Q2 | 2019

Gallagher Nonprofit Beat

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Insurance | Risk Management | Consulting

Inside This Newsletter

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2019 WORLD'S MOST ETHICAL COMPANIES® ™
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Gallagher has been named one of the 2019 World's Most Ethical Companies®—the only insurance broker on the list.

Leader SHIFT

Peter A. Persuitti, Managing Director, Gallagher Nonprofit Practice

The nonprofit sector continues to be challenged on so many fronts. Whether reacting to the Chronicle of Philanthropy's June follow up report on the decade old "Giving Pledge" and its demonstration of little evidence of real contagion or following the relentless stories of child sexual abuse, some from many from years ago, or trying to find ways to benefit from a dynamic growing economy, nonprofits—both staff and boards—are called to think differently. From an insurance perspective we would add the undercurrents of a market that is firming and an employee base that is shrinking as compounding factors.

I am reading John Maxwell's Leader SHIFT and I love the perspective. For the longest time I have seen myself, as the leader of our global nonprofit practice, as a conductor of the orchestra. We have tremendous talent and resources but we need a leader to marshal those resources for the benefit of the more than 24,000 nonprofits and charities we serve. We are fortunate to have a corporate commitment to this specialization (where I don't find a peer) and a culture that values teamwork and collaboration.

We also think our governance content, led by our Dr. Jim Rice, would be valued as well by our corporate clients who in their spare time contribute time and talent to serving nonprofit boards. The various shifts Maxwell speaks of are proactive and discreet—"maintaining to creating". I like seeing Gallagher co-create, actually, with the sector leaders and we have found great synergy and learning in this approach. We just conducted a think tank on the misconduct crisis with a panel of experts and for years we have co-directed "Common Ground" for the faith-based groups that retain risk (captives). "Directing to connecting" reminds me of the clarion call of Jim Collins and his warning—we may be moving from well-managed organizations to connected networks" and we can all see this apocalyptic effort actualizing before our eyes!

This past quarter I was fortunate to meet many of our nonprofit clients in New Zealand and Australia as I traveled to meet with our teams and to host roundtables with our clients. I recall a Friday, in fact just a week prior to the shooting in Christchurch, that I hosted a faith-based group there. I was stuck by the damage of the earthquakes of the past yet so impressed with

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the progress of restoration. I brought up the topic of "active assailant" and it was not of interest given the remarkably safe country that New Zealand is! It would take a tragic event one week later to change all of that.

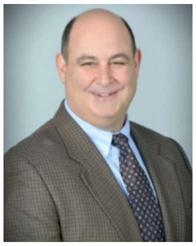
Part of our call is to learn to challenge the status quo, to ask the 'what if' questions and to be adaptable and nimble, as John Maxwell exhorts. Managing risk is a critical component of our partnership with nonprofits and we too must use our global experience to help our clients innovate as well make changes before they are necessary.

For more than 15 years Peter has led Gallagher's Nonprofit Practice, working internally among the many divisions and over 800 offices to corral resources and spark innovation and engaging external to create networks of collaboration. After many years in leadership positions of nonprofits, he moved to the corporate world—working at EDS, then MunichRe and now Gallagher.

"With more than 24,000 nonprofit clients around the world, Gallagher is unique as a broker and consultant marshalling talent and resources for this specific benefit of the sector."

Legislation, Litigation and Trending Topics

Mike Levin



Legislation

2019 shows promise for retirement legislation in Congress. Representative Richard Neal became Chairman of the House Ways and Means Committee, which has jurisdiction over retirement policy. He has previously said his top three priorities are, "retirement, retirement, and retirement." This focus proved true in early April as the House Ways and Means Committee (led by Chairman Neal) passed the SECURE Act of 2019 (Setting Every Community Up for Retirement Enhancement Act of 2019). On the same day, the Senate reintroduced the Retirement Enhancement Savings Act (RESA).

