



Corporate governance in 2021: What's next?

In March, 2021 Covington Burling, together with Broadridge, convened a panel of industry experts to discuss corporate governance and regulatory trends in 2021. More than 300 people attended the webinar event. The topics included:

- Priorities of the Biden administration and new SEC leadership
- SEC proxy working groups
- The future of virtual shareholder meetings
- ESG trends

This article contains a summary of that conversation along with insights that can help you stay ready for the 2021 proxy season. You can listen to a recording of the [full event here](#).

NEW ADMINISTRATION, NEW LEADERSHIP AT THE SEC

Changes at SEC leadership could signal a new era for disclosure. The SEC Chair nominee, Gary Gensler, formerly served as CFTC chair during the Obama Administration and brings a reputation for informed, activist regulation.

During formal confirmation hearings with the Senate Banking Committee, senators asked Gensler several questions related to enhanced and modernized disclosures around climate, political spending, and racial justice, highlighting potential key priorities for the SEC under his leadership. Gensler indicated that “investor interest” may serve as a proxy for materiality, which could spell a new direction for the SEC.

Other disclosure priorities will likely include: Digital offerings; human capital management; and executive compensation.

Along with disclosure, panelists discussed an expected uptick in enforcement activities. The current Acting SEC Chair, Allison Lee, a Democrat, has authorized an expanded group of senior enforcement officers to approve the issuance of formal orders of investigation without first seeking approval from the SEC Commissioners. In addition, she eliminated contingent settlement offers, a common practice that helps reduce unintended consequences stemming from an SEC settlement. Cryptocurrency and digital asset fraud are also falling under stricter SEC scrutiny and enforcement.

PROXY WORKING GROUPS

Next, the discussion turned to a status update of relevant proxy working groups that relate to corporate governance:

Universal proxies: The working group last October endorsed the SEC’s 2016 proposed amendments to “require the use of universal proxies in all non-exempt solicitations in connection with contested elections of directors.” The proposal would require universal proxies to include the names of both registrant and dissident nominees, which might more closely reflect the way shareholders vote in person at meetings. At this stage, the group’s work is finished.

NOBO OBO: This group has about 60 members and notably divergent views across the working group. The default for investors is NOBO, and banks and brokers are interested in maintaining that to preserve data security and investor privacy. They don't want any solicitation. Meanwhile, issuers have an interest in knowing who their shareholders are. As a result, there are divergent views on this matter.

There is, however, some consensus on a few key principles. Most agree that classification as a NOBO or OBO should be based on investor choice. They also agree there should be more education offered with regard to the classification itself. Banks and brokers should make sure that investors know the difference between NOBO and OBO.

End-to-end vote confirmation: This working group has convened in one form or another for almost six years. But the Committee is getting closer to a formal proposal.

For some background: Broadridge conducted a vote confirmation pilot this past proxy season for approximately 100 large companies. The pilot confirmed Broadridge's earlier recommendations on how to make end-to-end vote confirmation a reality for all domestic issuers and shareholders, including when Broadridge does not act as the master tabulator. Two things specifically must be implemented:

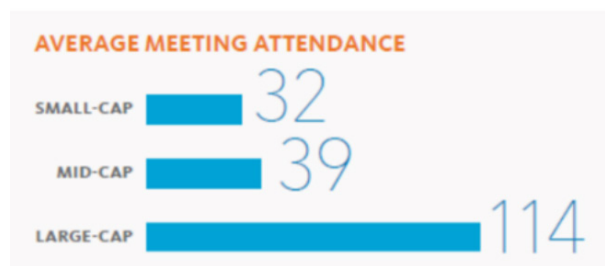
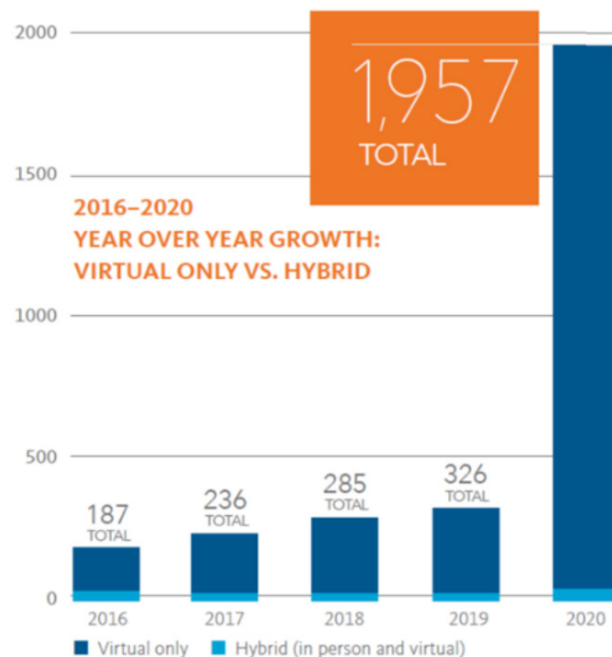
1. Early-stage entitlement needs to be moved up
2. Pre-reconciliation needs to be implemented now

Proxy fees: This working group has a little less movement, meeting only three times in its history and not convening at all during the pandemic. It has been eight years since the last fee review and most stakeholders agree it's time for another. It remains an open question whether NYSE or FINRA will conduct the review.

