

# CRITICAL CONSIDERATIONS TO WINNING SHAREHOLDER SUPPORT: OFFENCE OR DEFENCE

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## » Critical Factors to Consider:

» Regulatory change

» Choose the right structure

» Know your securityholders

» Confirm intelligence

» Communication requirements



## » Regulatory Change

- ▶ The shareholder's opinion matters
- ▶ Forging relationships: a strategic imperative
  - ▶ Key securityholders
  - ▶ IR/CEO
  - ▶ Full board



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## » Choose the Right Structure - Tender Process



- ▶ Accurate tender projections critical
- ▶ Unsolicited offer: offeror calls shots on timing
  - ▶ Release of tender results
  - ▶ Extension notice, etc.
- ▶ Multiple layers of custodians, or cross border complicates process



## » Choose the Right Structure - Proxy Process

### **Global Proxy Voting**

is a complex process with many steps,  
very few standards, and many different  
“owners” of information



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## >> Choose the Right Structure - Proxy Process



- ▶ Ensuring all votes are received
  - ▶ Post record date share trading, share lending, record date timing
  - ▶ Votes can be lost, instructions not received, errors in tabulation, etc.
- ▶ Proxy Advisory firms – can sway institutional shareholders
  - ▶ RiskMetrics,
  - ▶ Glass Lewis
- ▶ Accurate vote forecast invaluable
  - ▶ Maximizing proactive response time
  - ▶ Institutional votes tend to be received close to proxy cut-off



## » Know Your Securityholders

### **CHALLENGE:**

Movement of stock on deal announcement can be 40-50%+

### **MITIGATION:**

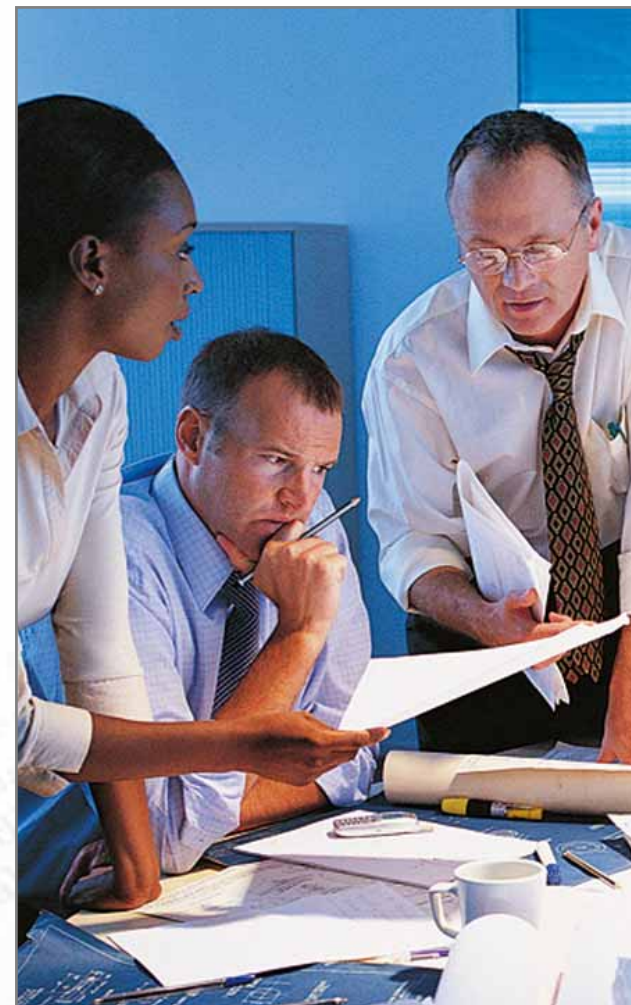
- ▶ Accurate, ongoing shareholder identification critical
  - ▶ Before,
  - ▶ During
  - ▶ After
- ▶ Lockups, voting agreements, etc. are ideal
- ▶ Assume management will become aware of any efforts to gauge support



## » Confirm Securityholder Intelligence

### Need more than a cordial conversation

- ▶ Ongoing independent corroboration of shareholder sentiment necessary
  - ▶ Confirm that what the CEO/board may be hearing
- ▶ Utilize your advisors multiple entry points into
  - ▶ Institutions,
  - ▶ Custodians, etc.
- ▶ Look for anomalies
- ▶ Vote/tender revocations can push up against deadlines



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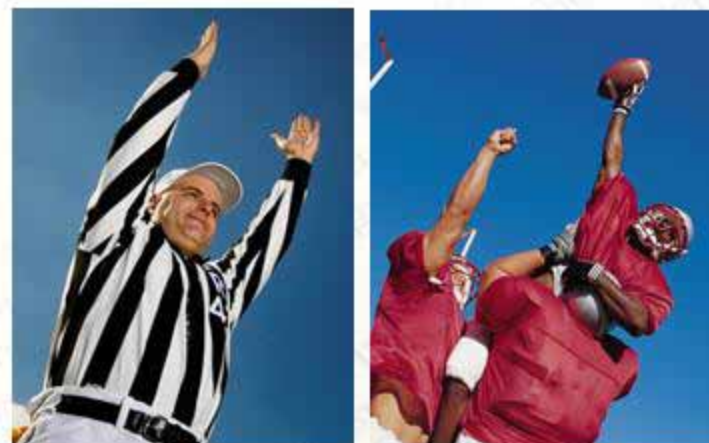
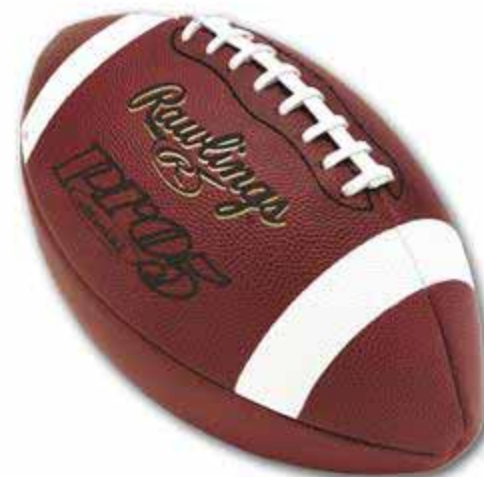
## » Communication with All Stakeholders

- ▶ Assume the entirety of the circular will not be read!
- ▶ Letter to shareholders is effective
- ▶ Coordinated action plans for all influencers
  - ▶ Institutions/retail holders,
  - ▶ Arbs/hedge,
  - ▶ Analysts,
  - ▶ Proxy advisors
- ▶ Press release and media strategy very important
- ▶ Government relations may also play a role



## » Crossing the Goal Line – Recap for Success

- ▶ **Retain** your “A-team” before you play
  - ▶ Legal counsel
  - ▶ Financial advisor
  - ▶ Proxy solicitor, communications advisor
- ▶ **Engage** your shareholders



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## » Crossing the Goal Line – Recap for Success

- ▶ **Win** the coin toss if you can
- ▶ **Have** spotters try to intercept some signals so you can call audibles
- ▶ **Ensure** everyone has the right playbook



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