Both bills, along with several others introduced in Congress over the past 18 months, focus primarily on expanding access to retirement plans for Americans and reducing administrative burden for employers. Provisions also address lifetime income options, increase in the age for required minimum distributions (RMDs), and open multiple employer plans. Together the two acts would put in place the largest change to retirement plans since the Pension Protection Act (PPA) of 2006. With bipartisan and industry support, there is optimism the bills will become law during 2019.

Litigation

The theme of retirement plan litigation has become commonplace, with the majority of the cases focusing on fees and large multi-billion dollar plans in the corporate and private university space. Over the last few months, two new suits have been filed, which shift the spotlight to additional areas of importance. Additionally, the Vanderbilt suit was settled in way that emphasizes due diligence of a newly emerging fiduciary focus.

- In April, Ramon Diaz et al v. BTG International Inc. was filed. This suit stands out due to its relative size. The plan is roughly 800 participants and $63 million in plan assets. The suit alleges a breach due to both fees as well as a new issue, negligently preparing and/or intentionally misstating the Form 5500.
- The second suit of note focuses on another fiduciary responsibility: interpretation of the plan document. A plan participant filed suit in December 2018 against Conagra Brands alleging the plan administrator incorrectly reinterpreted the plan document, which harmed participants. This suit affirms the importance of plan administrators to routinely verify that their plan is operating in accordance with the plan document. This is typically done through a periodic plan operational compliance review with the recordkeeper, payroll, HR, consultant, and any individuals who interact with the plan or flow of funds.
- Vanderbilt University reached a $14.5 million settlement for a breach of fiduciary lawsuit. Among other items, the settlement specifically mentions Fidelity and the sales tactic of using participants' information to market or sell products unrelated to the retirement plan. As fee compression in the retirement recordkeeping and investment space continues, many recordkeepers are relying on other sources of income. This settlement highlights the importance of plan sponsors understanding how participants are being engaged and monitoring this activity as part of their ongoing due diligence.

Trending Topics/Benefits

There continues to be growing interest in actionable ways to improve the financial wellbeing of employees. Two of these ways include providing student loan benefits and shifting the focus of the Health Savings Account (HSA) to a long-term planning vehicle.

As student debt continues to impact more and more families, it's becoming a multi-generational problem. Student loan debt is impacting new college graduates, older graduates who were never able to repay their debts and parents who took out debts to help their children through schools. There are many approaches an organization can take to assist employees. These range from voluntary education and restructuring programs to more costly contribution programs. In addition, many organizations are exploring creative and budget-neutral solutions such as trading Paid Time Off (PTO) or integrating with a qualified retirement plan. It should be noted that any option that includes a qualified retirement plan can be quite complex and may not be available for many organizations at this time.

The second area of focus is HSAs. The triple-tax advantage of an HSA makes it both a valuable and unique vehicle for long-term savings. With healthcare costs in retirement continuing to grow, the ability for a retiree to use funds on a tax-free basis can improve their short- and long-term financial wellbeing. As retirement recordkeepers continue to add or partner with HSA firms, organizations and benefit teams are evaluating whether or not an integrated retirement and HSA platform makes sense. A few of the primary considerations include: easier access to investments for HSA funds, improving the investment line-up, as well as one-stop platforms for retirement savings and planning.

If you have any questions on the preceding comments or any other topics related to financial wellbeing or retirement plans, please feel free to reach out to your Gallagher Retirement Plan Consultant.

Mike Levin leads Gallagher's specialization in nonprofit organizations — Retirement Consulting Services.

ART Series by Gallagher's Nonprofit Practice "Alternative Risk Transfer"

Tony McLaughlin

DATA IS POWER

One of the many organizational values gained when you move from a fully insured, dependent insurance program to one that involves self-insured retention (SIR), is the ability to take control of your data in a way that creates a pathway to achieve financial success as you manage your designated loss fund for self-funding of your incidents and claims.

In a fully insured program, you write a check to pay for your insurance premium. When any claims occur, you rely upon the insurance carrier to properly adjust the claim, apply your deductible, and then write you a check for the remaining amount of the claim. This is also known as a "bundled" program, as the entire process is controlled by the insurance company. While you are able to obtain summaries of your losses over time, this is just the beginning of the potential data analytics available when you move to a program with a SIR and loss fund designed to pay for your expected losses. This is also known as "unbundling" your claims from the insurance company —ART.

