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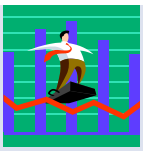

Boom!

Expect a burst of hiring from a race that has broken out between **Sustainalytics** and **MSCI** to build corporate governance research departments focused on investments rather than voting recommendations. Last month Sustainalytics snapped up Gary Hewitt to recruit a team that he says will involve a "substantial investment" by the Amsterdam-based ESG research provider, which already boasts more than 100 analysts in twelve markets. Hewitt did governance research at **ISS** for eight years before joining **GMI** last year, leaving in July when it was bought by MSCI (**GPW** XVIII-26). Hewitt sees rising global demand for investment-focused research, like the kind GMI has long specialized in, which offers risk insights year-round rather than voting advice tied to proxy seasons. Interest is coming from SRI investors who realize that the G is critical to make E&S work, as well as from mainstream ones who increasingly recognize governance as part of fundamental research. MSCI ESG head Remy Briand sees similar demand from asset managers who want full-spectrum ESG analytics. He is moving rapidly to integrate and expand GMI, which gives him a hefty head start over Sustainalytics. Yesterday he launched **MSCI ESG GovernanceMetrics** with ratings and data on 6,000 global issuers based on GMI's research. Briand will soon fill the post Hewitt left as head of governance research in London as well as head of governance ratings, based in New York (**GPW** XVIII-29). He also is looking for a head of ESG research for Europe, the Middle East and Africa, based in London. Briand thinks steady demand will drive continued expansion of his global ESG team, which has more than doubled in the past for years to 100-plus analysts in a dozen cities. "We think that maybe only 15% to 20% of asset managers globally have robust ESG research products, so we're far from it being the standard approach," he says. Expect governance to grow in importance as the heightened competition hones investment decisions.

Briefings

Clean Up

The US **Securities and Exchange Commission** finally moved August 27 to clean up two risk areas exposed by the 2008 financial crisis, issuing new rules governing credit rating firms alongside separate regulations of asset-backed securities published the same day. **Rating firms now must create internal controls to ensure quality and manage conflicts of interest inherent in the issuer-paid model by separating sales and marketing from ratings creation and issuance**. Although the agency spent four years developing the rules since they were mandated by the 2010 Dodd-Frank reform law, they do not strip rating firm use requirements from other SEC rules, said commissioner Daniel Gallagher—one of two commissioners to vote against the rules as both over-burdensome and insufficient. Indeed, the new rules do little to address investor over-reliance on ratings, a problem flagged in good practices for investors proposed in June by the **International Organization of Securities Commissions** (**GPW** XVIII-24).

Switcheroo

Sharp US debate over so-called inversions, where a company buys a foreign firm to switch domiciles and arbitrage lower tax rates, has prompted talk of a crackdown by Washington. But investors and corporates are just starting to ponder the corporate governance implications. Firms that see gold in rock-bottom taxes of markets like Ireland may also find themselves subject to the UK's extensive corporate governance code, which could be a shock. Or consider **Tyco**, which called an EGM for next Tuesday seeking approval of a merger between Tyco Switzerland and Tyco Ireland that would flip the parent firm's jurisdiction from Switzerland to Ireland. The stated reason: regulatory "uncertainty" created by referenda such as last year's Minder initiative, which requires binding shareowner votes on executive pay (**GPW** XVII-10). The law, says Tyco, "subjects our directors

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and members of executive management to potential criminal liability, including for certain compensation decisions considered routine in other jurisdictions." As UK proxy advisor **PIRC** points out, seven of Tyco's eleven directors are not independent, and that includes the comp committee chair. "Avoiding accountability under new Swiss laws is the driver" behind the merger, says PIRC, which advised a 'no' vote.

Fund Deciders?

