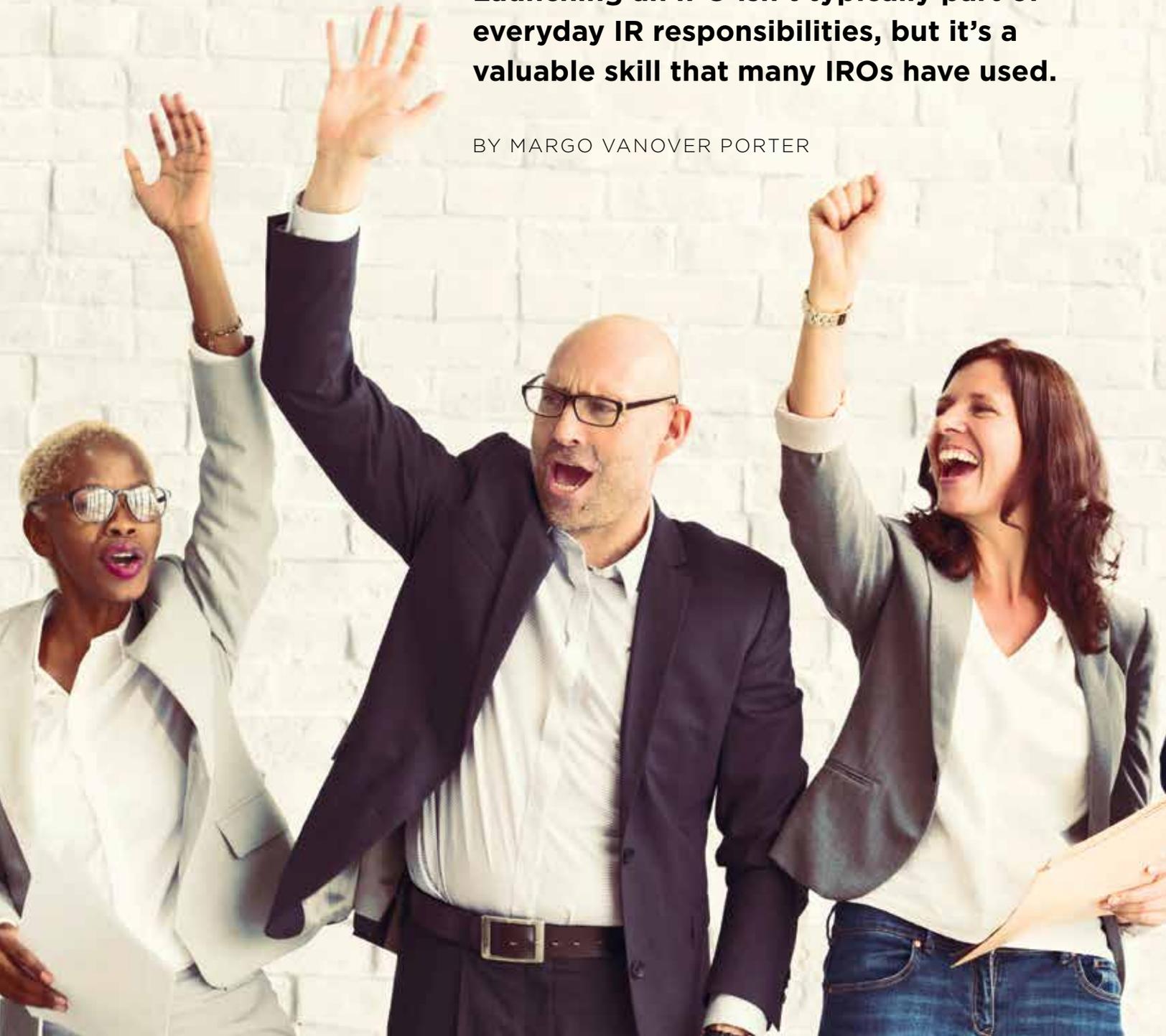
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Telling the **IPO** Story

Launching an IPO isn't typically part of everyday IR responsibilities, but it's a valuable skill that many IROs have used.