When you develop an ART program with a SIR and loss fund, you now engage a third party administrator (TPA) to handle claims on your behalf. With each and every incident and claim, there is opportunity to live out your mission and manage risk in a more meaningful and informed way. Engaging Gallagher Bassett not only brings first class claims administration to your organization, but it also opens the door to our award winning RMIS (Risk Management Information System) platform known as Luminos.

With Luminos, you not only have real-time access to all of your claims (including all financials relating to each claim) but also in one place you have all your underwriting and exposure information as well as opportunities to expand to include modules for allocating costs and tracking risk management projects, inspections, and appraisals. The ability to customize reports for different individuals who require different pieces of data at different intervals is also there. The power of unbundling give you as an organization vital data that is useful to enterprise thinking and especially puts the control of the claims process in your hands. You basically utilize you loss fund to pay for the expected claims your organization has incurred historically, manage those claims in a way that meets your organization's claim payment philosophy, and when you have a "good claim year" you reap the financial benefits, not the insurance company, with excess funds in the loss fund. An important element that must be part of any successful SIR program is a risk control focus that mobilizes this vast data we are speaking about, identifies the types of losses, and locations, so that you can proactive address the potential of preventing and mitigating future calims. You identify what's causing the claims, implement specific risk mitigation strategies, and when the culture begins to "buy in" to safety, claims begin to be reduced, and your loss fund continues to allow you to reduce your total cost of risk and redirect more dollars to mission.

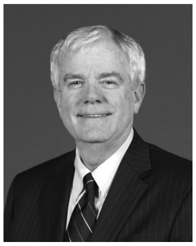
GB has partnered with Oragami in the development of Luminos, the data repository and RMIS (Risk Management Information System) that is part of the service platform.

This technology platform is powerful and provides the capability to customize your RMIS data in a way that allows you to capture, maintain, and analyze it in an aggregated way that produces organization specific data enabling you to make informed decisions that best protect your loss fund and manage exposures. Maintaining fleet schedules, COPE information, appraisal information, risk inspection reports all on-line in a write-it-one cloud-based system is also included. Beyond that you can then build rating models, allocate charges to divisions/locations within your organization and billing, as well as many other considerations that are specific to your organization. It becomes your one-stop-shop to manage your overall TCOR (total cost of risk) as you move from a fully insured, dependent program to an ART risk financing strategy, unbundled program, allowing you to gain control, and maximize the use of your data.

Tony McLaughlin has more than 30 years of claims administration experience, primarily with carriers and the nonprofit sector. He leads Gallagher Bassett's Nonprofit Specialization. He can be reached at toll-free 888.285.5106, ext 5963 and his email is tony_mclaughlin@gbtpa.com.

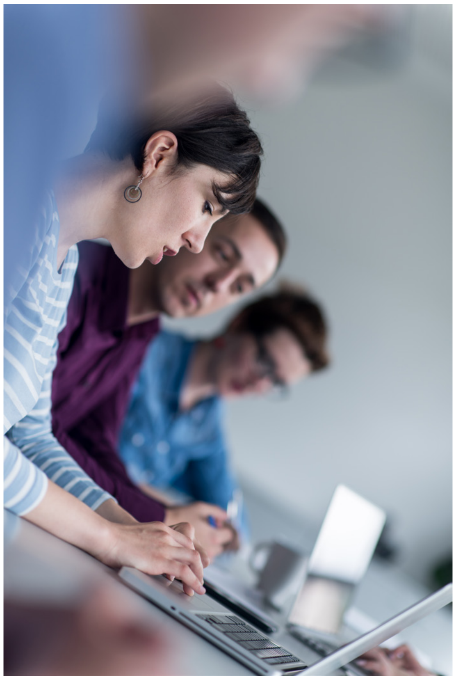
Article from Gallagher
2018 Human Capital Insights Report

Michael Johnson and Tom Tropp



Choosing a values-based approach to ethics, social governance and employee engagement.

