NIRI 2022 ANNUAL CONFERENCE 4

A CHALLENGING YEAR WITH THE SEC 14

WHAT INVESTORS ARE THINKING 30

THE BOARD ROLE IN CORPORATE PURPOSE 36

IR UPDATE

THE VOICE OF THE INVESTOR RELATIONS PROFESSION **WINTER 2022**

THE EVOLUTION OF CORPORATE PURPOSE

Public companies everywhere are re-examining their corporate purposes as investors scrutinize commitments to ESG priorities and other criteria

NIRI
THE ASSOCIATION FOR INVESTOR RELATIONS

WINTER 2022 | **CONTENTS**

NIRI THE ASSOCIATION FOR INVESTOR RELATIONS

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Founded in 1969, NIRI: The Association for Investor Relations, (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 2,800 members representing more than 1,350 publicly held companies with more than $7 trillion in stock market capitalization. NIRI is dedicated to advancing the practice of investor relations and the professional competency and stature of its members.

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The Pressure for Purpose

Victoria Sivrais
NIRI Chair
Founding Partner
Clermont Partners, LLC

Yesterday, a close friend of mine moved her money out of a fund because she didn't agree with a company's environmental business practices within the portfolio. Yes, she's just one person, but it's one of many such stories I have heard.

This trend not only highlights the dramatic shift happening within institutional investors, but it is categorically the driving force that is transforming a company's corporate purpose from just words on paper to the lifeblood of an organization.

Of course, it was not too long ago when a company's sole purpose was to make money. The mindset was, if you run the business to be profitable, everything else will fall into place. There may have been a mission statement, but in many cases, that statement was nothing more than window dressing.

Times have changed. It's no longer just environmentalists or a fringe set of social groups who want to know that a company has a purpose beyond profit-making; investors want to know, too, and not just because they've had a sudden change of heart. It is because good ESG practices tied to a company's higher purpose are the foundation of sustainable, long-term value creation. Companies simply can't expect to succeed, financially or otherwise, if they don't operate in ways that respect the people and resources that enable them to do so.

One need only take a quick glance at Blackrock Chairman and Chief Executive Officer Larry Fink's latest letter to issuers to realize just how monumental the shift has been. Ten years ago, it would have been unthinkable that the BlackRock CEO would have spent so much as a word of his much-anticipated annual communication discussing human capital management issues, let alone dedicate multiple paragraphs to the topic. But in 2022, there it is, in black and white, and he closes with a call for executives to stay true to their purpose in every endeavor.

A myopic view of financial performance by executive management teams and boards will not only leave money on the table in terms of capital investment, but it is likely to impact every part of your organization, from hiring and retention to supplier and partnership agreements. Enter a corporate purpose—one that extends beyond financial returns and increases the importance of value creation for all stakeholders.

Management teams and boards must shift their focus from straight returns to purpose-driven returns, and they need to do it now. The pressure to have corporate purpose that is legitimate, multidimensional, and adhered to organization-wide is clearly coming from every direction.

Companies that rise to the challenge and view the work of gathering, tracking, and sharing purpose-driven ESG data not as a necessary evil, but rather as an opportunity to better understand and enhance their sustainability, will have the edge. After all, when your purpose is authentic, everything else really will fall into place, and you'll be in the best possible position to meet the needs of stakeholders. IR

NIRI 2022 Annual Conference

Registration is now open for the NIRI 2022 Annual Conference, the world's largest annual gathering of investor relations professionals. This preeminent conference returns in person, June 5-7, and includes dozens of presentations on the most relevant topics in the industry and the IR Showcase with the latest tools and resources to boost your IR program.

The NIRI Annual Conference presents a unique opportunity for reconnecting and networking with peers, sharing best practices, and learning in practical workshops and general sessions led by industry leaders and other experts. It is the "must attend" event for both experienced and early-career professionals.

After two long years as a virtual event, NIRI is thrilled to welcome attendees to Boston for a safe, in-person experience, where they can once again reconnect face-to-face with colleagues, distinguished speakers and business partners.

This is an opportunity to move beyond computer screens and return to the joy of spontaneous learning that only happens when together with others.

Much has changed since the last in-person conference in 2019. Our companies, the ways we do business, and the way we learn have evolved. But what remains is essential: the power of being together, of connecting face-to-face and eye-to-eye.

The NIRI 2022 Annual Conference, the premier professional development and networking event for the IR community, brings together capital markets and IR thought-leaders from every sector. There is nothing else quite like it.

Attend #NIRI2022 in Boston, June 5-7, to make new connections and strengthen existing ones. Join your peers to explore innovative IR practices, tools, and services by registering now at www.niri.org/conference. IR

NIRI 2022 Annual Conference Schedule

The two-year in-person hiatus provided the opportunity to reimagine the NIRI Annual Conference schedule. Responsive to attendee feedback, #NIRI2022 now begins on the afternoon of Sunday, June 5, and concludes on the evening of Tuesday, June 7.

The slightly tighter timeframe means that learning kicks-off on Sunday afternoon, and the event wraps up Tuesday evening with the always-popular Closing Reception. **The full conference schedule is available at: www.niri.org/conference.**

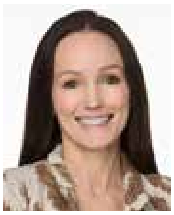
NIRI Annual Conference Committee

NIRI thanks the following members of the NIRI Annual Conference Committee for their ongoing efforts to develop #NIRI2022:

- **Moriah Shilton,** NIRI 2022 Annual Conference Committee Chair, Senior Vice President, Financial Profiles, Inc.
- **Hala Elsherbini,** NIRI 2022 Annual Conference Committee Vice Chair, Senior Managing Director, Three Part Advisors
- **Darrell Heaps**, NIRI 2022 Annual Conference Committee Vice Chair, Founder and CEO, Q4 Inc.
- **Lance Allega,** SVP, Investor Relations & Corporate Development, Under Armour
- **Mary T. Conway**, Principal, Conway Communications
- **Lucia Domville**, Managing Director, Grayling
- **Katherine Durant, IRC**, Senior Director of Investor Relations, CVS Health
- **Jason Fredette, IRC,** VP, IR & Corp. Comm., Axcella Health Inc.
- **Shelly Hubbard, IRC**, VP - Investor Relations, Vista Outdoor Inc.
- **Douglas Kris, IRC,** Senior Director of Investor Relations, Compass Minerals International, Inc.
- **Sneha Madhavaram**, Investor Relations Consultant, Clermont Partners
- **Michael Rosen**, Head of ESG Strategy & Engagement, Chief Executives for Corporate Purpose (CECP)
- **Hannah Seelye**, IR Analyst, Dynatrace
- **Andrew B. Siegel**, Partner, Joele Frank
- **Patrick Tracey**, Past President – NIRI New York Chapter
- **Aaron Uhde, IRC**, COO, Asbury Investor Relations
- **Jean Wood,** Former VP IR, Macerich, recently retired
- **Dawn Wotapka**, SVP, Hill & Knowlton
- **Rachael Zahn**, VP, Marketing & Partnerships, Investis Digital

Victoria Sivrais Begins Term as NIRI Chair; Katie Royce, CFA, Named NIRI Chair-Elect


Sivrais


Royce

Victoria Sivrais, Founding Partner at Clermont Partners, LLC, began her term as NIRI Chair in January 2022. The NIRI Board elected **Katie Royce, CFA**, SVP, North America CFO at Cognizant, as Chair-Elect for 2022.

At Clermont Partners, LLC, one of the only women-led and 100 percent women-owned IR and strategic communications firms in the country, Sivrais provides guidance to clients around critical communication issues, including best-practice financial communication and investor relations programs, crisis preparedness, issues management, management transitions, mergers and acquisitions, and transformational corporate communication strategies.

Prior to establishing Clermont Partners, she was a Managing Director and Deputy Lead of the Capital Markets practice of the FTI Consulting's Strategic Communications segment and held several leadership positions at Ashton Partners, before the firm was sold to FTI.

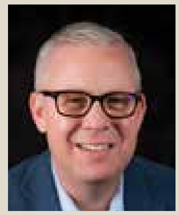
Sivrais serves on the NIRI Chicago chapter Board of Directors and was recently Chair of the chapter. She is a member of the NIRI Senior Roundtable and chaired the NIRI 2018 Annual Conference. She was also named to the PRWeek "40 Under 40" list in 2018.

At Cognizant, Royce is responsible for the strategic financial direction of the business, including managing the pace of investments, leading the forecast and budgeting process, measuring sales efficiency, and providing pricing and commercial support to the business.

Prior to joining Cognizant, she was Director of Investor Relations at Cantor Commercial Real Estate, where she was responsible for private institutional investor relationships as well as corporate bond holders and rating agencies. Previously, Royce was the Investor Relations Manager at Selective Insurance Group, Inc. She began her career on the buy side as an equity research analyst.

Royce earned the Chartered Financial Analyst (CFA) designation and a professional Certificate in Investor Relations from New York University. Katie is a past Chair of the Steering Committee of the NIRI Senior Roundtable and President of the Board of the NIRI New York chapter. IR

NIRI Hires Steve Doran, CAE; Promotes Iman Hannon, CM, and Anita Joshi


Doran


Hannon


Joshi

NIRI named three executives to new positions.

Steve Doran, CAE, joined NIRI as Vice President of Marketing. He will lead NIRI's marketing efforts to increase awareness, engagement and participation in NIRI programs. An accomplished association executive, he has served in marketing leadership roles with NAFA Fleet Management Association, American Society of Nephrology, National Business Officers Association, National Association of College and University Business Officers, and the Food Marketing Institute, among others.

Iman Hannon, CM, was promoted to Chief Credentialing and Governance Officer. She was instrumental in launching the NIRI Investor Relations Charter (IRC)® in 2015 and achieved many important accomplishments in her previous role as Senior Director, Governance, Leadership Services and Certification and Assistant Board Secretary. Her new title further recognizes these responsibilities and her expanding role on the NIRI staff.

Anita Joshi was promoted to Chief Technology Officer. She has been responsible for technology for 14 years and was previously Senior Director, Technology and Infrastructure. Under her leadership, NIRI's technology infrastructure was converted to a fully virtual environment. Her new title also further recognizes these responsibilities and her expanding role on the NIRI staff.

"These three senior-level executives are integral to a growing scope of work and responsibility on the NIRI staff as we continue to expand member services and benefits," said NIRI President and CEO Gary A. LaBranche, FASAE, CAE. "We congratulate them all on their new positions." IR

NIRI Elects Five New Board Members

NIRI members elected five members to serve on the NIRI Board of Directors.

Four regular members (corporate IR practitioners and counselors) were elected to serve four-year terms (2022-2025) on the NIRI Board of Directors. Each began their terms in January 2022.

The four members are profiled below.

Clayton Bilby, IRC, is Head of Investor Relations, Palo Alto Networks. He has been actively involved in investor relations for more than 10 years, including volunteering for various NIRI activities. He has been a member of the San Francisco and Silicon Valley NIRI chapters for over seven years. He was also among the first cohort to earn the Investor Relations Charter (IRC)®. Bilby is also an adjunct professor for the Executive MBA program at California State University at Sonoma.

Alexandra Deignan is Head of Investor Relations and Corporate Sustainability, Lazard, Ltd. She has 25 years of experience in investor relations and strategic finance. Prior to Lazard, she initiated investor relations programs for Curtiss-Wright Corporation and Schnitzer Steel Industries, and covered the energy industry in Salomon Smith Barney's Investment Banking Division.

Kim Pinyopusarerk, IRC, is Manager, Investor Relations, Callon Petroleum Company. Her contributions to the investor relations profession have garnered multiple leadership awards and led to her being named a 40 Under 40 member with NIRI. Kim also earned her Investor Relations Charter (IRC)®. She currently serves on the NIRI Houston Chapter Board.

Robert Williams is Senior Vice President, Investor Relations, Dell Technologies. He is the Past President of the NIRI Austin-San Antonio chapter and is a former member of the Board of Directors of the Austin Children's Museum (now The Thinkery). Williams also served for five years as Co-Chairman of Dell's North American Charitable Giving Council. He is a troop leader in the Boy Scouts of America (BSA) and a member of the Tom Wooten Society of the Capitol Area Council of the BSA.

One NIRI associate member (service provider) was elected to serve a two-year term (2022-2023):

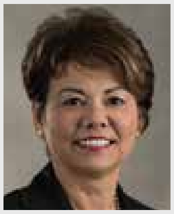
Andy Detwiler is Co-founder, President and CEO, Virtua Research. He previously provided independent institutional equity research consulting from Vandham Securities. Before joining Vandham, Detwiler was President and Director of Detwiler, Mitchell & Co., and President of its broker-dealer subsidiary, Fechtor, Detwiler, Mitchell & Co. At Fechtor, he also served as Managing Director of Capital Markets, Director of Research, and Head of Institutional Sales.

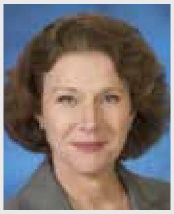
"These newly elected leaders will play an important role in guiding NIRI at a time of significant evolution in the capital markets and change in the regulatory arena," said NIRI President and CEO, Gary A. LaBranche, FASAE, CAE. "Their experience and expertise will be invaluable.