BY MARGO VANOVER PORTER



It's not often that IROs are called on to launch IPOs for their companies, since most have been public for years.

But any number of circumstances can arise where IROs need these skills and the perspective of colleagues who have gone through the process. Spinoffs from larger public companies may launch an IPO or IROs may find themselves working for a company preparing to launch an IPO at some point during their career.

IR Update interviewed several IROs and other executives about their IPO experiences and how the communications strategy used often carries over into post-IPO investor relations work.

The Biggest IPO Ever

When it went public March 19, 2008, Visa set records as the largest U.S. IPO in stock market history. "We were very fortunate:

We had a fantastic story, a solid management team, and strategy that will stand the test of time," says Jack Carsky, senior vice president, global investor relations, Visa Inc. "We have slides today in our presentation deck that haven't changed in nine years because our strategy and core business haven't changed."

Carsky joined Visa in August of 2007 and brought on board Victoria Hyde-Dunn as director of investor relations in December of the same year.

"When Vic and I got here, we were in the process of putting together the syndicate," recalls Carsky, who had the advantage of knowing many of the folks on the financial side of the space. "We had our leads but hadn't made firm decisions on listing. Once we chose the NYSE and picked a specialist unit, what it was called back then, we were heavily involved in the teach-ins."

The company sponsored four teach-ins, the first two for syndicate members and the subsequent two for sell-side analysts.

In his opinion, the communication principles for an IPO are no different than those of an everyday IR program. "You have to have a cogent story you can back up," he says. "You do not want management coming off as a used-car salesman. You're defining your credibility at that point in time. Pity the poor company that goes out and tries to sell an IPO with something that it isn't."

Nicole Noutsios, founder of NMN Advisors and president of the NIRI San Francisco chapter, agrees. "It is important that

you have a clear investor story with supporting metrics," she says. "There are times when companies try to be something they're not to get a premium valuation. They try to morph the company's business model into something different than what the long-term metrics and growth drivers can support. Over the long term, that can cause problems. For example, you can get sell-side analysts who, over time, may not fully understand the story."

Her IR firm, which has helped support a number of IPOs, has been hired as early as two-plus years before the event and as late as three months before the company went public. She prefers the former timing.

"It's very important to get an IRO on board well before the IPO," she insists. "The earlier a company hires the IRO, the more influential the IRO can be in shaping the messaging and IR strategy. The IPO is one day; however, the IRO is often part

of the team well past the IPO and will always be thinking long-term. They can ensure the messaging and metrics used will positively impact the company years into the future."

Managing the Communication Process

Although he was brought in a year in advance of Twilio's IPO, Greg Kleiner had his hands full managing the communication process. "You're creating an S-1 from scratch," says the head of investor relations. "You're creating the metrics that will be shown externally. You need to be very careful about what you choose and consider the long-term implications of exposing X, Y, Z, beyond just the short-term implications. You're figuring out how to best describe the business."

In this case, Kleiner's role also involved ensuring the management team received the necessary training to deal with investor questions and accurately tell the story. "My management team had never been the lead executives at a public company before so there was a lot of education. Because you need to understand the roles, the players, and the implications of the statements you may make, we spent a lot of time crafting the overall messaging."

His standard operating procedure is to keep the CEO and CFO front and center with investors for the first year after an IPO to establish a relationship and rapport with investors. "Once you get past that, you can start swapping

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**- Greg Kleiner, head of
investor relations, Twilio**

in other folks to give other perspectives and show the depth of your team,” he says.

“On the conference calls,” he adds, “it’s a different story. It’s pretty much CEO/CFO forever.”

He also ensured that the management team was visible to shareholders before they started the IPO process by attending several conferences. “If you tell investors you will do X and you do it, you build credibility in the minds of shareholders,” he says. “The more you can touch your ultimate buyer when you are a private company, the better.”

Because of the sheer size of the Visa IPO, which Carsky estimates at \$19.6 billion, he and Hyde-Dunn chose to divide the traveling management teams into three groups. “Our roadshow lasted almost five weeks,” he says, although one team, dedicated to major wire houses and retail brokers, only went on the road for about a week. “The two other teams basically allowed us to circumnavigate the globe—in some cases, overlapping so key investors could see both teams. Multiple teams gave us flexibility.”

