

# COMPLIANCE WEEK

## Investor Communications In An E-Proxy Era

By Louis M. Thompson, Jr., *Compliance Week Columnist* — January 23, 2007

II f a corporate annual report fell in the forest, would it make any noise? Would anyone listen? And a related question: Is the traditional glossy annual report becoming a dinosaur as a means to communicate with investors?

The Securities and Exchange Act requires companies to report to their shareholders annually on their financial performance through the filing of a Form 10-K with the Commission. As such, it is a historical document, not a forward-looking one. In fact, until the late 1970s, the SEC did not allow companies to be forward-looking in their periodic-filed documents. Over time companies developed an alternative means of reporting to their stakeholders through what became known as the glossy annual report, prefaced with a chief executive officer's letter to shareholders, lots of pictures, graphs, narrative, and historical financial information. And, most companies sent this annual report to shareholders along with the proxy materials because they believed this format communicated better and more understandable information to the investment community than the 10-K. It was also the company's marketing tool for other stakeholders: customers, suppliers, and employees.

Over the past five years or so, however, there has been a significant change in how companies annually report to their shareholders, driven largely by cost and production factors. A 2006 National Investor Relations Institute (NIRI) survey shows a clear trend away from the traditional annual report toward what has become known as the "10-K wrap"—that is, using the Form 10-K wrapped with a brief narrative summary of the year.

The survey found that 56 percent of the respondents were using the 10-K wrap, up from 16 percent in 2002. There was also a significant difference between companies listed on the New York Stock Exchange and on the Nasdaq; 35 percent of those listed on the Big Board used the traditional report in 2006 versus only 18 percent of Nasdaq-listed companies. Fifty-one percent of NYSE companies used the 10-K wrap compared to 72 percent of Nasdaq companies.

### ABOUT THE AUTHOR



Louis Thompson Jr. is an internationally recognized expert on corporate governance and disclosure, having served for more than

two decades as president and chief executive officer of the National Investor Relations Institute until his retirement earlier this year. An adviser to the Securities and Exchange Commission and the New York Stock Exchange, Thompson is currently serving a second term on the NYSE Individual Investor Advisory Committee.

Prior to joining NIRI, Thompson was assistant White House press secretary to President Gerald Ford.

A veteran of the U.S. Command in Vietnam and the Office of the Secretary of Defense, Thompson has held executive communications positions for a number of organizations, including the American Enterprise Institute for Public Policy Research, and the National Council for Economic Education.

A former journalist and news anchor, Thompson remains chairman of the advisory council for the Greenlee School of Journalism and Communication at Iowa State University, where he was the 2001 recipient of the James W. Schwartz Award for Distinguished Service in Journalism and Communication conferred by the Greenlee School.

A former member of the Harvard University New Foundations Working Group on corporate governance,

But, more change could be on the way since the SEC's Dec. 15, 2006, decision to allow companies starting July 1 to send proxy materials, including the annual report, to shareholders through the Internet. (Investors who still want a written report, however, must receive one at no additional cost to the shareholder.)

Thompson is a partner with business consultancy Genesis, based in Denver. He is also a managing director of Washington, D.C.-based Kalorama Partners, the advisory firm founded by former SEC Chairman and Compliance Week Columnist Harvey Pitt.

---

**More From Thompson**

 [Click Here For Other CW Columns By Louis Thompson Jr.](#)

Cost is not the only reason that the use of the traditional annual report is on the decline, says one head of a firm specializing in annual-report design and production. "Traditional annual-report makers have created their own "story of doom by making them pabulum, hiding true meaning behind bland rhetoric," he says. As a means of communicating real information to investors, annual reports in many cases have lost their relevance. Some say that the chairman's letter to shareholders is the only way you can learn something about how the company is doing, but not in all cases.

On the production side, who will be the winners and losers? Losers will be the printers, because the real cost with the traditional annual report is in printing and paper. The potential winners will be the creators of innovative reports that communicate real information to their investors and stakeholders.

Warren Buffett told a 2003 SEC disclosure roundtable chaired by then SEC Chairman (and now fellow Compliance Week columnist) Harvey Pitt that companies should write to their shareholders as if they were speaking to a business partner who has been away for a while and needed to be informed of what's been going on and what's important. Wouldn't that degree of candor be refreshing?

So, what can public companies do to enhance their communication with shareholders in this new age of the Internet as a primary means to achieve that?

1. **Companies must accept the proposition that communicating with their investors is not only an obligation, but also an opportunity.** And, the opportunity may well go beyond annual communication of the past year's financial performance by also discussing prospects for performance. The safe harbor in the 1995 Private Securities Litigation Reform Act gives companies the opportunity to make prudent forward-looking statements.
2. **Companies could also enhance their shareholder communications by adopting a real-time disclosure regimen.** A little noticed provision of the Sarbanes-Oxley Act is Section 409, which addresses real-time disclosure. The provision is intended to provide investors with real-time disclosure of material changes in financial condition or operations. Herein lies the opportunity. Most investors want current and prospective information since investment decisions are made for future gain. And, what better means of communication do we have today than the Internet to communicate real-time information?
3. **Companies must recognize that in the Internet age, some investors are looking for shorthand, meaningful information.** They simply do not have time to read

lengthy reports or to sort through a 10-K in search of meaningful information. This raises the issue of whether a summary annual report that expresses the company's vision and strategy to achieve that vision would accomplish the desire for getting such information.

4. **Think about what do you want to say to your constituency: investors, employees, customers, and other stakeholders.** How do you want to inform or influence them? Some companies use their annual report as a "capabilities piece" for customers, showcasing what future plans could be possible with the right support.
5. **Not only should companies communicate with investors through printed means, but they also should design their investor communications for the Internet.** For communications such as annual reports, this means using forms other than a static PDF format that can require time-consuming download time, in favor of speedier means such as flash technology. This allows real-time corporate data to be accessible to investors in a dynamic format, where end users can manipulate data for their specific needs.
6. **Given that investors can request a printed copy of the annual report, you may want to consider on-demand printing** as a cost-saving measure.
7. **Understand what motivates investors to use the Internet to gain information.** Consider using "push technology" where investors who agree with using this means will automatically receive information when the company has something important to say.
8. **In terms of content, consider making the annual report not only a historical report on corporate performance, but also a vision-based document** that communicates, from the perspective of the CEO, where the company should be going and the strategy to get there.
9. **Control your message to shareholders.** Otherwise, those who read these reports—analysts and the media—will translate your message using their terms that may or may not reflect what you want to communicate.
10. **Finally, it is essential that your communications with all stakeholders be integrated so all are aligned with your messaging.** There is research that supports the concept that integrated messaging results in a higher valuation than communications that are not.

The markets and the investment community are undergoing tremendous change, and so are the means companies use to communicate with their investors and other stakeholders. The annual report is just one of these. It might be easy to look at the cost of these communications as a key factor in deciding what to do, and go for the minimum from a compliance standpoint. That would be a mistake. Look at investor communications as an opportunity to address the company's vision, its strategy, and the key issues the company is dealing with so investors can make informed decisions. They deserve no less.