"I also want to thank Ruth Venning, IRC, for serving as Board Chair in 2021, and Melissa Plaisance for completing her Board service this year as Immediate Past Chair. I also thank other members completing their service on the NIRI Board this year: Pat Davidson, Jennifer Driscoll, Jeff Smith, and Tim Quast. NIRI is better for the selfless contribution of their time and talent."

NIRI Announces 2022 Senior Roundtable Steering Committee

SENIOR Roundtable©


Pawlowski


Allen

NIRI announced that **Deborah Pawlowski, IRC**, will serve as the Chair of the 2022 NIRI Senior Roundtable (SRT) Steering Committee, and **Elizabeth Allen, CFA** will serve as Vice Chair.

Pawlowski is Founder and Chairman of Kei Advisors LLC. She has served on the SRT Steering Committee since 2020 and has held a variety of other NIRI volunteer and leadership roles on the NIRI Board of Directors, governance committees of the Investor Relations Charter™ (IRC) credential program, the NIRI Think Tank on the Future of Investor Relations, and as an officer and director for the NIRI Virtual chapter.

Allen is Staff Director, Investor Relations, FedEx Corporation. She has served as President and Chair of the NIRI Chicago chapter and on the NIRI Annual Conference Committee. Allen joined the NIRI Senior Roundtable in 2021.

New SRT Steering Committee members in 2022 include:

- Karen Bergman, Vice President, Investor Relations and Corporate Communications, Bolt Biotherapeutics, Inc.
- Daniel Briggs, Senior Vice President, Investor Relations, Las Vegas Sands Corp.
- Friederike Edelmann, Vice President, Investor Relations, Central Garden & Pet Company
- Elizabeth Higashi, Vice President, Investor Relations & Sustainability, Herc Holdings Inc.
- Mike Houston, Managing Director, Lambert
- Lisa Kampf, CPA, Managing Director, Investor Relations, Ambac
- Christina Kmetko, CPA, IRC, President, Evergreen Consulting & Associates, LLC
- Ruth Venning, IRC, Executive Director, Investor Relations, Horizon Therapeutics.

Current SRT Steering Committee members continuing to serve in 2022 include:

- JT Farley, Managing Director, Investor Relations, Cowen Inc.
- Neal Goldner, Vice President, Investor Relations, Marriott Vacations Worldwide Corp.
- Nicole Russell, Senior Vice President, Investor Relations, Primerica, Inc.
- Brook Wootton, IRC, Vice President, Investor Relations, Primoris Services Corp.
- Patty Yahn-Urlaub, Senior Vice President, Investor Relations, Constellation Brands, Inc.

The NIRI Senior Roundtable Steering Committee defines and develops compelling and engaging experiences for SRT events, facilitates SRT networking, and works to broaden SRT awareness.

The SRT Steering Committee's work culminates each year with the SRT Annual Meeting, which is scheduled to take place November 30-December 2, 2022, at the JW Marriott Camelback Inn, Scottsdale, Arizona.

NIRI also thanks the SRT Steering Committee members who completed their volunteer service in 2021. They include:

- Katie Royce, CFA, SVP, North America CFO at Cognizant Technology Solutions (outgoing SRT Steering Committee Chair)
- Carol Murray-Negron, President, Equanimity, Inc.
- Pamela Styles, Principal & Founder, Next Level Investor Relations LLC
- Edward Vallejo, IRC, Vice President, Investor Relations, Bloom Energy IR

IR Update Launches DeWitt C. Morrill Editorial Excellence Awards

Three NIRI Members Earn Honors

IR Update magazine launched the DeWitt C. Morrill Editorial Excellence Awards, which recognize *IR Update* magazine articles written by NIRI members that address a significant issue in the field of investor relations, are well-researched, and well-written. Gold, Silver, and Bronze awards will be given each year , and winners are selected by the NIRI *IR Update* Editorial Advisory Committee.

The program honors DeWitt C. "Dick" Morrill, who was one of the 22 founding members of NIRI, established in 1969. He was an extraordinary communicator who began his career as a reporter for *The Wall Street Journal* and went on to spend many years as an investor relations professional.

In 1995 he wrote the landmark paper, "The Origins of NIRI," which remains the definitive work chronicling the first 25 years of NIRI. Dick also contributed extensively to a series of articles and a special issue of *IR Update* magazine in 2019 commemorating the 50th anniversary of NIRI. When he passed away in 2021 at age 99, he was praised by NIRI members for his warmth, enthusiasm, quick wit, and vast knowledge of investor relations.

"My sister Marian and I think this awards program is a wonderful way to honor and continue our father's legacy," says Judy Morrill, daughter of Dick Morrill. "He was a great writer and was always concerned that the quality of writing in journalism was on the decline. There is no better way to encourage and promote good, well-researched, engaging writing than with this award."

NIRI congratulates each of the winners and thanks all those who contributed articles to *IR Update* in 2021.

The inaugural winners, honored for articles that appeared in *IR Update* magazine in 2021, include:

Gold Winner

"A Practical Approach to ESG From a Corporate Vantage Point," by Pamela Styles, Principal, Next Level Investor Relations LLC (Winter 2021 Issue)

Silver Winner

"Lessons Learned on the Road to Veeva's Conversion to a Public Benefit Corporation," by Ato Garrett, Senior Director, Investor Relations, Veeva Systems (Spring 2021 Issue)

Bronze Winner

"Responding to New Retail Investing Trends," by John F. Nunziati, IRC, Investor Relations Partner, Q4 (Spring 2021 Issue)

NIRI Switching IRC® Exams to On-Demand and Online

No more testing windows and testing centers

Starting in March 2022, NIRI will offer the Investor Relations Charter (IRC)® examinations exclusively on-demand and online, eliminating the previous system that involved testing windows and traveling to testing centers to take the exam. Live remote proctoring (LRP) for the exams will provide more flexibility and accessibility.

The pandemic has affected test center operations everywhere and impacted the progress of those seeking certification. This new system of online testing resolves this issue and helps NIRI meet the growing demand from the global IR community.

The LRP format enables candidates to take the IRC exam in a private location of their choice that meets the necessary technical and environmental requirements for online testing during a scheduled appointment time.

To ensure the IRC exam security and integrity, exam appointments will be closely monitored by a "live remote proctor," with live audio and video feed. The proctor will ensure compliance with the testing rules of the program.

While aspects of the exam delivery are being updated for online administration, NIRI will use the most efficient platforms and security methods to maintain the exam's rigor, security, and integrity.

The IRC exam content areas and blueprint will not change. Candidates can continue to use existing study materials and resources. However, several elements of the exam delivery will be updated to enhance IRC exam security and support online delivery, including navigation, breaks, and online tools.

These changes — which have been validated by independent psychometricians and testing experts to meet best practices and accreditation guidelines for online testing — will ensure the exam continues to measure candidates' knowledge, skills, and competencies.

Guidelines and detailed instructions about online testing will be announced soon.

NIRI recognizes the most recent class of IRCs who earned their certification in 2021:

- James Arestia, IRC
- Roberta Belstner, IRC
- Sarah Burnett, IRC
- Steven Chehames, IRC
- Suzanne Osberg, IRC
- Adam Strachan, IRC
- Tiffany Willis, IRC
- Yajou Chang, IRC
- Shelly Hubbard, IRC
- Rupp Kipp, IRC
- Stanley Martinez, IRC
- Conor Richardson, IRC
- Tabitha Zane, IRC

This brings the total number of IRC-holders up to 224.

The IRC program remains dedicated to advancing the practice of investor relations and the professional competency and stature of IR professionals. Visit www.niri.org/certfication for more information. IR

NIRI President and CEO Gary LaBranche, FASAE, CAE, announced the NIRI "Best of 2021" in his IR Weekly column on January 11, 2022. The column is offered again here to highlight some of the 2021 NIRI accomplishments.

The beginning of each year is festooned with lists of all kinds. Top 10 movies, bestselling books, biggest stock market gainers, most read *New York Times* articles etc.

With so many lists, we wondered what might make it to NIRI's list of top-viewed online resources. Al Rickard, CAE, Director of Communications, and Matt Brusch, CAE, Chief Operating Officer, assisted by Chief Technology Officer Anita Joshi, dove into the data and discovered what NIRI members were clicking on and opening.

The diversity of the list is a great snapshot of the array of NIRI offerings, most available exclusively to members. There is a tremendous wealth of material available to members, gathered and developed over the years.

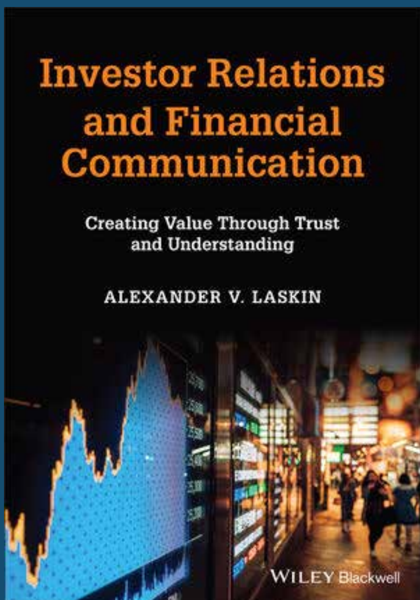
For example, I encourage you to check out the NIRI Resource Libraries, accessible under "Resources" tab on the website homepage. These libraries focus on COVID-19, MiFID II, Sustainability, Sample Documents, Diversity & Inclusion, Regulations, and Corporate Governance, and each contains a mix of IR Update articles, webinars, and other resources. Also, a quick note of thanks to the readers of this column, which counted four listings among the top 15.

But turning our attention to the future, here is a list of some upcoming highlights for 2022: A return to an in-person NIRI Annual Conference June 5-7 in Boston, a Think Tank report on corporate purpose, four informative issues of *IR Update* magazine, 50 issues of *IR Update Weekly*, and so much more. I hope you will put all these on your "to-do" list for 2022! IR

Here now are the 15 most-accessed links of NIRI 2021:

- *IR Update* Magazine
- NIRI IR Competency Suite
- NIRI Standards of Practice for Investor Relations
- *IR Update Weekly* – To Boldly Go
- NIRI IR Profession and Compensation Research
- NIRI - Sample Document Library
- NIRI Certification Overview
- *IR Update Weekly* – Back in the Saddle, Again
- NIRI Career Center
- NIRI Announces 30 Under 40 Outstanding Young IR Professionals
- IR Update Weekly – Lumps for the Holidays
- NIRI Fundamentals of Investor Relations
- NIRI Resources
- NIRI Virtual Financial Workshops
- *IR Update Weekly* – Major Awards

Professor Alexander Laskin Authors Investor Relations Textbook



NIRI member Alexander V. Laskin, Ph.D., Professor at Quinnipiac University, has authored a new book, "Investor Relations and Financial Communications: Creating Value Through Trust and Understanding," published by Wiley.

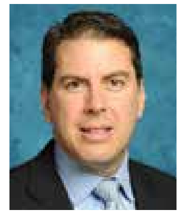
"Aspiring investor relations professionals, IR practitioners and anyone interested in public companies will want this book on their shelves!," says NIRI President and CEO Gary LaBranche, FASAE, CAE. "This insider's explanation of the small but powerful IR profession reveals how shareholder engagement drives long-term corporate value."

Organized in five sections, the book identifies and defines the jobs available in investor relations and financial communication, detailing the responsibilities, titles, salaries, and key players in the industry.

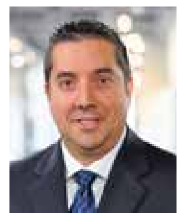
After thoroughly explaining the disclosure of financial and non-financial information, Laskin describes the regulatory environment in which professionals operate and offers expert insight into issues of corporate governance, environmental sustainability, social responsibility, shareholder activism, and crisis management. Subsequent sections highlight the day-to-day activities of investor relations and financial communication professionals and discuss the future of the field.

Laskin is author of more than 70 publications, focused primarily on investor relations, international communications, emerging technologies, and performance evaluation. His research was recognized with awards from the Association for Business Communication and the Institute for Public Relations. He is a Fulbright Specialist, Page Legacy Scholar, Albert Schweitzer Fellow, Plank Center Fellow, and the People's United Center for Innovation and Entrepreneurship Innovation Faculty Fellow. IR

ON THE MOVE



Charles Triano was appointed Chief Financial Officer of Xalud Therapeutics. He brings nearly 35 years of industry experience with deep ties in the global investment community. Triano joins Xalud from Pfizer, where he served as Senior Vice President of Investor Relations. Prior to his time at Pfizer, Triano served as Vice President of Investor Relations for Forest Laboratories. Triano is a former NIRI Board member.



Aly Bonilla, IRC, was named Vice President of Investor Relations for BlackSky Technology. He brings extensive experience in financial planning and analysis and operational finance to the position. Bonilla was previously Vice President of IR at ORBCOMM, which went private last year. He has also held senior IR and finance roles at companies including Office Depot, Trulite Glass & Aluminum Solutions, ADT, and AutoNation.