Despite its buzzword status, "corporate social responsibility" is an important dimension of organizational leadership. Businesses and unions, as well as government and nonprofit organizations, operate in a legal, regulatory and political environment where actions may have social consequences to consider. A few familiar examples are operational activities, relationships with other organizations, charitable donations, and investment decisions for retirement funds and other assets.



Some theories of corporate governance suggest such concerns should not influence business behavior. The economist Milton Friedman once argued that "the social responsibility of business is to increase its profits, without deception or fraud, and nothing else."[1] On the other side of the debate, BlackRock Chairman and CEO Larry Fink announced in his 2018 open letter to CEOs that "a company's ability to manage environmental, social, and governance matters demonstrates the leadership and good governance that is so essential to sustainable growth, which is why we are increasingly integrating these issues into our investment process."[2]

Considerations for building a values-based enterprise

Most leaders would acknowledge that ethics and social engagement do matter—simply because they matter to employees, customers, business partners and investors. Employees often prefer to work for an employer whose values align with their own, especially millennials. And socially responsible organizations stand to gain a burnished reputation that establishes or enhances their destination-employer standing. However, it's important to maintain control of the values-based narrative to avoid damage to reputations and a diminished standing. This risk has always been present, but the stakes are higher in a social media age when judgments, whether they're fair or not, can swiftly go viral.

The challenge for all organizations is promoting conduct most likely to strengthen their reputations and minimize related risk exposure. This might be simpler if organizational decisions were not made in extremely complex and constantly shifting environments. Attitudes can change quickly toward approaches that were once broadly tolerated or even supported. In early 2018, the views reflected in the #MeToo movement dramatically lowered the tolerance for sexual harassment in the workplace, just as the reactions to the Parkland, Florida, school shooting led some major companies to cut their NRA marketing ties in a no-win situation. While these lessons may not apply equally to all organizations and there's no guarantee of choosing the right approaches, experience reveals some favorable options:

- Adopting organizational values that are a realistic commitment
- Earning a reputation for ethical business behavior
- Allowing employee priorities to drive charitable contributions
- Aligning investment decisions with organizational values

Adopting organizational values that are a realistic commitment

Values are the expected behavioral norms and an integral part of organizational culture. Some values are stated explicitly and others are simply assumed, but all values should constitute a realistic commitment for the organization. It has become a common practice to make only the most important values statements explicit.

Earning a reputation for ethical business behavior

Most employers like to believe they behave ethically as well as legally. Building that reputation into the brand takes a steadfast commitment to closely managing all attributes of an ethical organization. In a reputation environment dominated by 24/7 globally networked news and media outlets, it's important to avoid any missteps or misinformation. Naturally, a person's direct experiences with an organization are the most influential and trusted. So, ethics policies, programs and systems must be in place that strongly and consistently support specific workforce behaviors —and business decisions—aligned with clearly defined organizational values.

Once ethical principles have been fully internalized and actualized, external recognition can reinforce what clients, customers and others who interact with the company experience firsthand. There are several respected organizations dedicated to driving sustainability and corporate responsibility in the U.S. and abroad that evaluate and formally recognize companies that excel. Rankings on annual lists like the Ethisphere Institute's "World's Most Ethical Companies" are based on rigorous methodologies and objective information. Other honors that recognize the outstanding achievements of individual executives can also help organizations earn marketplace credibility as ethical leaders.

Allowing employee priorities to drive charitable contributions

Organizations use charitable contributions for a variety of purposes like supporting their local communities or investing in causes that align directly with their business or operational focus. Deciding where to allocate funds is an important expression of organizational values. Putting employee intent at the center of social contributions builds employer responsiveness into the fund allocation process. By involving employees in decision-making and inviting them to connect with the causes that matter most to them, the organization demonstrates respect for their collective individual values.