The defined-contribution (DC) retirement industry has long been rife with conflicts of interest. Plan providers must balance plan participant interests against those of their own stockowners. And some employers use DC plans to wring better terms for other services they buy from providers. Now a new model for relief is in sight, at least for employer-run DC plans. **They would be required to set up Independent Governance Committees (IGCs) under rules proposed in an August 6 consultation by the UK Financial Conduct Authority (FCA) to carry out a government plan recommended in March** (**GPW** XVIII-15). Although providers would not need IGCs for DC plans that individuals sign up for on their own, the idea still represent a path-breaking way to make sure millions of UK savers have an impartial body looking after their interests. IGCs would need at least five members, three independent of the provider, including the chair. The FCA backed off from earlier government ideas such as AGMs for scheme participants or having participants directly elect IGC members, although it encourages providers to consider how to involve scheme members in the future. The FCA also did not take up a suggestion in a July **Law Commission** report that IGCs consider ESG factors in their oversight (**GPW** XVIII-26). While IGCs couldn't force changes, DC provider's boards would be required to formally respond to their criticism. IGCs also could escalate complaints to the FCA and make them public to plan members. **One of the most intriguing parts of the FCA proposal would allow outside firms to be appointed as independent IGC members. They also could administer so-called "governance advisory arrangements" as alternatives to IGCs for smaller DC plans**. If either idea makes it into the final rules due to take effect next April it could spawn a new class of professional DC trustees. Comment here by October 10.

Crowd Source

Ratings through sites like **Yelp** have become standard sources of information for companies and consumers alike. Now a San Francisco startup called **TruValue.me** is trying a similar approach to rank companies on their ESG practices. It launched a beta platform August 18 aimed at retail investors that combines crowd-sourced ESG ratings of **S&P 500** firms with big-data analytics of news and other reports on the companies' behavior. **Users can rate firms with Facebook-style "like" buttons that offer sliding-scale dials in six categories such as leadership and governance and the environment**. They get ESG news bulletins along with user ratings, including from an expert user group. Company ESG scores can be tracked over time and against metrics such as stock prices, rival firms or industries. An advanced version for institutional investors and companies will launch shortly. TruValue founders include former **Amazon** product manager Hendrik Bartel and corporate governance expert Jim Hawley of **St. Mary's College of California**.

New Judgment

A battle is brewing in Australia over director liability. The country's Corporations Act should expand protections of the business judgment rule, argues a report published August 7 by the **Australian Institute of Company Directors**. It says the rule as now embodied in the act doesn't cover disclosure or corporate reporting or cases when a director failed to address an issue, "even if this occurs honestly and for good reason." The proposal echoes an even more ambitious call earlier this year by prominent lawyer Robert Austin for new laws to protect business judgments unless they were "dishonest, conflicted or unreasonable." Not surprisingly, the effort is opposed by major investor groups, including the **Australian Shareholders' Association**, **Ownership Matters** and **ISS**. See the campaign as an attempt to capitalize on the business-friendly posture of conservative Prime Minister Tony Abbott, whose sweeping financial system inquiry said yesterday it had received a stunning 6,500-plus comments (**GPW** XVIII-28). Meanwhile, a study published July 11 by **Oxford** professor John Armour and **Columbia**'s Jeffrey Gordon argues that director liability should be *increased* for systemically important banks in light of the 2008 financial crisis. "The business judgment rule protection that makes sense for officers and directors of a non-financial firm leads to excessive risk-taking in a systemically important financial firm," they say.

Eyes On

New efforts to verify non-financial corporate reporting:

- **IIRC**. A consultation on how to carry out external assurance for integrated reports was launched August 19 by the **International Integrated Reporting Council**. The IIRC does not intend to get involved in assurance itself or even in setting standards for how it should be done. Instead, it plans to hold a half a dozen forums around the world this year to stimulate market-

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driven answers to the problem. See the initiative as recognition that investors won't find integrated reports "credible and trusted" without external assurance. A background paper by an IIRC **Assurance Technical Collaboration Group** led by South Africa's **Independent Regulatory Board for Auditors** (IRBA) raises a host of issues, such as who should carry out assurances and set standards. A first forum was held August 20 in Johannesburg with the IRBA and the **Institute of Directors South Africa**. Respond by December 1. Separately, the IIRC August 5 said it will launch a network at a September 24-6 conference in Madrid for groups that have participated in its three-year pilot program (**GPW** XVI-34). The network will formalize the support offered by the pilot, which involved corporates and investors.

