

# Market News

**April 2017**

A monthly review of IR developments for our clients and friends. . .

## **New rule requires hyperlink in filings to guide investors to exhibits**

Last month the SEC approved a rule that starting in September will require most public companies to include hyperlinks to assist investors to easily access exhibits in their financial statements. Currently, companies are required to provide a list of exhibits, such as bylaws and underwriting agreements, and where they can be located. However, many exhibits are incorporated by reference, or not attached to the current filing, requiring a time-consuming search. This rule is one of several aimed to empower investors while promoting efficiency. Another is a proposal requiring companies to use inline XBRL, an open source software designed to make it easier to view, navigate and search financial data.

## **Insider buying hits lowest level since 1988**

2017 began with the fewest insider buys in U.S. stocks in 29 years, with 279 in January. The market also saw the lowest ratio of sellers to buyers in the period, according to The Washington Service. Experts say insiders are cooling off on their stock because of the current 17.7 price-earnings ratio, the highest since 2004 according to Factset. Others poke holes in that argument. J.P Morgan Chase points to technical indicators showing the market appears poised for gains as short positions are at or near their lowest levels in 10 years. Ben Silver, InsiderScore director of research, notes that insiders sell for many reasons, including portfolio-balancing sales in the early months each year as stock-based compensation vests. He said that insider buying is down, but selling isn't aggressive.

## **Class action settlement \$\$\$s skyrocket in 2016**

U.S. courts last year approved the highest number of settlements of securities class action suits since 2010, according to Cornerstone Research. While the 85 settlements were just five more than the previous year, the aggregate dollar amount in the cases, just under \$6 billion, was nearly double the 2015 total and second highest in the past decade. The increase was fueled by 10 mega settlements, including two for over \$1 billion, and the median amount increased 40 percent to \$8.6 million. Interestingly, cases were wrapped up more quickly. The number settled within two years was the highest since 2006.

## **Supreme Court to decide MD&A disclosure limits**

The U.S. Supreme Court will hear this fall an appeal of a New York circuit court ruling that corporations can be sued for securities fraud if their MD&A leaves out important trends and uncertainties. That New York decision conflicts with others that have held companies aren't liable to private suits over such forward-looking statements in MD&A. The case involved Leidos Holdings Inc., a Virginia company sued by three state public pension funds claiming the company in 2011 omitted material information about a kickback and overbilling scheme in New York. The Chamber of Commerce and other opponents of the New York ruling say it created uncertainty about how to disclose forward-looking information and has triggered expanded filings of what the Chamber calls "essentially useless" info in MD&A.

### **Stock rally forces S&P 500 reshuffle**

The strong market has forced the S&P 500 to increase its minimum market value requirement by 15 percent to \$6.1 billion. Eight such adjustments have been made over the past decade to insure the benchmark reflects the marketplace, with the latest one occurring in 2014. With the March 10 rule change, Urban Outfitters, Frontier Communications and First Solar were booted off the S&P 500. The change forced many index funds pegged to the S&P to rebalance.

### **Are internal auditors losing their prestige?**

A majority of senior executives, heads of internal audit departments and board members participating in PwC's 2017 *State of the Internal Audit Profession Study* said the internal audit position's importance took a hit in 2016. The study found that internal auditors are reacting too slowly to changes affecting many businesses, including regulatory changes and cyber-attacks. Only 44 percent of respondents in 2017 said internal audit adds significant value, down from 54 percent in 2016, and the lowest level in the five years PwC has been conducting the study

### **Texas bill would force disclosures by activist investors**

Texas could become the first state to require so-called activist investors to disclose their intentions and identities even before making a challenge to companies in the state. Backers of the "Bring Business to Texas and Fairness in Disclosure Act" say it would trigger immediate and full disclosure by so-called activist investors upon acquiring an interest in a target, and limit how proxy advisory firms operate in the state. Beneficial and direct investors in publicly traded companies based in Texas would be required to make public "plans, intentions, motives, strategies, and objectives" about intent to nominate board members or file a shareholder proposal, including "notes, e-mails, memoranda, letters, communications, proposals, analyses, spreadsheets, presentations, instruments, and any other documents relating to the shareholder's plans."

### **State Street Global Advisors to press for board diversity through the proxy**

Top investment advisors of State Street Global Advisors (SSGA) sent letters promoting gender diversity to the more than 3,500 companies they invest in, representing over \$30 trillion in market capitalization. The letter points out that one in four Russell 3000 companies don't have a woman on its board, while women average 15 percent of board seats among the rest. SSGA says research shows that companies with strong female leadership generate better returns than male-dominated firms, noting a 2016 Peterson Institute for International Economics report shows women in leadership positions has been positively correlated with improved performance. For those of you wondering, State Street's 11-member board includes three women.

### **Small caps feeling the pinch**

For the first time, institutions owned less than half of all small-cap shares in 2016, according to *IR Magazine's* Global Investor Relations Practice Report. Their 47 percent share in 2016 compares with 55 percent in 2014, and 50 percent in 2015. Retail ownership of small-cap stock remained at 28 percent over the three year period. Fifty-nine percent of mid-cap stock were held by institutions in 2016, and 56 percent of large-cap stock.

### **Securities settlement cycle to be cut by a third**

The SEC unanimously voted to cut the requirement that stock and bond trades be settled within two days, down from the traditional three-day settlement requirement. The change was aimed at reducing credit and market risk, including the risk of trading counterparty defaults. It will go into effect September 5, 2017



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