

Perfecting the Process for Trustee Review of a Valuation Report



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CE Requirements Onsite

- 1. Scan the session QR code upon entering the breakout room, using the Fall Forum Event app
- 2. Complete the CE survey via the session page in the mobile app

CE Requirements Virtual

In order to receive continuing education credit you must do the following steps.

- Be signed into the virtual platform under your email you registered with
- 2. Fill out the 3 polling questions
- 3. Submit the CE survey

Trustees Own the Value

- Trustees are responsible for setting the Value (Share Price)
 - Not the financial advisor
- Determining Value is a fiduciary duty
- Fiduciary responsibilities include:
 - For exclusive benefit of participants and beneficiaries
 - Carry out duties as a prudent expert
 - Follow plan terms (unless inconsistent with ERISA)





Internal Trustee

Strengths

- Likely much greater knowledge of:
 - Company products and services
 - Company industry / industries
 - Company market position
 - Company culture
 - Key performance indicators

Challenges

- Likely limited knowledge / expertise of:
 - Business Transactions / Deal
 - Trust Law / ERISA
 - Corporate Law
 - Valuation Methodology
- May hold other corporate roles



External Trustee

Strengths

- Knowledge / expertise of:
 - Business Transactions / Deal
 - Trust Law / ERISA
 - Corporate Law
 - Valuation Methodology
- Independent of Board and Management Team

Challenges

- Likely limited direct knowledge of:
 - Company products and services
 - Company industry / industries
 - Company market position
 - Company culture
 - Key performance indicators

So You're the Trustee

- I'm a Fiduciary, Now What?
 - ERISA governs fiduciary duties
 - Duty of care
 - Personal liability
 - Follow Plan documents
- Be clear as to your role
- Document, document, document



Trustee Role in the Valuation Process

- Engage an independent, qualified, appraiser
- Understand and set process
- Set aside time to review the valuation report with the appraiser
- Be clear as to your role
- Document, document, document



Hiring the Right Financial Advisor

- Independence is a must!
- Qualifications
 - Specifically addressed Trustee Settlement Agreements
 - Professional designations (CFA, ASA, AVA) can help but are not required
 - Valuation philosophy
 - Communication skills
- Experience
 - ESOP knowledge
 - Industry knowledge



Hiring the Right Financial Advisor

Document selection of financial advisor

- Basis for selection and criteria
- Helpful to include firms considered but eliminated
- Current Advisor
 - Timeless of correspondence
 - Does the financial advisor understand YOUR issues
 - Deadlines and work product
 - Qualifications





Valuation Process

Valuation Process

- Planning & Scope
- Information Request
- Site Visit / Due Diligence
- Draft Report
- Review of Report
- Determination of Fair Market Value



Planning the Valuation Process

- Timing
- Information Complete and Accurate
 - Financials (audited, reviewed, internal)
 - Projections
 - Company specific
 - Industry
- Information requested
- Information not requested or not received



Valuation Process

- Site Visit / Interview with Management
 - Who / Does it change from year to year
 - What types of questions
 - If Internal, participate as Trustee
 - External Trustee participates
- Financial Advisor completes their analysis
 - Was all the requested information received?



Valuation Process

- Review Draft Report
 - Review / Discussion/ Questions
- Trustee to set Fair Market Value
 - Follow up





Reviewing the Draft Report

Valuation Methodology

- Standard of Value = Fair Market Value
 - Willing buyer and willing seller standard
 - Assumes a taxpayer and normalized tax
 - Financial buyer / not strategic
- Adequate Consideration
 - Fair Market Value
 - Determined in good faith
 - Process is key



Valuation Methods

- Market
 - Guideline Public Company
 - Guideline Merged and Acquired Company
- Income
 - Discounted Cash Flow
 - Capitalization of Cash Flow
- Asset
 - Net Asset Value



Valuation Application & Issues

- Repurchase Obligation
- Discount for Lack of Marketability
- Tax rate assumed
- Control / Minority Value
- Projections
- Treatment of ESOP debt
- Warrants / SARs
- Acquisitions



Valuation Report Content

- Report can be a demonstration of 'good faith effort'
- Information to be included in a report?
 - Description of the assignment and securities to be valued
 - Definition of value (fair market value)
 - Purpose of the report (annual ESOP update for example)
 - Level or basis of value (controlling, minority, 100%)
 - Premise of value (going concern business)



Valuation Report Content

- Description of company and its position
- General economic background
- Industry specific information
- Sources of information used
- Due diligence procedures used
 - Did the appraiser perform a site visit?



Valuation Report Basics (continued)

- Financial statement & forecast analysis
- Valuation methodologies
- Discounts / Premiums
- Synthesis and Conclusion
- Contingent and Limiting Conditions
- Statement of Independence & Appraisal Certification



Report Review

- Factual Accuracy
 - Is this your Company? Are these your financials?
 - Technical corrections
 - Typos
- Valuation Methods
 - What methods used
 - Do they make sense
 - Do the numbers foot (use your calculator!)
 - Did they change form year to year (why / why not)



Report Review

- Understand the report
- Meeting to Review with the Appraiser
 - Review the analysis and critical assumptions
 - Ask Questions / Clarifications
 - Factual
 - Key Factors Assumptions



Setting the Share Price

Finalize Report

- Trustee sets the Fair Market Value
 - Document the approval in writing
- Trustee instructs the financial advisor to finalize the report
- Read the finalized report
 - Ensure any discussed changes were made



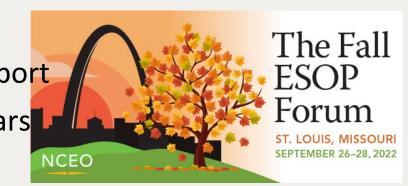
Documentation

- Data provided and who provided
- Site visit who and why
- Copy of draft / with Trustee questions comments changes
- Discussion points
- Questions and <u>Answers</u>
- Meeting minutes (in writing)



Documentation

- Interview of the financial advisors (who and questions/responses)
- Hiring of financial advisor (engagement letter and minutes)
- Certification by management that gave accurate and complete information to the financial advisor
- Copy of draft valuation report marked up with questions/notes
- Completed checklist as reviewed draft valuation report
- Financial advisor's answers to questions
- Minutes of meeting with financial advisor
- Documentation of review and acceptance of final valuation report
- How long to keep the valuation documentation at least 6 years





Questions???

Thank you for participating in today's program.

Please complete the session evaluation!