Jennifer Driscoll, IRC, was appointed Vice President of Investor Relations for ExxonMobil. She will succeed Stephen Littleton, who will retire after 30 years. Driscoll joins from Caterpillar where she served as Director of IR. She has also held senior IR roles at DuPont de Nemours, Campbell Soup Company, and Best Buy.

Lisa Hartman is the new Vice President, Head of Investor Relations at EnerSys. She was previously SVP, Head of Investor Relations at Redwood Trust, Inc. IR

Gary LaBranche Promotes Role of Businesses as Trusted Authorities

NIRI President and CEO Gary LaBranche, FASAE, CAE, was interviewed recently about the role of businesses in society by *Associations Now*, the publication of ASAE, the organization that represents association professionals.

The article noted that trust in many institutions, such as the media and government, are in decline, while business appear to be gaining stature as trusted resources.

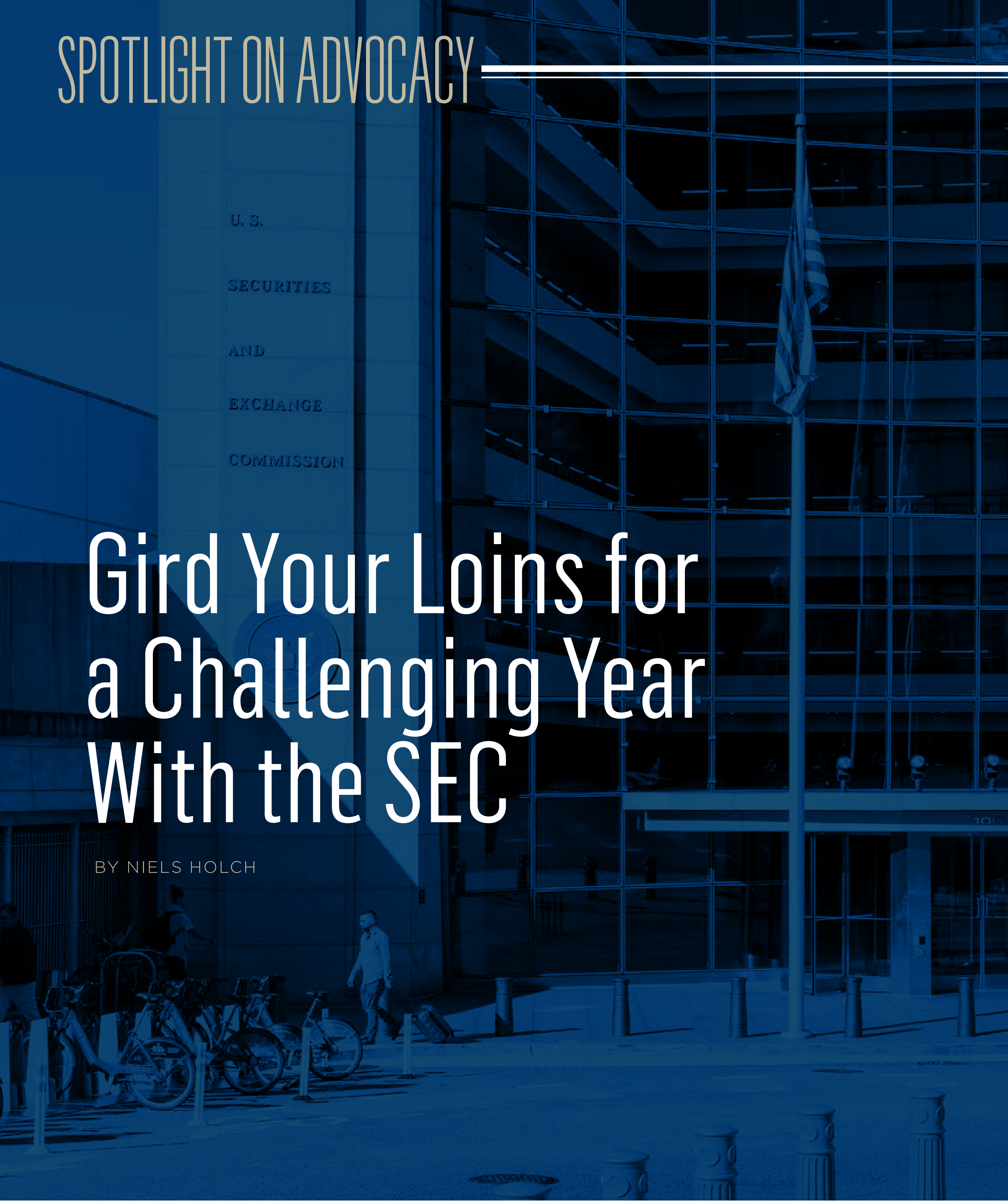
LaBranche noted that businesses emerging as trusted authorities reflects successful leadership.

"There's an old saying: Trust is the residue of promises kept. It's a result of keeping promises," he said.

LaBranche compared the success of many businesses and associations with governmental bodies, which often struggle with gridlock and dysfunction.

"It's easier for people to discount what the government is saying than to have trust in them; they haven't had a record of performance," he said. "Businesses and associations and other nonprofits, for example, have a better record of delivery.

"Because of this vacuum of disappointment in so many institutions, and the fact that business, particularly, is trusted, we're all thinking, 'This has to be the last best hope for getting things done to ensure that we're going to be living better, higher-quality lives and for accessibility and equality for all.'"



Gird Your Loins for a Challenging Year With the SEC

BY NIELS HOLCH

A plethora of proposed rules are emanating from the SEC this year. NIRI is actively confronting those that endanger public company IR interests.

This year is going to be very busy at the Securities and Exchange Commission (SEC). SEC Chair Gary Gensler has a long rulemaking agenda, and many of the proposed rules are not favorable to public company investor relations interests. In fact, it looks like the SEC may eclipse the activities in Congress.

As NIRI President and CEO Gary LaBranche, FASAE, CAE, noted in his *IR Update Weekly* column on January 4, "As 2022 opens, the growing consensus among business association CEOs and lobbyists is that the corporate community can expect a challenging year of battles. A veritable flood of regulatory proposals, legislative initiatives and executive orders are expected, all aimed at everything "big": Big Tech, Big Energy, Big Issuers, Big Everything."

LaBranche's message: "Gird your loins," borrowing this famous phrase that means, "to prepare for the coming battle or situation." The SEC 2022 agenda includes these priorities:

- Rollback of SEC rules on proxy advisors
- Universal proxy ballots
- Mandatory reporting of climate change risks
- More disclosure on board and management diversity
- New disclosures/restrictions on share buybacks and 10b5-1 plans
- New pay versus performance disclosure rules
- New short sale disclosure rules
- Section 13(d) modernization
- Proxy plumbing reforms

In this article we analyze the latest developments and proposed rules for each of these and review how NIRI intends to respond to protect the interests of IR professionals and the companies they represent.

Rollback of SEC Rules on Proxy Advisors

NIRI worked for more than a decade to achieve passage of a new final SEC rule in 2020 that regulated proxy advisor firms. The rule was due to take effect in December 2021, but that was undone in November 2021 by new SEC Chair Gary Gensler, who proposed a new Commission rule that, if approved, would roll it back. Yes, you read that correctly: it was undone before it was allowed to go into effect.

The 2020 rule would have required a proxy firm to provide all issuers a copy of its proxy voting advice, at no charge, no later than the time it is disseminated to the proxy firm's clients. The rules also would have required proxy advisors to provide notice to their clients that an issuer had submitted a response to that proxy advice, with a hyperlink to that company comment letter.

This "review and comment" process would have operated in similar fashion to the procedure that has been used for many years by Institutional Shareholder Services (ISS) — the largest proxy advisory firm — for companies in the S&P 500 Index.

The SEC is also proposing to make it easier for proxy advisory firms to have factual errors in their reports and not be subject to liability, a provision that NIRI strongly opposes. NIRI believes these firms should be held to the same standard as every public company regarding any type of material misstatement of fact.

NIRI is actively opposing this rollback and submitted a comment letter to the SEC in December 2021. NIRI is also working with the U.S. Chamber of Commerce and other business groups that share this opposition.

Universal Proxy Ballots

Also in November, the SEC issued final rules on universal proxy ballots, which NIRI had hoped would not be imposed until there was proxy reform. But now the SEC is moving forward on this without proxy reform occurring. NIRI is disappointed that the Commission failed to evaluate related proxy issues more comprehensively.

The new rules require parties in a contested election to use universal proxy cards that include all director nominees presented for election at a shareholder meeting. The rule changes will give shareholders the ability to vote by proxy for their preferred combination of board candidates, similar to voting in person.

Mandatory Reporting of Climate Change Risks

The SEC has been working on mandatory reporting of climate change risks that would replace guidance it issued in 2010 and is expected to issue a proposed rule in early 2022.

NIRI submitted a comment letter in June 2021 that emphasized how voluntary disclosures by public companies in sustainability reports and other public statements have increased dramatically over the past several years in response to investor interest and marketplace demands. The letter also noted there are positive trends in the use of third-party disclosure frameworks by public companies; these frameworks are in their early stages and should be given time to develop. The NIRI letter further discussed the need to continue to rely on the materiality standard in any proposed rule and expressed concern about legal liability issues for public companies that could arise under a new climate change disclosure regime.

New Disclosures/Restrictions on Share Buybacks and 10b5-1 Plans

The SEC announced proposed rules on share buybacks and on 10b5-1 stock trading plans in December 2021. NIRI plans to comment on the share buybacks rule and will work with other business associations to determine any comments and position on 10b5-1 plans.

New Short Sale Disclosure Rules

When the Dodd-Frank Wall Street Reform and Consumer Protection Act passed in 2010, it included a mandate for the SEC to require monthly short sale disclosure by all 13(f) institutions, which has been a goal of NIRI and other associations for many years.

However, there were so many other mandates with deadlines that the SEC focused on those first. Gensler has said publicly several times in speeches and in testimony that he is going to move forward with a short sale disclosure rule to comply with that mandate.

NIRI is pleased about this development and we look forward to seeing what will be proposed.

Section 13(d) Modernization

On February 10, the SEC released a proposed rule to modernize Section 13(d). This proposal would shorten the 10-day time period to 5 days for all disclosures of equity ownership that exceed 5 percent.

The Commission's proposal would also require disclosures of equity swaps and other derivative securities whose purpose is to change or influence control of a single issuer.

NIRI has been working for many years to modernize Section 13(d) and the Institute will strongly support this rule proposal. Once finalized, this update to 13(d) will be a big win for the IR community!

Section 13(f) Modernization

A 13(f) modernization bill passed House Financial Services Committee in July 2021 and NIRI is working to attract bipartisan support for the bill in Congress. We don't yet have a good sense for the timing of this legislation, but it is expected to pass the House at some point in 2022.

Proxy Plumbing Reforms

The SEC is taking a fresh look proxy plumbing reforms and barriers to issuer-investor communications.

NIRI and other issuer groups seek to modernize the SEC's OBO-NOBO rules, and especially the ability of public companies to obtain lists of shareholders who are non-objecting beneficial owners (NOBOs).

Other concerns raised by NIRI members are the billing practices by certain proxy service providers related to the delivery of proxy materials to beneficial owners. NIRI and the Society for Corporate Governance filed a letter with the SEC in early February requesting that the SEC initiate a new rulemaking to amend the current NYSE proxy fee schedule to ensure that public companies are not responsible for paying administrative charges in excess of reasonable fees to deliver proxy materials to beneficial owners. The Investment Company Institute also filed a letter with the SEC that carried a similar message.

Conclusion

NIRI remains committed to representing and fighting for the interests of NIRI members on all advocacy fronts, especially at the SEC. Fortunately, we have allies to work with across the spectrum of financial industry associations and that will help us protect public company interests and reach our objectives.

Stay tuned to regular updates from NIRI, especially in the *IR Update Weekly* newsletter and on the NIRI Advocacy website.

Niels Holch is Vice President, Public Policy and Advocacy at NIRI; nholch@niri.org.

the rendezvous

NIRI2022

ANNUAL CONFERENCE • BOSTON • JUNE 5-7, 2022

NIRI
THE ASSOCIATION FOR INVESTOR RELATIONS

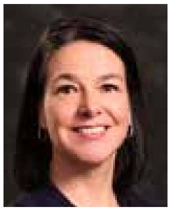
Nicole Russell and Katie Royce Speak About Value of Senior Roundtable

The NIRI Senior Roundtable (SRT) was formed in nearly 30 years ago to address the needs and interest of the senior-level members in NIRI. While constantly evolving over many years, the SRT still maintains an informal, small group atmosphere of leading IR professionals who have been in the profession for 10 years or more.

While the profession has evolved, the number of senior professionals has grown as well. We hope that those of you with 10 years of experience in the IR profession as an IRO and/or IR counselor, visit www.niri.org/srt to learn more about the benefits and application process to join SRT.

To provide more insight into SRT, *IR Update* interviewed two Senior Roundtable members to learn more about the value they derive from participation and some of their professional experiences.