Hyde-Dunn explains that the gold team included the CEO, global head of corporate strategy, global head of product, and Carsky. The blue team includes the president, chief operating officer, CFO, and herself. Both teams made presentations in New York and London.

“We wanted each team to have a good balance of operating and financial knowledge,” Carsky adds. “One individual on each team was the thought leader on future strategy and where the business was going. We also balanced the teams between historical Visa-ites and new members of management.”

Advice Based on Experience

Once they decide to go public, companies must stay within the regulatory parameters, Carsky advises. “Those dictate what is said ahead of any IPO. Companies have a lot more latitude to talk long before they consider an IPO. When you start to go down that track, you are enjoined from speaking too freely.”

Other advice from IROs with IPO experience includes:

Know when to push back. “If you’ve been involved in this function for a long time, you can kind of keep the investment banks from running roughshod over management,” Carsky says. “It’s well understood that a company needs the investment banks to sell the IPO. The reality is they are fundamentally buying the IPO from you. You have to listen to what they have to say, but when you’re a company of our size you have the high-class problem of being able to push back.”

So he did, becoming insistent about who should have one-on-one meetings and who should be in group meetings. “We were very vocal in our views on where certain outside allocations should go. We were deferential to bankers when we needed to be ...but we tended to put outside allocations where we knew our stock would stick, much to the chagrin of much of the sales force of some of these banks. This process takes a certain amount of aggressiveness, married with diplomacy.”

Establish an internal network. “Legal becomes your best friend from an SEC and Reg FD perspective,” says Hyde-Dunn, a board member for the NIRI San Francisco chapter. “You also need to establish reliable contacts in corporate communication, finance, sales, product, marketing, and strategy. I work with colleagues across the globe when questions arise about the business, financials, competition, or marketplace. You can’t assume your CEO and CFO, especially if they are new to the organization, know all the answers. You have an opportunity to really add value if they can turn to you for the correct answer.”

She adds, however, that you need to own whatever answers you finally decide upon. “It’s great to have investment bankers, outside legal counsel and others advise you on

what you should say or disclose on financials, innovation, and strategy, but at the end of the day it’s your management team that owns the message. So be prepared to own any comments you make before or after the IPO. The last thing you want to do is damage your and your management team’s credibility with the street.”

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- Jack Carsky, senior vice president, global investor relations, Visa Inc.**

WHAT HAPPENS POST IPO?

When the dust settles from the IPO, not a whole lot changes in the IR department, say those in the know.

“Everyone tries to reinvent investor relations, but it doesn’t change,” says Jack Carsky, senior vice president, global investor relations, Visa Inc. “IR involves creating a fundamental, cogent, strategic story delivered by managers who can establish and then nurture a high degree of consistency and clarity with the street.”

Victoria Hyde-Dunn, director, investor relations, Visa Inc. adds, “The day after our IPO, we were back in the office with business functioning as usual. The day-to-day tasks don’t change, but the level of attention to financial reporting and communications is amplified.”

Greg Kleiner, head of investor relations, points out that the IR function at Twilio did begin to broaden after the IPO process. “You have more and

more sell-side analysts covering you as the ownership cycles to public investors,” he says. “You have a much larger and more fluid shareholder base so the scope of what you’re doing expands. You have more people to answer to and more people to update. It gets more complicated as your market cap continues to grow and you have more constituencies to satisfy.”

Nicole Noutsios, the founder of NMN Advisors, adds that management teams who have never been public may face an adjustment because of the amount of time needed to support Wall Street post-IPO. “In addition to the earnings cycle, there is a level of marketing that executives need to support the IR function,” says the founder of NMN Advisors. “I often suggest that pre-IPO companies go through at least one mock earnings cycle to ensure the appropriate expectations are set prior to the first earnings call as a public company.”

Simplify complicated stories. When Noutsios was hired by a very technical, small-cap company, she made sure the sell-side analysts received education on the company and ecosystem, as well as making sure the communications were clear.