Aligning investment decisions with organizational values

Over the past several years, it has become easier for individuals and organizations to adopt investment strategies that match their priorities for social responsibility. Investment options like the Dow Jones Sustainability Indices give investors a financial stake in social performance, and investment firms have created portfolios that target a variety of social objectives. Also, those with fiduciary responsibilities are now subject to an expanded scope of regulations that require their investment decisions to consider other factors besides risk and return. In 2015, the U.S. Department of Labor issued a directive for Taft-Hartley union trusts that allows fiduciaries to take into account "non-investment benefits" when making investment decisions. For example, local investments that create jobs can be acceptable under these guidelines.[4] A fundamental question facing enterprise leaders and investors considering social responsibility-driven strategies is whether they can "do well by doing good." Investment strategies can take decades to fully evaluate. So there's no clear answer on whether socially responsible investing leads to better financial performance over a sustained time period. However, there appears to be a connection between socially engaged companies and the greater desires of employees to work for them and consumers to buy from them. Essentially, the commitment to pursue values-based strategies depends on unified values of leadership and the strength of their desire to do the right thing.

Michael Johnson, National Practice Leader, Investment & Fiduciary Consulting. Mike is responsible for guiding development and delivery of the firm's capabilities across a full range of institutional investment and fiduciary services. He also provides broad-based investment consulting advice informed by his institutional and retail securities experience, and his expertise in union/Taft-Hartley matters and employee benefit plans.

Tom Tropp, Corporate Vice President, Ethics & Sustainability. As internal ambassador of ethics and sustainability, Tom visits offices around the world engaging with Gallagher employees about the company's shared values and the role of ethics in business. He is also the liaison to the United National Global Compact, the Ethisphere Institute, the Boston College Center for Corporate Citizenship and other organizations dedicated to the cause of corporate social responsibility.

1. The New York Times Magazine, "The Social Responsibility of Business is to Increase its Profits," September 1970
2. BlackRock, Inc., "Larry Fink's Annual Letter to CEOs: A Sense of Purpose," 2018
3. The Ethisphere Institute, "Leading Practices and Trends from the 2018 World's Most Ethical Companies®," February 2018
4. Federal Register, "Interpretive Bulletin Relating to the Fiduciary Standard Under ERISA in Considering Economically Targeted Investments," October 2015

"Jim Rice did an excellent job of giving us 8 simple and clear qualities a best-in-class board chair should have—most of which empower others, demonstrate care for both people and programs, and foster an overall healthy corporate culture."

Robert T. Lipps, Attorney & CPA
Founder & Managing Director
The Global Center for Nonprofit Excellence

SMART Chairpersons Enable Mission Successful Cultures

Jim Rice, Ph.D. Managing Director | Governance and Leadership

There is a growing recognition that **Board Chairpersons Matter;** their role matters to a culture driven to mission success, to attract and retain the best and brightest executives and board members, and they matter to the overall financial and organizational performance vitality.

The chairperson's primary role is to ensure that the board is effective in championing and protecting the organization's mission, and active in its oversight role to ensure the implementation of the organization's sustainable strategy and financial plans.

Nonprofit or "Third Sector" organizations[1] (not governmental nor commercial sector organizations) must seek a talented Chairperson to shape and enhance the effectiveness of their governance models. Ideally these individuals will exhibit **SMART characteristics:**

- **STAKEHOLDER** engagement experts;
- **MISSION** driven and protective;
- **ACCOUNTABILITY** champions for board and management performance;
- **RESOURCE** mobilization experts; and
- **TRANSPARENCY** enablers so all understand and can meaningfully engage in the work of the organization.

Eight Competencies to Deliver SMART Chairmanships:

What are the qualities that help a chairperson accomplish these SMART characteristics? In a recent series of interviews of nonprofit board chairpersons, we find that this success is very much related to managing the board's culture and style of human relationships—with the board members, community stakeholders, partners, donors, and management. With very little to count on in term of resources, how can one person manage all this? These eight (8) key competency styles can help:

1. **Encourage generative thinking.** The chair should encourage board members and senior management to think out of the box and be a catalyst to see what the bigger and broader picture may be. To care for the total community not just your beneficiaries. To continuously seek the essential purpose and reason for the enterprise's reason for being.[2]
2. **Board Member Recruiting.** Strategic chairpersons ensure that the governance model and participants are well established to help insure the long term viability of the organization. The chair should be very active in the nominating process to help find the future board members. The ongoing review and assessment of competencies needed should be a high priority of the chair.