Nicole Russell is a member of the SRT Steering Committee and Katie Royce, CFA, is the Immediate Past Chair of the SRT Steering Committee and is the Chair-Elect of the NIRI Board of Directors.



Nicole Russell
SVP, Investor Relations, Primerica, Inc.
Years in Investor Relations: **More than 20 years and less than 25, but each one spectacular**
Joined NIRI: **1999**
Joined Senior Roundtable: **2011**

Why did you join Senior Roundtable and what have you found most valuable about being a member of the Senior Roundtable? The clear benefit of being a part of the SRT is the ability to network with like-minded peers.

What is the toughest IR challenge you faced in your career? Keeping up with the fast pace of legal and regulatory developments, then helping investors understand and size risks. This can be a frustrating exercise—and balancing act—given the high degree of uncertainty associated with proposed changes, the reticence of general counsels for disclosure, and investors' propensity to think of change as a "The Sky is Falling" event.

If you could have had another career than IR, what would it have been? A teacher. As a kid, I used to watch my baby brother (and a collection of dolls) in our made-up classroom to teach him/them all I had learned that day in school. I strongly believe that this life-long passion to help people learn has been my greatest ally in my IR career. Think about it—isn't the ultimate outcome of our IR efforts to help investors understand the attributes that are unique to our individual companies?

Is there anyone who had a major influence on your career? Why? Without hesitation, Henry "Hank" Herrmann. Dubbed the Piranha of Wall Street, Hank started his career as a tech analyst before technology was invented. Through a career that spans more than 50 years, Hank held numerous positions on the buy side, culminating in his appointment as CEO of an asset management company in 2005. Thanks to his background, I had the best coach to teach me what investors want and need from a premier-level IRO. Hank was demanding, but fair. He was the type of leader who demanded your best, every day; one I never wanted to disappoint. He embodied a culture of excellence, which enabled me to be great at my job. He taught me to be resilient and I learned quickly that if you don't want someone to step on your toes, you better curl them in.

What is something surprising about yourself that no one knows? I went to nursing school and failed miserably. While I earned straight A's on my quizzes, it was the whole patient/empathy thing I could never master. The next year, I enrolled in business school. My degree provided me with the skills needed to sustain a 30-years-and-counting career in corporate finance.

How did you get into investor relations? Shortly after its IPO, the company I worked for decided it would be a good idea to have someone who understood the company's financial statements respond to investors' questions. I was the only accountant in the finance department who liked to talk. One could say that my career was launched because of my gift for gab.

What advice would you give a person starting out in IR? Join NIRI and form a close network of trusted peers.

When the final chapter is written about your life, what is the most memorable thing you've done which you would like to have remembered? Age humbles you and memorable moments fade with time, so I don't know that my contributions are worthy of being memorialized for eternity. What I would say most accurately reflects my stay on earth is the following: Star Pupil at the School of Hard Knocks.

Katie Royce, CFA
SVP & CFO, North America Cognizant
Years in Investor Relations: **11**
Joined NIRI: **2010**
Joined Senior Roundtable: **2017**

Why did you join Senior Roundtable? Senior level programming and networking.

What have you found most valuable about being a member of the Senior Roundtable? Establishing a trusted network of senior IROs has proved invaluable in several professional situations.

What is the toughest IR challenge you faced in your career? Working through an activist investor situation.

What is the funniest thing that happened to you as an IRO? Very early in my career I was on a roadshow when a snowstorm hit and got stuck in Milwaukee. Hotels were sold out and I was traveling with both my CFO and CEO. We found a hotel with two rooms available so they had to share while I got my own room.

What is the best/worst thing to happen in your IR career? My first earnings call as head of investor relations was also the first earnings call under a new CEO who had taken the helm about four weeks earlier. We missed guidance that quarter and the earnings supplement became public prior to market close. The stock traded down over 10% before the earnings call even started and another 10% the following day.

Is there anyone who had a major influence on your career? Why? There are two individuals who have had a major influence on my career. First, someone who many readers may know, Jennifer DiBerardino. She was my first boss when I moved from the buy side into IR. In addition to teaching me the building blocks of a good IR program, she helped me hone skills such as anticipating what a follow-on question would be and the art of understanding how to best answer investor questions. While I only worked for her directly for a little over two years, I carried that with me throughout my career and she continues to be a mentor and now personal friend. The second person is Karen McLoughlin, the former CFO of Cognizant. When I first started thinking about pursuing a career outside of IR, Karen helped guide me through how I might do that and gave me exposure inside and outside of Cognizant that helped prepare me for the position I have today.

Where did you grow up? A very small town outside of Lexington, Kentucky (Carlisle, Kentucky).

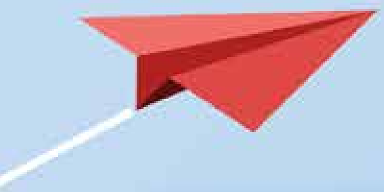
Where did you go to college and what did you study? The University of Richmond, Virginia where I studied international business and marketing.

How did you get into investor relations? After several years on the buy side I realized what I enjoyed most about investing was finding great companies (sometimes different than picking a good stock!) and learning what can separate great from good companies often lies in the management team, strategy and company culture. Making the move to IR leveraged my buy-side experience but also allowed me to become part of what I enjoyed most about business. IR

THE BRT LETTER:

A Watershed Moment for Stakeholder Capitalism?

More than two years after Business Roundtable CEOs famously signed a letter advocating greater corporate responsibility to stakeholders instead of shareholder primacy, experts debate the future of this movement.



BY GINA VEAZEY

In August 2019, CEOs representing nearly 30% of total U.S. market capitalization committed to lead their companies for the benefit of all stakeholders. The Business Roundtable (BRT) CEOs said their revised Statement on the Purpose of a Corporation marked a shift from the long-ascribed principle of shareholder primacy.

"This new statement better reflects the way corporations can and should operate today," said Alex Gorsky, Chairman of the Board and Chief Executive Officer of Johnson & Johnson and Chair of the BRT Corporate Governance Committee. "It affirms the essential role corporations can play in improving our society when CEOs are truly committed to meeting the needs of all stakeholders."

Many in the media and elsewhere hailed the new statement as a watershed moment for society and corporate governance. The *Wall Street Journal* said it was "a major philosophical shift." *The New York Times* called it a statement that "broke with decades of long-held corporate orthodoxy." *Forbes* said it was a "revolutionary moment in business."

Others, like shareholder rights activist Nell Minow, were more skeptical. NIRI Fellow Maureen Wolff, CEO of Sharon Merrill Associates, remembered Minow, who is Vice Chair of ValueEdge Advisors, as an outspoken critic on the heels of the BRT announcement.

Minow observed that the BRT had previously leveraged stakeholder rhetoric when it sought to entrench executives in the 1980s era of hostile takeovers. She wrote, "The CEOs who signed this [BRT] statement knew that accountability to everyone is accountability to no one."

More than two years later, the revised BRT statement continues to inspire debate, including one moderated by Wolff as part of the 2021 NIRI Big I Forum. She was joined by Roberto Tallarita, Associate Director of the program on corporate governance at Harvard Law School, and Bill Savitt, a Partner and the co-chair of the Litigation Department of Wachtell, Lipton, Rosen & Katz. Tallarita and Savitt debated the BRT commitment and responded to questions from online participants.

The More Things Change…

Tallarita, who is also co-author of a paper examining how companies whose CEOs signed on to the 2019 BRT statement responded to it, opened the conversation with a provocative summary of that research. After quoting from major news outlet coverage of the BRT statement in 2019, he said, "Judging from these very emphatic comments, the Business Roundtable statement does seem to be a big deal."

Then he went back in time to quote from a 1997 statement of the BRT:

"It is in the long-term interests of stockholders for a corporation to treat its employees well, to serve its customers well, to encourage its suppliers to continue to supply it, to honor its debts, and to have a reputation for civic responsibility. Thus, to manage the corporation in the long-term interests of the stockholders, management and the board of directors must take into account the interests of the corporation's other stakeholders."

"This is from 1997, not 2019," he noted. "What's going on here? Have we witnessed a revolutionary moment in business, or was it always the same thing?"

Tallarita laid out two possible explanations. In the first scenario, the 2019 statement was, in fact, a big deal with an important distinction from the 1997 statement. In this scenario, he posited, "the 1997 statement meant to say that companies must treat stakeholders well as a means to improve stock value. Stock value continues to be the ultimate goal, while stakeholder welfare is just a means to that end."

Further, he observed that the 2019 statement in this scenario is saying, "Companies have different independent goals, not just the stock price, the value, but also employee welfare, climate change mitigation, the diversity of employees, and so on. This would be a big deal."

In the second scenario, Tallarita observed, "The 2019 statement is, more or less, the same thing as the 1997 statement, and all of this emphasis around this major shift was a very successful marketing move. But we can't really expect much from it. We can't expect that companies will change the way they do business, the way they treat their stakeholders."

An academic, Tallarita and his colleague, Lucian Bebchuk, set out to study which of these two scenarios was correct. "If this were a major philosophical shift, a revolutionary moment, we would expect to find some evidence," recalled Tallarita. He and Bebchuk looked at hundreds of corporate documents from the companies that signed the BRT statements.

"We tried to find some of this evidence, but we didn't. Was this major shift discussed and approved by the boards of directors, as any major corporate decision should? No. It wasn't. Did these companies revise their corporate governance guidelines to acknowledge this major transformation? No. Most of them still have shareholder-centered language in their guidelines. Did the companies announce this major transformation, their proxy statement, to their shareholders? Most companies didn't even mention their signing of the Business Roundtable statement in the annual proxy statement. Did these companies change the way directors are paid, in order to incentivize them to care about stakeholders? No. Directors still get paid in cash and stock."

In the end, Tallarita said the case for scenario one, the watershed story, is not convincing. Instead, the premise that a successful marketing campaign resulted in the 2019 BRT statement being characterized as transformational seems much more credible.

"There are serious concerns about the environment, diversity, employee rights, and human rights in foreign countries with which companies do business. These are very serious problems," said Tallarita. "We cannot expect companies will spontaneously fix these problems just by announcing that they now care about stakeholders. We need serious, careful policy responses, not just marketing."

A Broken System

Savitt, who represents corporations and directors in litigation involving corporate governance disputes and class actions related to allegations of breach of fiduciary duty, among other things, agreed with Tallarita on some points. Although, in Savitt's view, even though the 2019 BRT statement was an "important development," it was "rather more evidence of a rising tide of stakeholder governance, than the cause of it."

"This should be the golden age of shareholder primacy," said Savitt, noting that the law had moved in this direction as had several important trends. For example, he observed that proxy advisory firms often "bang the table for stockholder value" and that changing stock ownership models have given rise to activist investors. He also pointed to "an enormously influential and well-capitalized plaintiffs' bar, which makes it its life's work to superintend, safeguard and promote shareholder interests as opposed to stakeholder interest."

Nonetheless, the results of shareholder primacy have been dubious at best, leaving corporations operating under this paradigm open to being held responsible for vast social problems, including environmental degradation, climate change and social equity. "Even though [corporations] have been enormous generators of financial and commercial growth, they are not seen as doing what they need to do for society, and ultimately that can't hold," said Savitt.

The idea of corporate accountability to stakeholders isn't a new one. Fundamentally, corporations exist to make society a better place. Savitt explained that state corporation laws were written for the benefit of society, not for investors. "The Business Roundtable statement is a recognition that to realign the purpose of a corporation with the social interest requires a more flexible form of director discretion. That is the promise of stakeholder governance," said Savitt.

What does that flexibility look like? According to Savitt, the 2019 BRT statement may have been a step in the right direction. "Will it solve every problem? It sure won't. Is [Tallarita] right that we can't look to corporations to miraculously, overnight, solve every problem? Sure is. But that doesn't say it's not a step in the right direction. That doesn't say that permitting, or requiring, directors to take into account the interests of a broader universe of stakeholders—employees, the environment, society at large—won't make the world an incrementally better place—and potentially a very seriously incrementally better place."

"Opposing stakeholder governance reminds me of the story of King Canute, who commanded the tide to recede," observed Savitt. "This isn't a debate about what the right rule is. Society will decide, and it is deciding that that stakeholder governance is the right rule. Eventually the law will catch up."

Finally, Savitt addressed Tallarita's conclusion about the BRT statement, defending the use of marketing language to put the news in context for readers. "Is there some marketing in the Business Roundtable statement? Maybe there is, but 'marketing' shouldn't be a bad word," said Savitt. "Marketing is a form of communication and leadership. Corporations are communicating effectively, they are leading by taking this position, and they are following by taking this position—leading from the front, leading from behind, bringing investors along. It's going to be a long process, but not only is it a salutary one, from my perspective, it's inevitable."

Shared Aspirations

Having agreed that there are serious problems, some of which corporations have had a hand in creating and may also play a central role in solving, Tallarita's rebuttal turned to operational considerations.

Is it fair to ask CEOs and directors to think about the world around them as context for their decisions? "The aspiration that corporations should think about society as a whole is a shared aspiration," said Tallarita, "but the real question is how we get there. I believe that relying on the discretionary judgment of CEOs and directors is not the right way to do this—and not because they do not share our same aspiration—but because they have another job."

