



## Cocktails & Dinner with Ted Allen – NIRI National

---

On January 9, 2017, NIRI LA hosted cocktails and dinner with NIRI National's own Ted Allen, Director of Regulatory Affairs and Practices Resources. Ted provided an overview and update on NIRI's advocacy efforts, shared some insights on what the Trump administration may mean for the SEC and IR professionals and concluded with a look-ahead to 2017 proxy season potential hot topics. If you weren't able to join us, you can find his full presentation attached for your review and if you are interested in becoming involved in NIRI advocacy efforts, please contact Geri Weinfeld ([geri.weinfeld@dts.com](mailto:geri.weinfeld@dts.com)) or Terri MacInnis ([terri@bibimac.com](mailto:terri@bibimac.com)) at NIRI LA, or Ted Allen ([tallen@niri.org](mailto:tallen@niri.org)) at NIRI National.



---

# Update on Advocacy/Regulatory Issues

**Ted Allen**  
**Director of Regulatory Affairs, NIRI**  
**January 9, 2017**



# Overview of NIRI's Advocacy Efforts

---

## 1. Advocacy Committee of NIRI's Board

- Reviews comment letters on SEC rulemakings
- Meets every September with senior SEC staff

## 2. Advocacy Ambassador program

- NIRI LA and 11 other chapters have participated
- Gathers input and supporting information from members on advocacy issues
- May 2016 Advocacy Survey

## 3. Resources on Advocacy

- Executive Alerts on new rules/guidance (such as non-GAAP directive in '16)
- *IR Update* articles on short-selling abuses, proxy season trends, and other issues
- “Regulatory Update” and “Corporate Governance” sections of *IR Weekly*
- Advocacy section of NIRI site ([www.niri.org/advocacy](http://www.niri.org/advocacy)) includes comment letters, briefing papers, and letter-writing templates



# NIRI's Advocacy Partners

---

1. Society for Corporate Governance/Shareholder Communications Coalition
2. NYSE and Nasdaq
3. Other business organizations (Business Roundtable, U.S. Chamber of Commerce, BIO, Shareholder Services Association, etc.)
4. Outreach to both Republican and Democratic lawmakers (House Financial Services and Senate Banking committees)



# NIRI's Advocacy Priorities

---

## Improve Equity Ownership Transparency

### 1. Modernize 13(f) Rules for Long-Position Reporting

- From 45 days to 2 weeks after a quarter
- Increase reporting frequency to monthly
- NIRI/Society/NYSE petition in 2013

### 2. Shorten 10-Day Deadline Under 13(d) for Disclosure of 5% Activist Stakes to 2 Business Days (Brokaw Act bill/WLRK petition)

### 3. Adopt Dodd-Frank Rule to Require Public Disclosure of Short Positions

- 2015 petitions by NIRI, NYSE, and Nasdaq; 12+ companies have submitted letters in support. Letter writing templates on NIRI website.



# NIRI's Advocacy Priorities

---

## Proxy Advisors

1. Improve accuracy by allowing all issuers to review proxy report drafts
2. Improve disclosure of conflicts of interest
3. Greater transparency and opportunities for corporate input during policy-setting process
4. Provide public disclosure of proxy reports within 60-90 days after a company meeting

## Proxy System Reform

1. Remove barriers to shareholder communication
2. Act on proxy system issues raised in '10 Concept Release



# NIRI's Advocacy Priorities

---

## Disclosure Reform

1. Repeal (or delay) overly burdensome mandates, such the CEO pay ratio rule, which would require new disclosures in early 2018
2. Modernize Regulation S-K rules to remove duplicative and outdated provisions; encourage issuers and their counsel to reduce length of filings and remove stale information
3. Refrain from adopting new one-size-fits-all mandates on non-financial issues; allow companies the flexibility to provide information in a format that works best for their investors.



# NIRI's 2016 Visit to the SEC

---

- NIRI Represented by the Advocacy Committee of the National Board (Valerie Haertel, Ron Parham, Hala Elsherbini, Lee Ahlstrom, and Nils Paellmann), plus Dave Dragics from the Capital Area Chapter, and NIRI Fellow Sally Curley
- SEC Senior Staff (Corporation Finance Division Director Keith Higgins and his deputies, and Douglas Scheidt, Associate Director of the Investment Management Division)



# Takeaways

---

- SEC Predisposed to Accept Investor Arguments on Equity Disclosure and Proxy Advisors
- Other Barriers to Reform: SEC Staffing Concerns, Division Silos, and Dodd-Frank/JOBS Act Workload
- *NIRI is pursuing a long-range strategy that involves coalitions with other organizations, outreach to sympathetic lawmakers on both sides of the aisle, and direct communication by issuers to the SEC*



# Uncertainty and Opportunity in 2017

---

1. Who will have Trump's ear on financial regulatory issues?

Carl Icahn/hedge funds? Ex-CEOs in Cabinet? Regulatory skeptics (e.g., Paul Atkins)

2. Will the House try to pass sweeping Dodd-Frank repeal legislation again or take a more piecemeal (or bipartisan) approach?

3. New leadership of Senate Banking Committee. Will the Senate have time to address these issues? Which reforms can win support from some moderate Democrats?

# New Leadership at the SEC

---



Meet **Jay Clayton**, Trump's choice to lead the SEC

- Long-time deal lawyer with Sullivan & Cromwell
- Worked on many high profile IPOs (Alibaba)



# Who is Jay Clayton?

---

- Close ties to Goldman Sachs and other Wall Street firms
- Represented financial institutions and issuers in M&A and securities offerings
- Spent entire career in private legal practice at S&C
- Represented foreign issuers on FCPA issues
- Advised clients on cybersecurity risks
- Advised some energy firm clients on climate disclosure
- Opposed by some liberal Democrats, but confirmation appears likely



# What Will the SEC Do in 2017?

---

- Two SEC commissioner vacancies remain; new chair will appoint new chiefs for Corp. Fin. and other divisions
- New SEC chair likely will take no action on Chair White's unfinished initiatives (universal proxy ballots, pay vs. performance disclosure, clawbacks, board diversity, etc.)
- May delay effective date of CEO pay ratio rule past 2018; rule could be pared back to full-time, U.S. employees
- Less emphasis on enforcement; may see a slow pullback from White's "broken windows" approach
- May act on disclosure reform, but less likely to impose new mandates on non-financial information
- May address proxy advisor regulation and shareholder proposal reform, but will face pushback from public/labor funds



# 2017 Proxy Season Preview

---

- With leadership change at SEC, shareholder activists likely will shift attention to **shareholder proposal** process to obtain more corporate disclosure on ESG, political spending, board diversity, etc.
- Ongoing **proxy access** campaign by NYC Comptroller and other activists; new focus on lowering hurdles in existing bylaws
- **Say-on-Pay Frequency Votes**: Will some companies seek support for less frequent votes?
- Stricter proxy advisor policies on “**overboarded**” directors



# Q&A

---

- Advocacy
- 2017 Annual Conference
- IRC Certification (exams in March, June, September)
- Suggestions for webinars and articles