Technology/long-term reform: This working group has not met yet. But items of interest will include: increasing retail voting; exploring new technology; and using digital ledgers to continually improve efficiency in the future.

BY THE NUMBERS: 2020 VSMS YEAR IN REVIEW

No surprise, the COVID-19 pandemic pushed more issuers than ever to execute a virtual shareholder meeting (VSM). Broadridge alone hosted nearly 2,000 meetings on our platform in 2020. Although the vast majority used audio only, the Zoom era is making issuers more comfortable using video technology as well.



ELEVATING THE VSM EXPERIENCE IN 2021

The big question this year is whether issuers will continue to stay virtual. Our early reports suggest similar numbers will likely hold again. Most issuers recognize that VSM convenience and cost-savings far outweigh any potential downside. And most participants said they appreciated the experience as well.

To help issuers stay ready, Broadridge made several significant upgrades to our VSM platform. Each upgrade is designed to simplify the experience for issuers and participants, while helping to advance VSM best practices. These are five VSM best practices and how we can help you achieve them:

Best practice #1: Help participants navigate the experience. Our simplified VSM login and registration process translates into simplified disclosures with clear instructions. If it's not complicated, it's easier for issuers to explain procedures to shareholders and guest attendees.

Best practice #2: Anticipate challenges and set yourself up for success. Our VSM experience includes a dedicated client relationship manager to help with everything from planning and set up to post-meeting communications. Build on our 10+ years' experience and execute best practices with total confidence.

Best practice #3: Don't let tech interrupt the experience. With several redundancies and backups, we're sure our VSM will work for everyone. If not, we have live support available for all shareholders with a control number.

Best practice #4: Ensure a smooth event. Our simplified user experience enables investors to fully participate, while ensuring issuers have the control needed to execute a seamless event. For example, it's now easier for shareholders to ask questions and issuers can read and manage those questions in real time.

Best practice #5: Keep the conversation going. It's important to make an event transcript or recording available after the event. We can work with you to host it, or we'll supply the files to link on your website.

TRENDS IN ESG

Companies are under increasing pressure to report information regarding the impact of the pandemic, climate risk, and environmental, social and governance issues (ESG) in general. Most of the impetus is stemming from these:

- Investors continue to drive the conversation and demand non-financial related reporting.
- Customers are also raising questions about human capital management and diversity.
- Employees are putting pressure on leadership to reflect employee values and interests.

More issuers are recognizing that non-financial disclosures can make a big difference when it comes to capital access, brand perception, and the ability to attract new investors.

Globally 80 percent of companies are now publishing sustainability reports (with 90 percent of the largest companies doing so). Intense market pressure means that companies who don't effectively report on ESG issues risk standing out (and not in the positive sense).

There are also evolving perceptions related to climate change. Most now agree that there is a direct link between climate change and financial risk, which is changing how people view materiality. More companies are being asked to report on their risk mitigation procedures, not only with respect to climate, but increasingly other ESG-related factors as well.

Recently, the US Government Accounting Office (GAO) interviewed 14 institutional investors and 12 said they expect information on ESG issues in order to:

- Understand risks that could affect financial performance over time
- Monitor how well companies manage ESG risks
- Inform their vote at shareholder meetings

These findings align with what we're seeing from other large investors, like BlackRock and State Street, who continue to publicly demand greater ESG transparency from the companies they invest in.

These are the key facts and figures for VSM use in 2020:

19 minutes average meeting duration
138 minutes longest meeting
8 meetings exceeded 100 minutes
49 attendees on average
2,900 attendees in largest event
6 meetings with over 1,000 attendees
95,000 attendees across all Broadridge hosted virtual meetings

Finally, last year also saw a large increase in support for ESG proxy votes by investors. In fact, nearly half (47%) of all environmental or social-related proposals for US companies received at least 30% support. Expect more of the same in 2021.

READY FOR PROXY SEASON 2021? ALWAYS.

2020 was a hard year, but 2021 is already looking much brighter. Here's what we're doing to make sure our clients are ready.

People ready: We're still using remote-work protocols to maximize the health and safety of our entire workforce.

Regulatory ready: Our team of experts remain plugged into the latest legislative and regulatory changes to make sure you stay in front of fast-moving trends.

Shareholder ready: We know and understand your shareholders. Tap into our vast data and analytics network to gain the insights you need to maximize shareholder engagement in 2021.

Infrastructure ready: In the past year we expanded our capacity to include all 7 US-based locations. We're adding proxy notice production in three strategic locations, which will increase our notice capacity while also adding full-package proxy capacity.

Innovation ready: Increasing participation requires making it easier to participate. Along with upgrades to our VSM platform, you can also expect significant upgrades to ProxyVote.com and our ProxyVote app.

For the full picture, listen to the entire conversation [here](#).

Broadridge Financial Solutions (NYSE: BR), a global Fintech leader with over \$4.5 billion in revenues, provides the critical infrastructure that powers investing, corporate governance and communications to enable better financial lives. We deliver technology-driven solutions to banks, broker-dealers, asset and wealth managers and public companies. Broadridge's infrastructure serves as a global communications hub enabling corporate governance by linking thousands of public companies and mutual funds to tens of millions of individual and institutional investors around the world. In addition, Broadridge's technology and operations platforms underpin the daily trading of on average more than U.S. \$10 trillion of equities, fixed income and other securities globally.

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