Corporations can be socially useful, stakeholder-facing entities when empowered within narrow limits.

Corporate CEOs and directors have good reason to be shareholder friendly. With their pay tied to stock value, they are heavily incentivized to maximize shareholder value. Also, as Tallarita reminded participants in the Zoom session, "The market of corporate control, the takeover market, is there to remind [corporate directors and CEOs] that if they stop paying attention to profits, they will lose their jobs."

"Giving more discretion to CEOs and directors, given their incentives, will not get us more solutions, more answers for the environment, or other things we care about as a society. That will just give directors and CEOs more power, more discretion, potentially more slack, less accountability to shareholders, and these are all bad things that do not help anyone, neither shareholders nor stakeholders."

Finding Flexibility in the Pandemic

Transitioning to the Q&A portion of the session, Wolff asked how the COVID-19 pandemic may have accelerated a transition giving corporate leaders greater flexibility to make decisions in the interest of all stakeholders. "Obviously, for management teams and boards, their number-one priority was making sure that their employees were safe. And that sometimes meant that they were sending everyone home and manufacturing plants weren't running," she said. "Do you believe that we have moved a little bit further along in the whole idea of looking at the stakeholders as really being the number-one priority versus only the shareholders?"

Indeed, Savitt indicated that the COVID-19 pandemic had been an incubator for corporate governance. Not unlike the experiences of other professions, corporate governance evolved rapidly during the extraordinary circumstances of COVID-19. "Stakeholder governance, in an important sense, was rewarded and succeeded," reported Savitt, "We saw the ability of corporations, from a variety of perspectives, to address a variety of imperatives, respond in many ways that were highly, highly socially desirable, and in ways that wouldn't be achievable on a strict stockholder maximization theory."

Although the results are yet to be fully known, Savitt observed, "Many companies performed splendidly—and some not. The ones that performed splendidly did so with an eye towards a broad universe of concerns and constituencies; the ones that performed less well, the contrary."

The important takeaway here, according to Savitt, is that corporations can be socially useful, stakeholder-facing entities when empowered within narrow limits. "It will not solve every problem, but that doesn't mean that it won't improve matters and get us in the right direction. It will."

Finally, Savitt addressed Tallarita's prior comment about "slack," saying it "rings hollow" given corporate directors are reelected annually. The litigator also noted the serious accountability measures through the process of litigation and stockholder accountability.

The Middle Road

Whether an act of social solidarity or enlightened self-interest, many firms helped their workforce to the extent they could during the COVID-19 pandemic. "There have been millions of jobs lost, too. Many businesses couldn't face the challenge of the pandemic and couldn't keep their employees happy," said Tallarita. "I don't see that as an indictment of this theory. It is just the economic reality."

The imperative, Tallarita says, is to pay attention to what actually happens. "There is the risk that we get distracted by all this stakeholder talk, instead of focusing on what really could help these problems."

Whose Time Horizon Is It?

Wolff, sharing a question from the online audience, asked Tallarita and Savitt to comment on the issue of time horizon, where a shareholder is much more focused on short-term profit and a stakeholder is much more focused on long-term value creation.

Jumping in with perspective on the question, Tallarita said time horizon concepts are often a source of confusion. Sometimes, short-term concerns can come at the expense of long-term value. "Whether under shareholder value maximization or under stakeholder governance, if you sacrifice the long-term sustainability of your business to get some quick bucks in the next quarter, this is a bad business decision anyways."

But, there are situations in which time horizon doesn't change anything. That is, "some things are bad for profit, long term and short term, but could help society in some way," Tallarita said. "If Exxon decided to cut its emissions by 20%, out of concern for climate change, it would be a great thing for society. But shareholders would not be happy—neither long term, nor short term, nor medium term, not any kind of term, because that's an oil and gas company. And yes, it can change its business and start doing renewable energies or other stuff, but it will be a different business at that point. The sad reality is that many times, we must decide whether we want to fix a social problem. And then we need some kind of outside intervention, some kind of regulation, some kind of environmental restrictions, some carbon tax to get us there, not just the spontaneous generosity of corporate leaders."

Freedom to Make Good Decisions

Savitt agreed, a decision taken for short-term benefit that had adverse long-term consequences would be a bad decision. "The 'however' is that many of the structures we have in place to drive decision making on a shareholder primacy basis lead to such bad decisions. And I'm thinking directly on the way many, many executives are compensated, which, although changing, has been very focused on relatively near-term performance. And indeed, the extraordinarily rapid turnover of stock that we now see amongst major investors, that is a new phenomenon, that likewise encourages short-termism."

Continuing to make the case for greater flexibility, Savitt said, "If directors felt free to truly manage for the long term, to truly take into account the sustainability of an enterprise—which isn't just about permanent capital stockholders, it's also about the environment, it's also about the workforce, it's also about the communities in which they operate—you would see much of the tension between stakeholders and stockholders evaporate."

In addition to this, Savitt suggested that this type of messaging could be useful to professionals trying to bring investors along. "What we're talking about here isn't a digression from focusing on building the long-term value of a company, it's a way to do it. I think that in the vast majority of instances will be the case."

Complexity is one important reason CEO and director discretion isn't up to the challenge of tackling big problems like climate change and social injustice.

Freedom From Making Bad Decisions

Savitt's calls to address systemic problems were welcomed enthusiastically by Tallarita, yet there was less agreement about how to move forward. "I agree a lot with the call to do something about all these problems we are concerned about, but I think we can choose," said Tallarita. "Our time, our resources as a society, our financial resources, our energies, our enthusiasm are limited."

Advocating for a more structured approach, Tallarita observed, "The optimists of the BRT statement say we should invest our resources into the discretion of CEOs and directors, and they will take care of these things. I think that we will be better off investing in some careful policy response that leaves managers with greater freedom to do what they think is right. It would be a good thing if they eventually chose to do the right thing, but we don't know what they're going to do. Some will have their own views about how to tackle these issues. Some others will have other views. But all of them will have the powerful incentives coming from their stock options, coming from the market pressure, coming from the way corporations are structured."

Complexity is one important reason why Tallarita said CEO and director discretion isn't up to the challenge of tackling big problems like climate change and social injustice: "Corporations have been an incredible source of wealth and transformation and innovation in our society. It's an important engine for growth and wellbeing. But it has some profound structures, profound mechanisms. It cannot simply be transformed into an engine for climate solutions, or for other social solution overnight just because we give CEOs the freedom to do it. It's much more complicated than that."

The ESG Bandwagon

In a final lightning round question, Wolff gave Savitt and Tallarita each 60 seconds to comment on investors pushing companies to focus on ESG. "This includes the largest shareholders and activist investors jumping on the bandwagon and using ESG as a way of getting other shareholders involved to go after a company, even if that's not ultimately what they really care about," she said. "If the investor is jumping on this as well, they're already saying it's not just me that you should be focusing on; you should be focusing on the stakeholders."

For Savitt, ESG success is a matter of sincerity and leadership. He said, "There's a point of view that the BRT statement is just eyewash, that investors pushing companies in this direction, there's more eyewash, it's all marketing. We'll see. I don't think so. I think people — everyone — CEOs, investors, they get up every day, they work in this field, and they want to make the corporation an engine, not just for growth, but for good. And I think we are seeing a tremendous groundswell of enthusiasm to ensure that corporations invest in a way that is sustainable, fair, and decent. And I think the role is fundamental. If the investor community is sincere, we will succeed here, if they won't, because of the deep structures that Roberto has focused on, ultimately, we may not bring the investors along. Leading them from the front and leading them from behind is the most important thing folks in corporations can do."

On the other hand, Tallarita said Washington, DC is the place to invest for people who want to see their money have a direct effect on policy. "Tariq Fancy, a former Chief Investment Officer at BlackRock, recently said to *The Guardian*, 'if people asked me to address these problems, climate change, economic inequality, what should I do? Should I call my congressperson? Or should I put my money into an ESG ETF in ESG funds?' And he said, 'Well, I will certainly tell this person to call their congressperson, not to put their money in their ESG ETF.' I totally agree with this. If I had to give advice to a friend or family or someone, they want to change things, and we should change things, and I hope we will succeed. And I'm sure we'll figure out something before our children and grandchildren have to deal with the threat of climate change." IR

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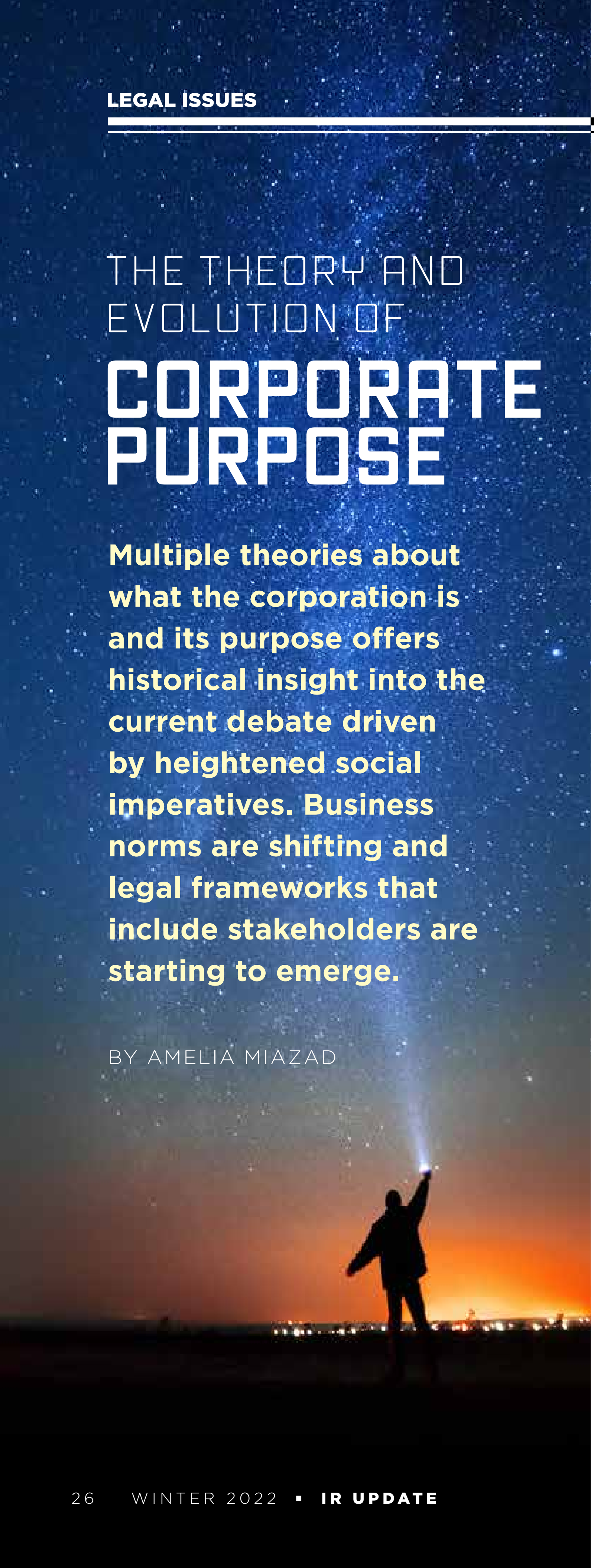

THE THEORY AND EVOLUTION OF CORPORATE PURPOSE

Multiple theories about what the corporation is and its purpose offers historical insight into the current debate driven by heightened social imperatives. Business norms are shifting and legal frameworks that include stakeholders are starting to emerge.

BY AMELIA MIAZAD

Corporate purpose is at a juncture. It seems that everyone today — including employees, community members, non-governmental organizations, regulators, the media, and even the business and investment community — is reevaluating and reimagining corporate purpose. But it is unclear what, exactly, we are debating.

That is because when we ask, ”What is the purpose of the corporation?,” we may be asking different questions for different reasons.

Sometimes we are asking a normative question because we want to understand the ethical obligations of a corporation. Other times we are asking a distributive question because we want to understand who should benefit from the corporation’s activities and pay for its harms.

We may also be asking a legal question because we want to know what the law actually requires of corporations. And many investors and managers are asking a practical question, i.e., ”What strategic value does corporate purpose provide to directors and managers?”

As you can see, the fundamental question, ”What is the purpose of the corporation?,” is challenging to answer because there are many questions and perspectives embedded within it.

Beyond the Shareholder Versus Stakeholder Dichotomy

For the past five decades, the capital markets have been animated by economist Milton Friedman’s perspective on the purpose of the corporation, and he has become the hero and scapegoat for the benefits and harms of shareholder primacy.

Friedman’s theory has often been reduced to the title of his 1970 essay in *The New York Times*, “A Friedman Doctrine: The Social Responsibility of Business is to Increase Its Profits.”

That title reflects a very different sentiment from the statements often delivered by investors and business executives today, which increasingly focus on a broader public interest.