“It was an incredibly complicated story,” she says. “Because we invested the time with key stakeholders, after the company went public, there was a really strong understanding of the company story and long-term growth prospects. After spending a lot of time with our research analysts, they were great in communicating the story clearly and simply to investors.”

Kleiner echoes the keep-it-simple motto. “Try to make your story easy to digest. You live the company every day so there are things you don’t think twice about. Our story was a little different, and many investors were not familiar with our revenue model, which is usage based. Our revenue comes in hundreds of times a second across thousands of customers. We bill in increments of a penny or less, in some cases. People pay for what they consume, which is different than other software companies that are seat-based. Our revenue depends on how much a customer uses from moment to moment.”

When speaking to the buy side, he tried to ask himself, “Would this make sense to the average buy sider who may have some passing knowledge?”

Be ready to prove your worth. External hires may lack familiarity with the company and its executives, Carsky points out. “This is your opportunity to learn about the company and to understand the people you are representing so you better find out as much as you can about both. You have to earn your stripes. Sometimes you may have to barge your way into the room.”

Kleiner, who was new to Twilio but an old hand at advising companies about their investor relations activities, found his first few months on the job invigorating. “It was a tremendous opportunity to learn the moving parts of the business in a compressed time cycle,” he says. “You’re creating metrics, writing an S-1, debating language, and working with the lawyers during the leadup to the IPO. It’s exciting.” 

MARGO VANOVER PORTER is a freelance writer in Locust Grove, Virginia.

Strengthen Stakeholder Relationships With Sustainability Reporting

BY THERESA WOMBLE



Several years ago, our company decided to launch a data-driven sustainability reporting program using the Global Reporting Initiative (GRI) standards. We did this to get ahead of the curve of increased investor interest in these topics and because it reflects our corporate values. We use sustainability reporting as an avenue to discuss the sustainable value of our company and to be transparent about the risks related to that value generation.

GRI is an international independent organization that helps businesses, governments and other organizations understand and communicate the impact of business on critical sustainability issues. It launched its first set of guidelines for comprehensive sustainability reporting in 2000. Now in its fourth generation, the GRI standards provide a robust reporting framework and a platform for engaging stakeholders on what matters to them. It further provides a standardization that ensures the way we report is compatible with other companies and provides benchmarking opportunities that can drive better performance. One of the key values of the GRI reporting paradigm is that it adds rigor to the report content and focus. It discourages companies from only selecting only the most positive metrics to include in their report, while still providing flexibility.

An important component of the GRI framework is using stakeholder engagement as a means of determining materiality of key sustainability issues facing a company. The definition of materiality for the GRI is different than we think about

from a financial reporting perspective. In this framework, a material topic is one that has a direct or indirect impact on a company's ability to maintain or build economic, environmental and social value for itself, its stakeholders and broader community. The idea is to communicate and engage directly with your stakeholders on what they view as important for your company relating to a broad scope of sustainability issues.

In developing our sustainability report, we engage multiple stakeholder groups. Beyond receiving valuable insight from our stakeholders on what they view as important, this engagement has opened lines of communications with some of our large passive, index investors who are increasingly focused on sustainability issues. We are a small-cap company and generally not always high on these investors' radar. However, it's beneficial to develop relationships with these passive institutional investors if you need to "make your case" in the face of perceived issues at your company – whether they be sustainability, executive compensation, or governance issues.

The GRI reporting process is very comprehensive and time-consuming but it is worth doing. I do not believe the mere act of producing a sustainability report will drive agitation. Even if you set targets on sustainability metrics and fall short, there's always room to say, "We didn't get to our goal and here's why."

Our company produced its first sustainability report in 2015, and we are now finalizing our second report. Building our sustainability reporting program has personally expanded my horizon within the company by giving me a deeper knowledge of our operations, our risks, and our opportunities. I've also gained leadership experience through the cross-functional collaboration the process requires. I champion these efforts because I do they think provides a long-term benefit to our stakeholders. I believe in this. 

THERESA WOMBLE is director of IR and assistant treasurer at Compass Minerals International, Inc. (NYSE: CMP); womblet@compassminerals.com.

Tuesday, October 3, 2017 to Wednesday, October 4, 2017
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