- **GRI**. Only 16% of US firms using **Global Reporting Initiative** guidelines had their ESG reports externally assured last year, vs. 45% of GRI users in other global markets, finds a report published August 6. US firms also lag on using GRI in the first place, with just 266 users compared to 2,313 globally. GRI usage has not risen since 2011 in either the US or other markets.

#WOB

Fresh developments in efforts to advance women on boards:

- **US**. Fifteen California boards have already added women directors in response to a campaign launched four months ago by **CalSTRS** and **CalPERS**. The funds have received a total of 35 replies from the 131 issuers they wrote that had no women on their boards.
- **UK**. The **30% Club** and the **London Business School** launched a full scholarship August 12 for women in leadership positions to take the school's two-week Senior Executive Programme.
- **South Africa**. A database of board-ready women was launched August 7 by the **Department of Trade** and **Business and Professional Women South Africa**.

Insights

More than a third of equity assets are held for an average of five years, nearly three times as much as before the 2008 financial crisis, finds a counter-intuitive analysis of 8,000-plus global institutional investors published August 4 by NASDAQ OMX. Dutch pension fund **APG** leads the pack with a 12-year average holdings. Findings contradict the view of 12 global investment professionals NASDAQ surveyed, 62% of whom said they have seen no change in investment horizons since 2008. Another 24% thought short-termism actually has increased. "The noticeable resurgence of long-term investors means that short-termism is no longer the dominant approach it once represented," the study concludes.

The conservative majority of the **US Supreme Court** that expanded corporate political spending in its 2010 *Citizens United* decision argued that shareholders will oversee such expenditures. But that opinion is "in tension" with the standard view held by conservative thinkers such as Milton Friedman**,** who saw shareholders as poorly positioned to monitor corporate managers. So contends a paper published August 17 by **Delaware Supreme Court** Chief Justice Leo Strine and Nicholas Walter, his former law clerk. Traditional conservatives, they point out, argued that managers should focus solely on profit maximization and let society rely on government regulation to protect against corporate overreach. The duo conclude that Citizens United unwittingly bolsters the rival stakeholder theory of the firm, which holds that companies must consider the best interests of employees, consumers and communities as well as investors. **Separately, a survey released yesterday of the CFA Institute's US members found that 88% believe issuers should be required to disclose political spending**. The same day **Harvard** professor Lucian Bebchuk pointed out that a million comments have now been submitted on the 2011 petition asking the SEC to mandate disclosure (**GPW** XVIII-03).

Corporate governance is most effective when firms adopt a suite of complementary policies that combine board or controlling shareowner monitoring with CEO pay-for-performance incentives, finds a forthcoming study of **S&P 1500** firms by Vilmos Misangyi of **Penn State** and Abhijith Acharya of **Singapore Management University**. They argue that stand-along efforts such as board independence or chair/CEO separation are less effective than bundled policies that reinforce each other.

Services

ISS opened a portal August 14 to let US issuers verify data used in vote recommendations about the equity in their executive pay plans. Issuers will have a two-day window to offer corrections. A Q&A says the system is separate from the verification process ISS already offers issuers for **QuickScore**, which flags governance risks. See the new portal as one more way ISS is responding to corporate critics and the resulting legal bulletin issued in July by the **SEC** (**GPW** XVIII-26).

The US Forum for Sustainable and Responsible Investment (US SIF) is mulling the idea of creating a sustainable investment certificate, similar to the Chartered Financial Analyst and other credentials

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available to financial professionals. It would expand on the 'certificate of completion' US SIF began offering last year for its online ESG training course (**GPW** XVII-15).

Toolkit

US boards should give investors 'nuts-and-bolts' details of their self-evaluation processes as well as big-picture findings and any steps for improvement, recommends a report published yesterday by the US **Council of Institutional Investors**. It points out that both steps are common in other markets and offers best practice examples at US and foreign firms.