However, even Friedman acknowledged that social norms mattered. Indeed, in that same *New York Times* article, Friedman argued that the responsibility of managers “is to conduct the business in accordance with their [the shareholders’] desires, which generally will be to make as much money as possible while *conforming to the basic rules* of the society, both those embodied in law *and those embodied in ethical custom*.” (emphasis added)

Setting this caveat aside, however, it is fair to say that Friedman was among the strongest advocates for the belief that shareholders are the owners of companies, and managers and executives — as the “agents” of shareholders — have a duty to maximize profits for shareholders. Friedman's articulation of shareholder primacy provided the theoretical justification for the deregulatory policies that were a hallmark of the Reagan administration.

Too often, though, we begin our inquiry into corporate purpose by starting with Friedman's articulation of shareholder primacy, and reduce the debate to an artificial "shareholder" versus "stakeholders" paradigm. Recall that President Biden famously promised in 2020 to put "an end to the era of shareholder capitalism."

While simplicity may be convenient for headlines and soundbites, if we hope to articulate a corporate purpose that will be durable enough to meet the demands upon current and future markets, we must wrestle with the purpose of the corporation and examine its history.

What is The Corporation?

Before we can ask what the purpose of a company is or ought to be, we need to ask the more fundamental question: "What, exactly, is the corporation?" This is sometimes referred to as the theory of the firm or "corporate personality." While there are others, three theories that define what the corporation is have dominated over the past 150 years. We will map out how each evolved, but first, let's start with some basic definitions:

- **Concession theory:** The corporation is created by law. It only exists only as an "artificial person" in the sense that without the law it would not exist.
- **Real entity theory:** Corporations have a separate existence. But that existence does not arise from the law. Rather, the law merely recognizes corporation, which has been formed by market forces.
- **Aggregate theory:** The corporation is an association wholly reducible to its members. In that way, it is similar to a partnership.

Concession Theory

Concession theory argues that it is the state — not shareholders — that gives corporations their power to exist. This view of the corporation is aptly summarized by U.S. Supreme Court Chief Justice Marshall's 1819 opinion in *Trustees of Dartmouth College v Woodward*:

"A corporation is an artificial being, invisible, intangible, and existing only in contemplation of law. Being the mere creature of law, it possesses only those properties which the charter of its creation confers upon it either expressly or as incidental to its very existence."

This understanding of the corporation dates back to at least 16th-century England, when forming a corporation required royal or parliamentary permission. The practice of chartering companies for a specific purpose was adopted in the United States and the purposes of these early companies were enshrined in their corporate charters. Importantly, the specific chartered purpose was legally enforceable. If a company engaged in activities outside of its charter, it could be liable under the ultra vires doctrine. Remarkably, even unanimous shareholder approval could not change the chartered purpose.

During the latter half of the 19th century, states began to allow corporations to adopt broader purposes, which eventually evolved to "any lawful purpose." These generalized charters resemble what we have today. Salesforce is illustrative — while it is widely considered to be a stakeholder-oriented company, its charter states: "[t]he purpose of the Corporation is to engage in any lawful act or activity for which a corporation may be organized under the General Incorporation Law of Delaware."

While concession theory fell out of favor in the early 1900s, it may be making a comeback. One example is U.S. Senator Elizabeth Warren's Accountable Capitalism Act, which would require large corporations to obtain a federal charter. In a 2018 *Wall Street Journal* article advocating for the bill, Senator Warren stated that "corporations exist only because the American people grant them charters" which "confer valuable privileges … such as limited legal liability …" Warren's bill is consistent with concession theory because she argues that companies are created by the government and should be accountable to the public through regulation.

Natural Entity Theory

Natural entity theory rejects the notion that corporations are created by the government and argues that they are formed by private individuals. This invites a very different view of corporate law — after all, if corporations do not rely on the public for their existence, but are a natural product of the private market, then the government ought not regulate corporations.

While Natural Entity originally prioritized the power of private markets, there was a plot twist when E. Merrick Dodd Jr., a Columbia University law professor, argued that natural entity theory provides a theoretical basis for companies to act with more responsibility. Dodd relied on the views of managers of iconic companies, such as Owen D. Young of General Electric, who argued in 1932 that a company should honor "its public obligations and perform its public duties — in a word, vast as it is, that it should be a good citizen."

Many view this as the birth of the corporate citizenship movement, which arguably planted the seeds for corporate social responsibility and even the environmental, social and governance (ESG) movement today.

Dodd also argued that management was not the agent of shareholders, but responsible for the long-term sustainability of the corporation, which had responsibilities to society. While Dodd argued for a public-regarding view of the corporation, these obligations did not arise from the state, as in concession theory, but from the corporate entity itself. Management therefore at least had the authority to conduct acts that were primarily in the public interest, even if they did not directly benefit the shareholders.

Dodd's interpretation of natural entity theory is also reemerging. The 2019 Business Roundtable "Statement on the Purpose of a Corporation" signed by 181 CEOs who committed to lead their companies for the benefit of all stakeholders is just one example. But the movement among CEOs to embrace "stakeholder capitalism" is reminiscent of the statements by public-regarding CEOs who Dodd advocated for.

Aggregate Theory

The natural entity theory eventually gave way to a theory that has dominated since the 1970s — the aggregate theory, which maintains that corporations are a collection of individuals who come together to pursue a specific goal.

While aggregate theory became popular in the 1970s and has reigned ever since, its history dates back to the 1930s. It is rooted in economist Ronald Coase's 1937 article, "The Nature of the Firm," which argued that a corporation is a collection of individuals who come together towards a common goal, and they do so through contract. The corporation therefore is nothing more than an "aggregate" of the conduct and rights of these individuals.

Early versions of the theory regarded the shareholders as the corporate aggregate's main constituents. It analogized the corporation to a partnership. This early version of the aggregate theory, however, did not take off, likely because it was inconsistent with market realities. The market at the time was composed of large corporations that were dominated by management, with diffuse shareholders who viewed themselves more like investors and not active participants in corporate decision-making.

The Berle vs. Dodd Debate

It was against this backdrop of managerial power embodied in the aggregate theory that in 1932, Adolf Berle and Gardiner Means published their seminal book, "The Modern Corporation and Private Property." Their work stated that the "separation of ownership from control produces a condition where the interests of owner and of ultimate manager may, and often do, diverge."

Their work is built on an underlying assumption that managers ought to be serving shareholders, who are the "owners" of the corporation. As we saw earlier, Dodd disagreed and argued that corporations owed duties to the firm itself, which included regard for stakeholders. This seminal debate between Berle and Dodd about the proper purpose of the corporation was published in the *Harvard Law Review* in 1931 and 1932.

Specifically, Berle argued that "all powers granted to a corporation or to the management of a corporation, or to any group within the corporation ... [are] at all times exercisable only for the ratable benefit of all the shareholders as their interest appears." In contrast, Dodd viewed the "the business corporation as an economic institution which has a social service as well as a profit-making function."

Based on this debate, Berle is often credited with being "the grandfather" of shareholder primacy, whereas Dodd is remembered as an advocate for stakeholders. But the distinction is far more nuanced. What is often left out of the story is that Berle believed that shareholders — because they were dispersed — better represented society's interests than CEOs or managers, who had incentives to be self-serving. Whereas Dodd put his faith in corporate managers to act in the best interest of stakeholders and society, Berle believed that accountability to shareholders was the best way to achieve this end, and he advocated for increasing the diversity of shareholders, including adding employees.

Remarkably, however, by 1954 Berle had conceded the debate to Dodd, writing, "Twenty years ago, the writer had a controversy with the late Professor E. Merrick Dodd, of Harvard Law School, the writer holding that corporate powers were powers in trust for shareholders while Professor Dodd argued that these powers were held in trust for the entire community. The argument has been settled (at least for the time being) squarely in favour of Professor Dodd's contention."

The Rise of Shareholder Primacy

An aggregate theory of the firm is implicit in Berle and Means' work because they analyzed the corporation from the perspective of shareholders' rights to private property. But Berle's era was referred to as managerial capitalism, where managers ran companies without much monitoring by boards or investors. His ideas did not evolve into shareholder primacy as we understand it today until it was fueled by the law and the economics of the 1970s.

The historical context helps illuminate why it took several decades for shareholder primacy to take center stage. In Berle's era, which followed the Great Depression, faith in business was low and the government exercised its power to regulate corporate managers. President Roosevelt's New Deal policies which Berle, as a member of his "Brain Trust" advocated for, ensured that managers were constrained by robust regulation, antitrust enforcement, and strong unions.

Concerns about the power of managers to squander shareholder profits began to emerge more forcefully in the 1970s, another inflection point. We have already discussed Friedman, who argued that as agents for shareholders, managers should focus on improving performance of the firm, and spending shareholder wealth on social projects was wasteful and also ran the risk of CEOs spending shareholder profits on causes that matter to them personally.

The Legal Foundation of Corporate Purpose

It often surprises non-legal experts to learn about just how little guidance the law provides on corporate purpose. This may be why corporate law scholars and lawyers have been debating corporate purpose since the inception of the corporation.

For one thing, the U.S. Constitution, unlike the constitutions of many countries, does not mention corporations. And, despite Senator Warren's ambitions to change it, corporate law in the United States remains state-based. While states grant charters, these charters are drafted in general terms and "for any lawful purpose" today.

We must, therefore, look to state law cases, and there too we find more questions than answers. The challenge is that there are very few cases in which there is a clear trade off between shareholders' profits (in the short term or long term) and other stakeholders. The lack of case law is exemplified by the outsized role that the case *Dodge v. Ford*, decided in 1919 by the Michigan Supreme Court, plays in corporate law debates.

In that case, Ford wanted to reduce dividends to minority shareholders, the Dodge brothers, in order to make cars more affordable. There is a cynical reading of the case, of course, that Ford was trying to disadvantage minority shareholders. The Court held in favor of the Dodge Brothers and explained, "a business corporation is organized and carried on primarily for the profit of the stockholders."

An analogous case in Delaware is the 2010 case *eBay v. Craigslist*, where the founders and majority shareholders of Craigslist argued that they wanted to prioritize the community aspects of Craigslist, rather than increasing dividends to eBay, the minority shareholder. The court ruled in favor of eBay, saying, "The corporate form in which Craigslist operates, however, is not an appropriate vehicle for purely philanthropic ends, at least not when there are other stockholders interested in realizing a return on their investment."

However, had the defendants argued that focusing on the community would be in the long-term best interests of the corporation, the case would have come out a different way.

Given the ambiguity regarding whether directors can consider non-shareholder stakeholders in the context of hostile takeovers, many states passed what are called "constituency statutes" in starting in the 1980s and continuing into the 1990s. These statutes clarify that the board "may" consider non-shareholder stakeholders. Delaware and California do not have constituency statutes. However, they haven't been entirely helpful because there is no enforcement mechanism.

Given the lack of clarity inherent in these constituency statutes, states began to develop a new corporate form, "Public Benefit Corporations," in recent years. Approximately 40 states have passed these statutes, and some states, such as California, have two types of new corporate forms. While the details differ by state, a public benefit corporation clarifies that the directors have a fiduciary duty to balance the interests of shareholders, the interests of stakeholders materially affected by the conduct of the corporation, and pursuit of the corporation's public benefit purpose.

The Practical Value of Corporate Purpose

All this discussion leads us to ask the fundamental question, "What is the practical value of corporate purpose?" We asked this question as part of a recent multi-stakeholder project, the Enacting Purpose Initiative, a collaboration between the University of California at Berkeley School of Law and the Oxford Saïd School of Business.

The collective view of a global group of more than 60 investors and board members described corporate purpose as a "Guiding Star" and "guardrails," providing corporate managers with an aspirational goal as well as ethical limits.

This sentiment is reflected in BlackRock CEO Larry Fink's 2022 letter to CEOs: "Your company's purpose is its north star in this tumultuous environment."

Asset managers at other major investment firms, including Vanguard, State Street and Fidelity, are saying very similar things. This view is now pervasive in the investor community. These investors argue that purpose attracts and inspires employees, investors, business partners, and suppliers. It also builds trust among regulators, communities, and non-governmental organizations.

As you communicate with investors, especially large asset managers, you want to communicate that your corporation has a clear purpose that guides your strategy, strengthens risk oversight, and capitalizes on opportunities. IR

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What is the relationship between corporate performance and purpose-driven strategy? Two buy-side executives answer this question from the investor viewpoint.

STAKEHOLDER CAPITALISM: WHAT INVESTORS ARE THINKING

BY ALEXANDRA WALSH


25%
60%
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One of the fastest growing areas today is environmental, social and governance (ESG) investing. It has been driven by individual investors aligning social and environmental values with portfolios, and by the realization that ESG metrics can be a valuable gauge of risk and can drive investment performance.

But do IROs really know who is managing these ESG funds, and what they think of the link between how a company behaves and how it should affect their investor returns? Are their expectations different from a few years ago?

These and other questions were raised by Beth Saunders, a NIRI Fellow and Partner with Clermont Partners in a panel discussion she moderated with Stephanie Dobson, Portfolio Manager at Putnam Investments and Tanya Levy-Odom, a Director on the Investment Stewardship Team at BlackRock, at the NIRI Big I Forum in September 2021.