3. **CEO Assessment:** Ensure that the CEO annual evaluation process is well developed. The chair should be deeply involved in the evaluation process. The process should ensure that all board members are heard and give input. The chair should also be involved in the executive performance planning and related compensation process, including possibly chairing the committee

4. **Humility and ego management.** One respected chairperson put it this way: "If you intend to use your chair position as a platform for self-aggrandisement, you are in for trouble." The words "restraint," "non-domineering" and "leaving room for others" are key to fostering more productive board discussions which lead to more effective decisions.

5. **Availability and presence.** The chairs' presence should be felt as little, and as much, as necessary. They should give others room to speak and yet be there to direct the conversation. "It may be called a part-time job, but I have no illusion: I have to be ready to mobilize and commit significant time to this board if the need arises. And I stay in permanent contact with the CEO to make sure I don't miss this need. "A good chair not only does the job professionally, but cares about the organization's mission, the board and the executive team. One chair says: "It's like any other profession – you can only reach the top when you are passionate about what you do. In this case, it's the board and the company it governs."

6. **Patience and reflection.** Passion creates energy, enthusiasm, and a focus on achieving results. But in leading the work of a group of talented trustees, it must be tempered by patience and the ability to pause and reflect on the situation surrounding the issue and organization. The chair should not rush to get things done quickly, but should focus instead on getting things done properly.

7. **"Soft" and "hard" skills.** The work of the chair is very much about human relations—with specific types of people: senior, successful, action-oriented, performance-driven, sophisticated individuals from different backgrounds and industries. Managing these relations requires exceptional behavioural skills. Among them, the ability to listen, ask questions, frame issues and provide feedback. Two other related competencies in the "hard skills" arena are: (a) the capability for synthesizing and systems thinking; and (b) conservative financial monitoring and planning.

8. **CEO Collaboration.** The chair should develop a close working relationship with the CEO, and the CEO should be able to use the Chair as a resource to discuss problems and concerns. The CEO has few and most likely no one in the organization he or she can discuss problems with. The Chair and CEO need to have a trusting relationship in which both can discuss their concerns in confidence. Such a relationship will not happen overnight and each will mutually have to work on developing the relationship

Conclusion:

Great boards create the conditions within which those who deliver and manage programs and services are more likely to flourish. Great chairpersons create the expectations and culture in which such conditions are established and continuously improved. The roles and competencies shared here should be viewed only as a starting point for your local conversations about how the chairs of your boards and committees can best embrace clear and sensible roles, as well as the knowledge, skills and attitudes' needs to accomplish those roles.

1. https://www.theguardian.com/voluntary-sector-network/2013/may/31/how-find-right-chairperson-your-charity
2. https://www.compasspoint.org/blog/generative-thinking-board%E2%80%99s-highest-purpose

Nonprofit Risk Management Center 2019 Risk Summit

https://2019risksummit.org/

When: October 20–22, 2019

Where: Washington, D.C. area (Leesburg, Virginia)

As a corporate sustainer of the Center, Gallagher is pleased to provide a discount for its nonprofit clients attending and will be making two presentations:

- **The Devil is in the Details: Interpreting Your Cyber Liability Policy**
  Andrew Moss, Nonprofit Practice, Washington, D.C. area

- **Captive Audience: How and When to Explore an Insurance Captive**
  Peter Persuitti, Managing Director, Nonprofit Practice, Gallagher Headquarters, Chicagoland

The Nonprofit Risk Management Center (NRMC) produces the Risk Summit—the only conference for nonprofit risk management leaders and corporate supporters of risk management in the nonprofit sector. NRMC is a 501(c)(3) nonprofit with a mission to inspire effective risk management practices and Risk Champions across our sector.

- All Gallagher clients are eligible to receive the Gallagher partnership discount of 25%.