Gender Map offers visualization of board gender data on 14,000 global companies that can be sorted by country, industry and market cap. The creator, London-based **Data Morphis**, sells workforce analytics to corporates.

India should increase minority investor say on related-party transactions and ban votes by interested shareowners, recommends an **OECD** paper published August 11.

Half of S&P 500 firms engaged with investors last year, vs. 23% in 2012 and 6% in 2010, finds a US proxy season review published August 6 by **E&Y**'s **Center for Board Matters**. However, investors say the quality and scope of engagements vary and view some as a check-the-box exercise rather than real efforts to communicate.

Update

A council of experts was named August 6 to kickstart creation of a Japanese corporate governance code, a measure Prime Minister Shinzo Abe called for in July (**GPW** XVIII-26). The group, which held an initial meeting the next day, was convened by the **Tokyo Stock Exchange** and the **Financial Services Agency**. It is chaired by Kazuhito Ikeo of **Keio University**. **OECD** corporate affairs chief Mats Isaksson is an outside advisor. A final report from a **Ministry of Economy, Trade and Industry** corporate governance study group published in English August 27 called for creation of a **Management Investor Forum** to promote dialogue between issuers and investors (**GPW** XVIII-28). Companies should "recognize that the quality of dialogue with investors affects the cost of capital," while "a change in the mindset of asset owners is needed in order for dialogue and engagement to take root." Separately, *Unstash the Cash! Corporate Governance Reform in Japan*, published August 4 by the **IMF**, says weak governance contributes to high cash holdings by Japanese corporates, which undermines growth.

The Hong Kong Exchange (HKEx) issued a concept paper August 29 cautiously raising the idea of relaxing the one-share, one-vote listing rules that caused it to lose Chinese Internet firm **Alibaba**'s IPO, expected shortly on the **NYSE** (**GPW** XVIII-19). **The paper offers a comprehensive overview of global approaches to the topic and points out that issuers with dual-class shares represent 14% of the total market cap of all large US listed companies**. It follows a June call to reconsider dual-class bans by the **Financial Services Development Council**, a government advisory group created last year. HKEx will consult on any listing rule revision. Comment by November 30.

People/Jobs

Suzanne Hopgood has been named to the board of **Mace Security** on the recommendation of its largest outside shareowner, **Lawndale Capital**, a US investment advisor focused on governance at smaller issuers. Hopgood is a long-time governance expert who has served on multiple boards and as an officer at the US **National Association of Corporate Directors** (**GPW** XVII-02).

Norm Eisen started a one-year fellowship Tuesday at the **Brookings Institution**'s Governance Studies program. As US ambassador to the Czech Republic for the past four years he played a key role in launching the Brookings-led **World Forum on Governance**, which has met in Prague since its founding in 2011 (**GPW** XVIII-29). [**Note**: Brookings fellow and **GPW** editor Stephen Davis worked closely with Eisen on creation of the Forum.]

Sally Bridgeland has become the first female member of the UK's **300 Club**, a group of investment professionals formed in response to the 2008 financial crisis. She was CEO of the **BP Pension Trustees** until April.

Helle Bank Jorgensen was named August 18 as chair of **eRevalue**, a London-based ESG analytics startup (**GPW** XVIII-27). She is CEO of Toronto-based sustainability consultant **B. Accountability**. ERevalue also launched a New York office headed by former **Global Reporting Initiative** officer Susanne Katus.

Daniel Smith has been named director of research at **CGI Glass Lewis**, the Australian arm of **Glass Lewis**. Smith has been head of Australia/New Zealand research at **ISS**.

Komal Jalan has taken a post as governance analyst at **First State Super**, based in Sydney. She was a governance analyst at **GlassLewis**, also in Sydney.

The European Commission seeks candidates for president of the board of the **European Financial Reporting Advisory Group**. Apply by September 15.

Robeco, the investment manager, seeks an engagement analyst for its Governance & Active Ownership team, based in Rotterdam.

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