Shareholder Expectations

"I think our shareholders are looking for financial performance and some assessment of impact, and key to our approach is that these two things are intertwined," says Dobson. "We take a very focused materiality approach to sustainable investing, which means we're looking at the ESG issues that are relevant to the financial success of a given business."

Dobson says while the issues may differ depending on the company and the industry, the key understanding is that the company is focused on and leading a purpose-driven strategy linked to the corporate strategy. "In theory, that approach leads to the potential for greater performance for these companies and for funds that employ that strategy," suggests Dobson. "Our shareholders are also looking for us to report on impact. They want us to prove companies are having a positive impact on the world, and that's a more interesting and trickier task than just printing out financial metrics."

"We believe companies that align their strategies with a clearly articulated purpose are better positioned to navigate through various shocks and disruptions, as long as they are focused on long-term value creation," says Levy-Odom. "Purpose-driven companies that work toward integrating sustainability into their long-term strategies can more effectively balance the needs of various stakeholders. Financial performance and ESG linked to long-term value creation are not mutually exclusive."

Size Isn't Everything

Not all companies, especially small and mid cap, have the resources or ability to capture and verify ESG data, notes Saunders, and asks the panelists if this was a disadvantage for those companies.

"A lot of the most compelling, fast-growing, solutions-oriented companies are in that small and mid cap space. They may not have the best-in-class reporting, but the actual product or service they are providing might be solving some of our biggest sustainability issues," explains Dobson. "We pay attention to the substance and at the end of the day, what the company does, and the substance behind the reporting, is most important."

Dobson adds there is bias in some of the third-party ESG scoring systems and most of the time, large cap companies score much better. She notes, "That's why we have a wonderful quantitative analyst on our team and is very aware who adjusts for that."

Levy-Odom suggests resource-constrained companies can be better served by independently reaching out to their key stakeholders. "They can canvas their key financial investors, customers, vendors and any other relevant constituents to provide honest external feedback around key focus areas from an environmental and social standpoint," says Levy-Odom. "Even if they can't put out 200-page glossy ESG report, they can still convey they conducted a one-to-one assessment with key stakeholders, and these are their findings and areas to tackle over the next three to five years."

Even if it is not verified and assured, Levy-Odom says the company can communicate the work it is doing directly to those key stakeholders and provide updates along the way until it matures to a point where it can expand on that foundation.

Rating the Board

When analyzing a company for investment or compliance stewardship purposes, analysts usually start with the board. It is no different when it comes to ESG.

"It sounds simple, but the first thing I look for is board involvement in these issues," admits Dobson. "When we talk to board members, it becomes pretty clear when there is board involvement in strategy discussions and oversight of these issues. We look for the board to encourage that deep integration between the sustainability or the purpose and the strategy and the business operations of the company."

Dobson says it is not exciting or authentic when a company has a philanthropic or ESG strategy that has nothing to do with its core business. "It is far more interesting, impactful and relevant to the company's success when those elements are linked to what the management team is thinking and talking about, and therefore, what the board is thinking about and talking about."

Levy-Odom points out that governance and oversight of sustainability is one of the key pillars within the TCFD (Taskforce on Climate-Related Financial Disclosures) framework. She says that BlackRock looks for companies to show that their entire board is focused on sustainability, not just one or a few designated directors. In other words, the board should fully understand the companies' approach to sustainability and be engaged in the reporting process.

"We're like, wonderful, but who's handling the reporting? Where does that quarterly report land? Who is really making sure all this information is aggregated and reviewed on an ongoing basis? Who within the management team is engaged in this? What does that internal ESG network look like? How do ideas flow from the bottom up and what does that feedback loop look like, both internally and externally?" says Levy-Odom. "We definitely look for a board with oversight and free flow of information back and forth so the board can evolve, get the best ideas and move forward most expeditiously for that company and for that industry."

Communicating Good Effort

"Is there an external communication opportunity, such as an earnings call or CSR, where ESG data or issues is best communicated?," Saunders asks.

"The communication on these issues should be integrated into the normal financial communication with the "'normal" investor community," Dobson says. "These are material issues and any analyst on any earnings call should care about these sustainability issues that impact the long-term business fundamentals. I recognize, and I'm empathetic towards, a hesitancy to put too much in a 10-K. But I personally would love to see more ESG information, and we are seeing more discussion on these topics in normal investor communications."

Levy-Odom agrees companies should speak on ESG topics more frequently and really integrate them into day-to-day operations. "They can have it on a dedicated tab on the website, as a separate report or a live portal they can refresh as information changes," she explains. "We're open to any and all formats that ensure the information is refreshed as frequently as possible, is widely available and that someone is accessible if we have questions and want to follow up."

C-Suite Buy-In

Saunders asks if CEOs fully bought-in to the importance of ESG to investors.

Dobson says when she asks CEOs what they are most worried and most excited about, it is people issues and strategy—all of which comes under sustainability. She admits, though, it is very hard to measure and report out on those issues, and that is sometimes where the conversation gets tricky.

"We're not asking for you to report every metric on your culture and define and measure it, but you can't pretend that it's not really core to your business," Dobson points out. "Whether oriented to sustainability or not, everyone knows that culture within a company matters for attrition and retention, employees care about it, and increasingly customers want to align the dollars they spend with companies they believe in. It matters for revenue potential, so it impacts the business, and I know that CEOs care about it."

"For those who don't see how ESG integrates in their business, it can help to think about it from an enterprise risk management perspective given all the natural disasters and emergencies that we've had over the last few years and the impacts on supply chains and the future of work," Levy-Odom suggests. "All investors are concerned about long-term viability and what we would reframe as financial resilience of a company over the long term. They want to know how you are assessing these risks—whether supply chain, physical talent or reputational risk—to ensure that this company is going to be resilient over decades. Because that's our time horizon."

A Place at the Table for All

Metrics and measuring for some companies, such as those in the tech sector or companies with global operations they do not own, can be exceedingly difficult, Saunders noted. She asks what these companies could do to move the ball forward specifically on environmental reporting and whether any companies or industries, by the nature of their product or service, were dropped from investment consideration.

"I think we're seeing enhanced carbon emission disclosure from those companies specifically, and they are delving into Scopes 1 and 2 greenhouse gas emissions, and increasingly even Scope 3," Levy-Odom says. "Investors can leverage that information, and that's why we are advocates for greater disclosure across the board."

Levy-Odom adds that disclosure helps all constituencies and every supplier vendor to the degree they provide the information to their primary company or partner. "It can be leveraged across the value chain so that every company in the chain has access to that information."

Dobson acknowledges the data is improving but it is not perfect and both the CDP (formerly the Carbon Disclosure Project) and TCFD are advocating for more information. "I guess what I would say to small cap companies is to rest assured that investors understand which of the three scopes matter, and maybe all three matters," Dobson says. "We don't ignore the fact that for an auto manufacturer, the emissions that really matter in the whole ecosystem of this product is Scope 3, the use of that product, and we think about that. I believe a little patience and a lot of advocacy for relevant disclosure will get us where we need to go."

Dobson clarifies that her company intentionally avoids taking an exclusionary approach to its funds for two reasons. "First, that's not aligned with creating value over time—the inclusionary approach we take with our funds is much more interesting and more aligned with the potential for great performance over time," Dobson says. "And the second point is we need large incumbent companies to come along for the ride, and in a lot of cases, lead the way in some of these areas."

As an example, Dobson points to the energy transition to renewables, acknowledging that large incumbent energy producers and utility companies need to be leading the way. "I think there is a place in portfolios like ours for companies that are actually showing true leadership and really moving the industry along," Dobson explains. "We look for businesses that are incumbents in the space, but are really helping to generate change, and when you take an exclusionary approach, you miss that potential."

Levy-Odom explains, "Our key focus is engagement, so we want to make sure we keep lines of communication open with companies. Whether the topic is energy transition or diversity, we're not going to affect change unless we have those conversations. If we just exclude these companies from the conversation, whether through divestment or by not engaging with them, we won't make progress on the whole."

Carbon Emission Reporting

Carbon reporting generally follows the Greenhouse Gas (GHG) Protocol that divides greenhouse gas emissions into three scopes. Scope 1 and 2 emissions are compulsory to report, scope 3 emissions are voluntary and the most challenging to monitor.

Scope 1—greenhouse gas emissions come directly from a company and its controlled entities.

Scope 2—greenhouse gas emissions come indirectly from the generation of purchased energy from a utility provider. For most companies, electricity consumption is their only source of Scope 2 emissions.

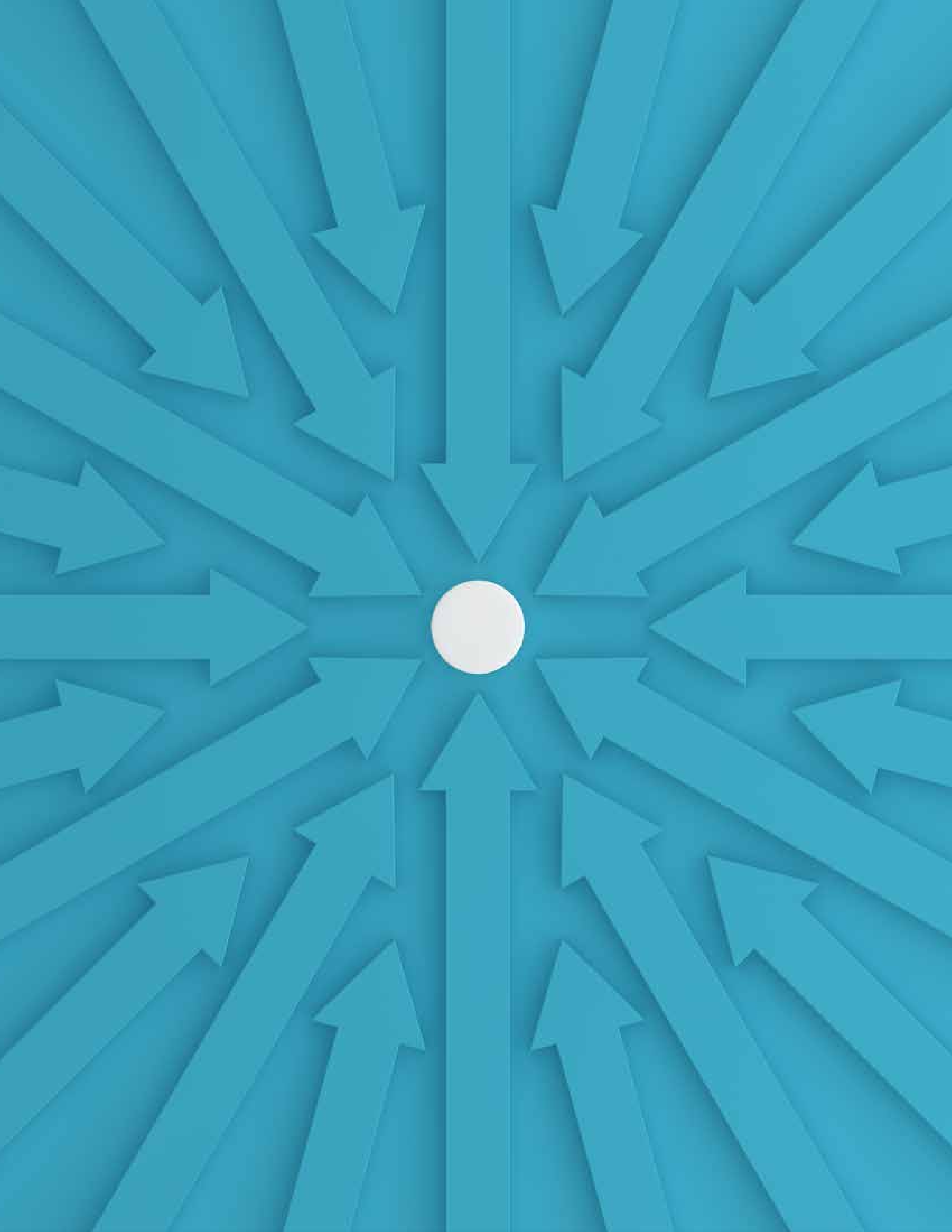
Scope 3—emissions are all indirect emissions, not included in Scope 2, that occur in the value chain of the reporting company, including both upstream and downstream emissions linked to the company's operations.

Investing for the Long Term

Has a tipping point been reached, asked Saunders, when a company can forego a set of near-term results in favor of meeting long-term purpose-driven goals without negative repercussions?

"I think companies should articulate what is that long-term plan, where would we expect to see the inflection point of investments or return and how that correlates to either a long-term climate transition plan or other long-term commitments," Levy-Odom says. "We want to see that progress over time, and we understand there may be some short-term hiccups."

Dobson argues that looking at how many highly valued, pre-revenue companies went public last year, the industry has reached that tipping point and even overshot it. "If investors are not looking at the very long term, I'm not sure what they are looking at," she says. "There is a cohort of long-term investors who really want to see companies make the right long-term strategic decisions. And I think companies want that type of investor aligned with them. There is a lot of appetite for the right long-term business, even if it is at the expense of some short-term results. So, I think we've made it possible." IR



Three experts explore the role of boards of directors in development of the corporate purpose statement and the value it has to investors and other stakeholders.

BY GINA VEAZEY

THE BOARD ROLE IN ESTABLISHING CORPORATE PURPOSE

Growing interest in corporate purpose is raising questions about board-level engagement in developing a written statement. What role should the board play in developing corporate purpose? How do statements of corporate purpose fit into the broader corporate identity system of mission, vision, and values? How does purpose stand apart from ESG initiatives? What is the value to investors and other stakeholders?

To explore answers to these questions, NIRI Fellow Sam Levenson, Founder and Chief Executive of Arbor Advisory Group, hosted a panel of experts at the 2021 NIRI Investor and Issuer Invitational Forum™ ("The Big I").

He was joined by NIRI Fellow Jane Okun Bomba, President of Saddle Ridge Consulting, who drew from her ongoing service on several corporate boards and prior IRO experience. Bob Eccles, Visiting Professor of Management Practice at the University of Oxford, also offered valuable perspective based on his extensive ties to corporations and investors around the world as a researcher and advisor.

They analyzed and addressed frequent points of confusion and disconnects on the path to corporate purpose.

Integrating Purpose and Strategy

The subject of purpose often arises out of board efforts in environmental, social, and governance (ESG), Bomba observed. "I think there's a big difference between corporate purpose and the subject of ESG.

"Corporate purpose is foundational. It answers the question, 'Why do we exist?' I find it's really helpful to flip that question on its head, asking, 'If we knew that our company was going to disappear tomorrow, what difference would it make to the breadth of stakeholders that the company serves?,' and to hone in on purpose that way.

"Purpose needs to be very well integrated with strategy. You need to know what you're trying to do and why you exist to start thinking about whether you have a strategy that's going to allow you to get to that. And then, how do you execute against that strategy?"

Although Eccles agreed, he said too often, companies don't have a written purpose statement. More than two years ago, nearly 200 CEOs representing many of the nation's largest companies signed a revised Business Roundtable (BRT) Statement on the Purpose of a Corporation.

Eccles noted that, among other things, the statement indicated that "each of our individual companies serves its own corporate purpose," yet Eccles said he was aware of only one written purpose statement among all of these companies.

"If you really are authentic about purpose, I don't think it's too much to ask to produce a one- or two-page statement of purpose," Eccles suggested. "Who are the stakeholders? What are the timeframes? How do you think about trade-offs? Make sure it is signed by the board of directors. The exercise will be incredibly revealing, because if you get that kind of consensus in one or two pages, everybody is going to get it and then you're going to have a great platform for discussions with your investors."

"If you're serving a good purpose, you want to make sure you can do it profitably so you can exist for a long time. As we look at strategy and consider why we exist as a company, other stakeholder groups absolutely come into that."

— Jane Okun Bomba, President, Saddle Ridge Consulting

Writing Authentic Purpose Statements

Even when companies do have a written purpose statement, Eccles said, "it is usually so generic that it could apply to any company in that industry: 'We're a bank. Our mission, vision, and purpose is to take care of the financial needs of our customers with financial inclusion and protect data privacy.' Any bank can say that. What is unique about you as a bank? As Jane [Bomba] said, what would be the consequences if you disappeared?"

Investors are clamoring for greater authenticity in purpose statements, Eccles observed. After more than 100 interviews with investors as part of his recent research, Eccles said there is a "disconnect between all of this talk about corporate purpose in the business community and the extent to which it is being perceived as authentic in the investment community."

The problem, he said, often stems from a failure to communicate. Investors say businesses typically don't articulate their purpose well. Moreover, investors say they really want to hear from the people who can articulate the purpose well — the board. That's also a problem since, particularly in North America, it's almost impossible for investors to have a direct conversation with board members.

To solve these problems, Eccles said IR professionals could consider giving investors what they want — direct access to one or more board members without a handler from investor relations, public relations or the general counsel: "It's not about metrics, not about ESG reporting," he said. "What's the link to strategy? What's the link to capital allocation?"

"Of course, as investor relations officers, we all get nervous about investors having direct contact with board members," Levenson acknowledged, yet Bomba, who previously had a long career in IR, indicated it could be workable under some circumstances. Although Bomba questioned whether all her board colleagues would feel comfortable if asked to have a one-on-one conversation with an investor, she said she probably would be given her years of IR experience and familiarity with the cadence of these types of discussions.

"Part of the challenge there is that the board is not involved in the day-to-day operations of the company, nor are they involved in ongoing investor discussions and the record of disclosure created," Bomba said. "In a board-level discussion, strategy, performance, culture, mission, vision, values are all very fair game. Board members should be 100% knowledgeable and on top of those topics. When certain boards weren't paying attention to things like culture, bad things happened. Certainly, the boards I'm on spend a lot of time talking about these things, but it is not a board member's role to be deeply involved in the day-to-day operations of the company. And I think that's potentially where the angst comes in."

Another potential source of angst is the lack of uniform terminology. For example, in Bomba's experience, many companies have their purpose in the mission statement. "I think there aren't clear, well-understood definitions of each of these things, which creates part of the problem," she said.

In the absence of a clearly articulated purpose, however, investors may be left to infer a company's purpose through its actions. "Since most companies don't articulate their purpose very well, revealed purpose is their capital allocation decisions," Eccles said.

For example, many companies faced a terrible choice as COVID-19 shutdowns began to affect workers. "You had a choice. You could lay off people, and you could keep your dividends. Or you could do it the other way. That told us something about how they thought about purpose," he explained.

Engaging All Stakeholders

Beyond the investor community, purpose is essential for stakeholder engagement.

"If you're serving a good purpose, you want to make sure you can do it profitably so you can exist for a long time," Bomba said. "As we look at strategy and consider why we exist as a company, other stakeholder groups absolutely come into that."

Although ESG initiatives have brought the community at large into the conversation, Bomba observed that, "at least in the last decade, there has been almost a maniacal focus on customers and on employees."

In her experience, it's for good reason, particularly with young people. "They do want a clear articulation of not only what the purpose of that company is, what good it does, why it exists, but also their role in it, Bomba explained. "They need that clear line of sight, for whatever it is we're hiring them for, to the ultimate impact that that company is going to have, and they switch organizations very quickly if they can't see that."

Again, Eccles agreed, sharing a personal anecdote: "Purpose is corporate meaning. People want meaning in their lives. I have four millennial children. One of them, a data engineer, was working for a software company that does 'marketing stuff,' and asked, 'Like, why am I doing this, right?' He's a hipster, living in Brooklyn; he's a vegan. He's working for a company now that does urban farming. He's doing the same kind of work, but he finds it is much more meaningful to be doing it in this particular kind of company than another."

In addition to this human capital issue, Eccles shared an early warning about another system-level vulnerability that he says is beginning to come up in the investment community — the issue of pay equity. "Just like climate is an issue for everybody, regardless of your industry, because it's creating system-level effects that the big investors care about," he said. "The other thing you hear about is income inequality."

Investors are raising the issue due to its role in the breakdown of social structures and the risks that poses to corporations. "If you look at how wealth has been created, and you look at what's happened in America with the minimum wage, and you look at the top 1%, you look at how people are paying taxes, and corporations paying taxes, or not being taxed as is often the case, this is creating political polarization," Eccles explained. "We see it dramatically in America. It is contributing to the breakdown in the multilateral world order."

Although he said income inequality is not yet on the radar for every industry, Eccles advised investor relations officers to be prepared to field questions about a living wage policy. "You don't have to have a living wage policy, and you may have good reasons why you don't. But — mark my words — three, four or five years from now, that's something every company is going to have to be able to speak about. This is a real systemic issue. I think it is going to come back to companies at some point. We might get closer to it just because of the war on talent right now."

A Call to Action

In closing remarks, Bomba emphasized the importance and value the board brings to the development of a corporate purpose statement.

"A statement of purpose — and having one that is well thought out and agreed to by the board and by the management team — really means that that group of leaders of a company has clarity around why the organization exists, which then helps do all the things that we've been talking about." This includes clarity about the long-term strategy, how success is defined, and the long-term sustainability of the company.

Levenson added, "It has to be simple and strong enough that anybody in the enterprise can understand. And then you can write the mission and the vision and the values to lay out how we achieve that purpose. If you have a purpose that you're not properly pursuing, that might not be sustainable."

For Eccles, the case for a board-approved corporate purpose statement is clear. He wants to see more investor relations professionals take up the charge.

"Do whatever you need to do to get this process started in your company, and push and don't give up. You've got a responsibility as a citizen as an employee of this company," urged Eccles. "I'm hoping that by the time we get to the 2022 reporting season, I've got more examples of companies [with a written purpose statement]. I'm quite serious about this. If 20% of the people listening to this session were successful in getting their companies to boost the statement of purpose — and NIRI can share best practices — I think that would be a great outcome." IR

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Stakeholder Capitalism in Practice

BY JANE STORERO

Asana demonstrates what tangible stakeholder capitalism can look like.

The pandemic has increased the focus on environmental, social and governance (ESG) factors and changing economic conditions around the world, including labor shortages, supply chain issues and increasing inflation.

The theory of stakeholder capitalism has resurfaced as a method to address many of these issues confronting companies today.

Stakeholder focus is a predominant theme in BlackRock Chairman and Chief Executive Officer Larry Fink's 2022 letter to CEOs where he states, "a company must create value for and be valued by its full range of stakeholders in order to deliver long-term value for its shareholders. It is through effective stakeholder capitalism that capital is efficiently allocated, companies achieve durable profitability, and value is created and sustained over the long-term."

A company that embraces the concept of stakeholder capitalism is focused on benefiting stakeholders, and not only the interests of shareholders, to enhance long-term business success.

Building a sustainable business over the long-term by serving the interests of all stakeholders, is what separates long-term companies from the rest of the pack.

A January 2022 report by FCLTGlobal and the ESG Analytics Lab at The Wharton School, University of Pennsylvania, explains that their data indicates that "long-term-oriented companies outperform in terms of revenue, earnings, and job creation."

Taking a long-term multi-stakeholder approach in the short-term focused world requires a strategy that includes the following:

- Formulating a mission focused on creating long-term value for shareholders by focusing on all stakeholders.
- Identifying the stakeholders on which the company's success depends.
- Creating guiding principles designed to ensure the needs of all stakeholders are addressed.
- Revision of long-term strategy, compensation structure and governance practices to drive the mission.

For public companies and their IROs that engage with investors on this issue, it is important to appreciate what the long-term, stakeholder focus entails.

Building a company that serves all stakeholders is a challenging job but some companies are able to get it right. One such company that recently listed on the LTSE is Asana, Inc. Asana's mission statement articulates its goal to "help humanity thrive by enabling the world's teams to work together effortlessly."

As a mission-driven software-as-a-service (SaaS) company, Asana identifies its key stakeholders as customers, employees, partners, communities, the environment, and humanity. Co-founded by Dustin Moskovitz and Justin Rosenstein, Asana's flagship work management platform enables customers to

orchestrate their work through effectively managing goals, portfolios, projects, tasks, teams and workflows collaboratively – enhancing clarity and productivity.

To advance its mission, Asana provides transparency around its identified ESG factors. Asana will be publishing an annual ESG report for investors and other stakeholders that explains Asana's strategic ESG objectives, progress to date, and plans for the future.

Asana went public in September 2020 through a direct listing and is currently listed on NYSE and the LTSE. Asana's market capitalization grew to approximately $11.0 billion since the direct listing. As of December 31, 2021, Asana's stock was trading over 170% from the opening of trading in 2020, making it one of the best performing software stocks of 2021.

"At Asana, we believe our success to date is due in part to our vision and commitment to our long term mission," says Catherine Buan, Asana Head of Investor Relations. "We strive to ensure that employees, customers, partners, and investors – all of our stakeholders – feel like they are a part of our shared vision and clear sense of purpose."

Asana has built a culture of "belonging" based on its commitment to fostering a diverse and inclusive workplace. Asana's commitment to building a team that is diverse in identity, background, and perspective is supported by all Asanas. Asana performs pay equity studies regularly to evaluate key compensation-related metrics by gender and race and track its progress.

Asana is focused on supporting its commitment to the community and humanity by investing in historically underserved communities through its employee donation matching program and partnering with organizations that are dedicated to increasing access to resources, education, and opportunities in technology.

This commitment is also reflected in Asana's letter from their co-founders. In that letter Dustin Moskovitz and Justin Rosenstein wrote: "Like all companies, we intend to create great returns for our shareholders. That outcome, however, is a byproduct and catalyst of our ultimate purpose: the fulfillment of our mission. We are also deeply committed to benefitting all our stakeholders: our customers, our employees, our partners, our communities, the environment, and humanity."

At the end of the day, perhaps stakeholder capitalism is not a clear departure from traditional economic theory but just a more enlightened form of capitalism for the 21st century world. With no disrespect to Milton Friedman and his long standing view of capitalism, as Mr Fink said in his letter, "stakeholder capitalism is 'capitalism,'" driven by mutually beneficial relationships between you and the employees, customers, suppliers, and communities your company relies on to prosper. This is the power of capitalism." IR

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